

**JOURNAL**  
**OF THE**  
**HOUSE OF DELEGATES**  
**EIGHTY-THIRD**  
**LEGISLATURE**  
**OF**  
**WEST VIRGINIA**



**VOLUME II**  
**REGULAR SESSION, 2018**

WEST VIRGINIA HOUSE OF DELEGATES  
**HONORABLE TIM ARMSTEAD**  
SPEAKER OF THE HOUSE

\*\*\*\*\*

COMPILED AND PUBLISHED  
UNDER THE DIRECTION  
OF

**STEPHEN J. HARRISON**  
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**FIRST EXTRAORDINARY SESSION**

1 <sup>st</sup> Day .....	Sunday .....	May 20.....	2987
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Thursday, March 1, 2018

**FIFTY-FIRST DAY**

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

Prayer was offered and the House was led in recitation of the Pledge of Allegiance.

The Clerk proceeded to read the Journal of Wednesday, February 28, 2018, being the first order of business, when the further reading thereof was dispensed with and the same approved.

**Committee Reports**

Delegate Cooper, Chair of the Committee on Veterans' Affairs and Homeland Security, submitted the following report, which was received:

Your Committee on Veterans' Affairs and Homeland Security has had under consideration:

**S. B. 47**, Requiring Defense Department advocacy groups be notified in abuse or neglect of military person's child,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bill (S. B. 47) was referred to the Committee on the Judiciary.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 327**, Providing extortion of anything of value, including sexual contact, subjects person to criminal penalty,

And reports the same back with the recommendation that it do pass.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 467**, Relating generally to Public Defender Services,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 467) was referred to the Committee on Finance.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 73**, Modifying crime of fleeing from scene of accident,

**Com. Sub. for S. B. 307**, Declaring fundraising on state highway or roadway by volunteer fire department is not obstruction or nuisance,

**Com. Sub. for S. B. 397**, Creating crime of impersonating blind or disabled person,

And,

**Com. Sub. for S. B. 404**, Relating to sex offender registry information,



And reports the same back with the recommendation that they each do pass.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 110**, Requiring certain licensees notify law enforcement or EMS of life-threatening emergency on premises,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

Delegate Espinosa, Chair of the Committee on Education submitted the following report, which was received:

Your Committee on Education has had under consideration:

**Com. Sub. for S. B. 561**, Increasing minimum contract price requiring execution of bond with respect to building or repairing school property.

And reports the same back with the recommendation that it do pass, and with the recommendation that second reference to the Committee on Finance be dispensed with.

In the absence of objection, reference of the bill (Com. Sub. for S. B. 561) to the Committee on Finance was abrogated.

### **Messages from the Senate**

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 3004**, Relating to filling vacancies in offices of state officials, United States Senators, Justices, judges, and magistrates.

On motion of Delegate Cowles, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page two, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 10. FILLING VACANCIES.**

**§3-10-3. Vacancies in offices of state officials, ~~United States senators, justices, judges, and magistrates.~~**

(a) Any vacancy occurring in the offices of Secretary of State, Auditor, Treasurer, Attorney General, Commissioner of Agriculture, or in any office created or made elective to be filled by the voters of the entire state, is filled by the Governor of the state by appointment and subsequent election to fill the remainder of the term, if required by ~~section one of this article~~ §3-10-1 of this code. The Governor shall make the appointment from a list of three legally qualified persons submitted by the party executive committee of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time the vacancy occurred. The list of qualified persons to fill the vacancy shall be submitted to the Governor within 15 days after the vacancy occurs, and the Governor shall duly make his or her appointment to fill the vacancy from the list of legally qualified persons within five days after the list is received. If the list is not submitted to the Governor within the 15-day period, the Governor shall appoint, within five days thereafter, a legally qualified person of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time the vacancy occurred: *Provided*, That the provisions of this subsection do not apply to §3-10-3(b), §3-10-3 (c), §3-10-3(d), and §3-10-3(e) of this code.

(b) Any vacancy occurring in the offices of Justice of the Supreme Court of Appeals, judge of a circuit court, or judge of a family court is filled by the Governor of the state by appointment and, if the unexpired term be for a period of more than two years, by a subsequent election to fill the remainder of the term, as required by §3-10-3(d) of this code. If an election is required under

§3-10-3(d) of this code, the Governor, circuit court, or the chief judge thereof in vacation, is responsible for the proper proclamation by order and notice required by §3-10-1 of this code.

(c) Any vacancy in the office of magistrate is appointed according to the provisions of §50-1-6 of this code, and, if the unexpired term be for a period of more than two years, by a subsequent election to fill the remainder of the term, as required by §3-10-3(d) of this code.

(d) (1) When the vacancy in the office of Justice of the Supreme Court of Appeals, judge of the circuit court, judge of a family court, or magistrate occurs after the 84<sup>th</sup> day before a general election, and the affected term of office ends on December 31 following the succeeding general election two years later, the person appointed to fill the vacancy shall continue in office until the completion of the term.

(2) When the vacancy occurs before the close of the candidate filing period for the primary election, and if the unexpired term be for a period of greater than two years, the vacancy shall be filled by election in the nonpartisan judicial election held concurrently with the primary election and the appointment shall continue until a successor is elected and certified.

(3) When the vacancy occurs after the close of candidate filing for the primary election and not later than 84 days before the general election, and if the unexpired term be for a period of greater than two years, the vacancy shall be filled by election in a nonpartisan judicial election held concurrently with the general election, and the appointment shall continue until a successor is elected and certified.

(e) When an election to fill a vacancy is required to be held at the general election, according to the provisions of §3-10-3(d) of this code, a special candidate filing period shall be established. Candidates seeking election to any unexpired term for Justice of the Supreme Court of Appeals, judge of a circuit court, judge of the family court, or magistrate shall file a certificate of announcement

and pay the filing fee no earlier than the first Monday in August and no later than 77 days before the general election.

### **§3-10-4. Vacancies in representation in United States Congress.**

(a) (1) If there is a vacancy in the representation from this state in the House of Representatives in the Congress of the United States, the Governor shall, within five days after the fact comes to his or her knowledge, issue a proclamation setting dates for a special general election that is not less than 84 nor more than 120 days from the date of the vacancy and requiring nomination of candidates as provided in §3-10-4(a)(2) of this code: *Provided*, That no such proclamation may be made nor may a special election be held if the vacancy occurs after the 84th day prior to the regularly scheduled general election for a new full term of the office. The election shall follow the requirements of §3-10-1 of this code that are not in conflict with this section.

(2) The party executive committees for the congressional district for which there is a vacancy shall each, within 30 days of the Governor's proclamation, nominate a candidate to stand at the general election required by §3-10-4(a)(1) of this code.

(b) If there is a vacancy in the representation from this state in the Senate of the United States Congress, the vacancy shall be filled by the Governor of the state by appointment. ~~and: The Governor shall make the appointment from a list of three legally qualified persons submitted by the party executive committee of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time the vacancy occurred. The list of qualified persons to fill the vacancy shall be submitted to the Governor within 15 days after the vacancy occurs, and the Governor shall duly make his or her appointment to fill the vacancy from the list of legally qualified persons within five days after the list is received. If the list is not submitted to the Governor within the 15-day period, the Governor shall appoint, within five days thereafter, a legally qualified person of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time the vacancy occurred.~~

Furthermore, (1) If the vacancy occurs on or before the primary cutoff date, then an election shall be held pursuant to §3-10-1 of this code; or

(2) If the vacancy occurs after the primary cutoff date, but on or before the general cutoff date, then the Governor shall issue a proclamation providing for: (A) A special filing period; (B) a special primary election to be held in conjunction with the upcoming general election; and (C) a special general election to be held not less than 84 nor more than 120 days following the date of the special primary election. Each election shall follow the requirements of §3-10-1 of this code that are not in conflict with this section.

### **§3-10-5. Vacancies in state Legislature.**

(a) Any vacancy in the office of state senator or member of the House of Delegates shall be filled by appointment by the Governor, from a list of three legally qualified persons submitted by the party executive committee of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time the vacancy occurred. The list of qualified persons to fill the vacancy shall be submitted to the Governor within 15 days after the vacancy occurs and the Governor shall duly make his or her appointment to fill the vacancy from the list of legally qualified persons within five days after the list is received. If the list is not submitted to the Governor within the 15-day period, the Governor shall appoint within five days thereafter a legally qualified person of the same political party as ~~the person vacating the office~~ with which the person holding the office immediately preceding the vacancy was affiliated at the time the vacancy occurred.

(b) In the case of a member of the House of Delegates, the list shall be submitted by the party executive committee of the delegate district in which the vacating member resided at the time of his or her election or appointment. The appointment to fill a vacancy in the House of Delegates is for the unexpired term.

(c) In the case of a state senator, the list shall be submitted by the party executive committee of the state senatorial district in which the vacating senator resided at the time of his or her election or appointment. The appointment to fill a vacancy in the state Senate is for the unexpired term, unless §3-10-1 of this code requires a subsequent election to fill the remainder of the term, which shall follow the procedure set forth in said section.

### **§3-10-7. Vacancies in offices of county commissioner and clerk of county commission.**

~~(a) Any vacancy in the office of county commissioner or clerk of county commission shall be filled by the county commission of the county, unless the number of vacancies in a county commission deprive that body of a quorum, in which case the Governor of the state shall fill any vacancy in the county commission necessary to create a quorum thereof. Persons appointed shall be of the same political party as the officeholder vacating the office for the period stated by section one of this article. If a quorum of the county commission cannot agree upon a person to fill a vacancy in the office of county commissioner within thirty days of the date the vacancy first occurred, the county executive committee of the vacating county commissioner's political party shall select and name a person to fill the vacancy from the membership of the vacating county commissioner's political party. The clerk shall be appointed within thirty days of the vacancy. Any vacancy in the office of county commissioner or clerk of county commission shall be filled by appointment by the county commission. The appointee must be a person of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time the vacancy occurred: *Provided*, That at the time of appointment, the appointee must have been a member of that political party for at least sixty days prior to the occurrence of the vacancy.~~

(b) If a quorum of the county commission fails to make an appointment within 30 days, the county executive committee of the same political party with which the person holding the office preceding the vacancy was affiliated at the time the vacancy occurred, shall submit a list of three legally qualified persons to fill

the vacancy. Within 15 days from the date on which the list is received, the county commission shall appoint a candidate from the list to fill the vacancy. If the county commission fails to make the appointment within the specified time, then the county commissioner with the longest tenure shall eliminate one name from the submitted list, followed by the county commissioner with the second-longest tenure then eliminating one name from the submitted list. The name remaining after those two names have been eliminated shall be deemed to be appointed by the county commission to fill the vacancy.

(c) If the number of vacancies in a county commission deprives that body of a quorum, the Governor shall make an appointment to fill any vacancy in the county commission necessary to create a quorum, from a list of three legally qualified persons submitted by the party executive committee of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time the vacancy occurred. The Governor shall make any appointments necessary, beginning with the vacancy first created, to create a quorum in accordance with the same procedures applicable to county commissions under §3-10-7(a) of this code. Once a quorum of the county commission is reestablished by gubernatorial appointment, the authority to fill the remaining vacancies shall be filled in the manner prescribed in §3-10-7(a) of this code.

(d) An appointment made pursuant to this section is for the period of time provided in §3-10-1 of this code.

~~(b)~~ (e) Notwithstanding any code provision to the contrary, a county commission may appoint a temporary successor to the office of clerk of the county commission until the requirements of this section have been met. The temporary successor may serve no more than 30 days from the date of the vacancy.

~~(e)~~ (f) If an election is necessary under §3-10-1 of this code, the county commission, or the president thereof in vacation, shall be responsible for the proper proclamation, by order, and notice required by §3-10-1 of this code.

~~(d)~~ (g) §3-10-1 of this code shall be followed with respect to any election needed to fill a vacancy, except that if the vacancy occurs after the primary cutoff date but not later than the general cutoff date, candidates to fill the vacancy shall be nominated by the county executive committee in the manner provided in §3-5-19 of this code, as in the case of filling vacancies in nominations, and the names of the persons, so nominated and certified to the clerk of the county commission of the county, shall be placed upon the ballot to be voted at the next general election.

(e) (h) If the election for an unexpired term is held at the same time as the election for a full term for county commissioner, the full term shall be counted first and the unexpired term shall be counted second. If the candidate with the highest number of votes for the unexpired term resides in the same magisterial district as the candidate with the highest number of votes for the full term, the candidate for the full term shall be seated. The candidate with the next highest number of votes for the unexpired term residing in a different magisterial district shall be seated for the unexpired term.”

And,

By amending the title of the bill to read as follows:

**Com. Sub. for H. B. 3004** - “A Bill to amend and reenact §3-10-3, §3-10-4, §3-10-5, and 3-10-7 of the Code of West Virginia, 1931, as amended, all relating generally to filling vacancies in certain offices; providing that the Governor shall appoint a person to fill a vacancy in an elected state office, choosing from a list of candidates required to be submitted by the executive committee of the political party with which the individual vacating the office was affiliated at the time the vacancy occurred; establishing a deadline for a party executive committee to submit names of qualified persons for vacancies in elected state offices; providing that appointments to elected state offices be made within a time certain; providing that the Governor shall appoint a person, of the same political party with which the individual vacating the office was affiliated at the time the vacancy occurred, to fill a vacancy in an elected state office when a party executive committee fails to



submit names of qualified persons; providing that the Governor shall appoint a person, from a list of qualified persons required to be submitted by the executive committee of the political party with which the individual vacating the office was affiliated at the time the vacancy occurred, to fill a vacancy in the office of United States Senator; establishing a deadline for an executive committee to submit names of qualified persons for vacancies in the office of United States Senator; providing that appointment to fill vacancies in office of United States Senator be made within a time certain; providing for Governor to appoint a person, of the same political party with which the individual vacating the office was affiliated at the time the vacancy occurred, to fill a vacancy in United States Senate when the party executive committee fails to submit qualified names of qualified persons; providing for the Governor to appoint a person, of the same political party with which the person holding the office immediately preceding the vacancy was affiliated, to fill a vacancy in the state Legislature; providing for a county commission to select a person to fill a vacancy in the office of county commissioner or county clerk, who, for at least sixty days prior to the time a vacancy occurred, was affiliated with the same political party with which the individual vacating the office was affiliated at the time the vacancy occurred; providing a process by which the two most senior county commissioners may select a person, from a list of candidates required to be submitted by the executive committee of the political party with which the individual vacating the office was affiliated at the time the vacancy occurred, to fill a vacancy in the county commission when the commission fails to make a selection; providing for the Governor to appoint a person, from a list of candidates required to be submitted by the executive committee of the political party with which the individual vacating the office was affiliated at the time the vacancy occurred, to fill a vacancy in office of county commissioner if vacancies in the commission prevent a quorum; establishing a deadline for an executive committee to submit names of qualified persons for vacancies in a county commission; clarifying that appointments to county commissions to fill vacancies are for time periods specified by statute; and making technical corrections.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 269**), and there were—yeas 64, nays 31, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Barrett, Bates, Boggs, Brewer, Byrd, Campbell, Canestraro, Caputo, Diserio, Eldridge, Ferro, Fleischauer, Fluharty, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Miley, R. Miller, Moye, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Thompson and Williams.

Absent and Not Voting: Deem, Gearheart, Hornbuckle, Marcum and C. Romine.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3004) passed.

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 270**), and there were—yeas 64, nays 31, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Barrett, Bates, Boggs, Brewer, Byrd, Campbell, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fluharty, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Miley, R. Miller, Moye, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Thompson and Williams.

Absent and Not Voting: Deem, Gearheart, Hornbuckle, Marcum and C. Romine.

So, two thirds of the members elected to the House of Delegates not having voted in the affirmative, the Speaker declared the motion that the bill (Com. Sub. for H. B. 3004) take effect from its passage rejected.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4013**, Clarifying venue in West Virginia state courts as it applies to nonresidents of the state.

Delegate Cowles moved that the House of Delegates concur in the following amendment of the bill by the Senate:

On page one, by striking out everything following the enacting clause and inserting in lieu thereof the following:

**“CHAPTER 6. GENERAL PROVISIONS RESPECTING  
OFFICERS.**

**ARTICLE 9A. OPEN GOVERNMENTAL PROCEEDINGS.**

**§6-9A-6. Enforcement by injunctions; actions in violation of article voidable; voidability of bond issues.**

The circuit court in the county where the public agency regularly meets has jurisdiction and is a proper venue to enforce this article upon civil action commenced by any citizen of this state within 120 days after the action complained of was taken or the decision complained of was made. Where the action seeks injunctive relief, no bond may be required unless the petition appears to be without merit or made with the sole intent of harassing or delaying or avoiding return by the governing body.

The court is empowered to compel compliance or enjoin noncompliance with the provisions of this article and to annul a decision made in violation of this article. An injunction may also order that subsequent actions be taken or decisions be made in conformity with the provisions of this article: *Provided*, That no bond issue that has been passed or approved by any governing body in this state may be annulled under this section if notice of the meeting at which the bond issue was finally considered was given at least 10 days prior to the meeting by a Class I legal advertisement

published in accordance with the provisions of §59-3-1 *et seq.* of this code in a qualified newspaper having a general circulation in the geographic area represented by that governing body.

In addition to or in conjunction with any other acts or omissions which may be determined to be in violation of this article, it is a violation of this article for a governing body to hold a private meeting with the intention of transacting public business, thwarting public scrutiny and making decisions that eventually become official action.

Any order which compels compliance or enjoins noncompliance with the provisions of this article, or which annuls a decision made in violation of this article shall include findings of fact and conclusions of law and shall be recorded in the minutes of the governing body.

## **CHAPTER 14. CLAIMS DUE AND AGAINST THE STATE.**

### **ARTICLE 2. CLAIMS AGAINST THE STATE.**

#### **§14-2-2. Venue for certain suits and actions**

(a) Except as otherwise provided in this section, the following proceedings shall be brought and prosecuted only in the Circuit Court of Kanawha County:

(1) Any suit in which the Governor, any other state officer, or a state agency is made a party defendant, except as garnishee or suggestee.

(2) Any suit attempting to enjoin or otherwise suspend or affect a judgment or decree on behalf of the state obtained in any circuit court.

(b) Any proceeding for injunctive or mandamus relief involving the taking, title, or collection for or prevention of damage to real property may be brought and presented in the circuit court of the county in which the real property affected is situate.

(c) Any suit for which insurance coverage administered by the state Board of Risk and Insurance Management under §29-12-1 et seq. of this code exists may be brought and prosecuted in the circuit court of any county where the acts or omissions giving rise to the suit occurred or in the Circuit Court of Kanawha County;

(d) Any suit filed against a state agency, as provided for in §6-9a-1 et seq. of this code, may be brought and prosecuted in the Circuit Court of Kanawha County or in the circuit court of any county where the state agency regularly meets.

~~(e) This section shall apply~~ applies only to ~~such~~ proceedings as ~~are~~ not prohibited by the constitutional immunity of the state from suit under section 35, article VI of the Constitution of the State.

**§14-2-2a. Venue for suits and actions involving ~~West Virginia University and Marshall University~~ state institutions of higher education.**

(a) Notwithstanding the provisions of §14-2-2 of this code, any civil action in which ~~the West Virginia University board of Governors, West Virginia University, the West Virginia University Medical School~~ the governing board of any state institution of higher education, any state institution of higher education, or any department or office of any of those entities, or any officer, employee, agent, intern or resident of any of those entities, acting within the scope of his or her employment, is made a party defendant, shall be brought in the circuit court of any county wherein the cause of action arose, unless otherwise agreed by the parties.

~~(b) Notwithstanding the provisions of section two of this article, any civil action in which Marshall University board of Governors, Marshall University, the Marshall University School of Medicine or any department or office of any of those entities, or any officer, employee, agent, intern or resident of any of those entities, acting within the scope of his or her employment, is made a party defendant, shall be brought in the circuit court of any county wherein the cause of action arose, unless otherwise agreed by the parties.~~

~~(e)~~ (b) The exclusive venue provisions of this section are not applicable to:

(1) An action involving an entity or person named in subsections (a) ~~or (b)~~ of this section as garnishee or suggestee; and

(2) A proceeding for injunctive or mandamus relief involving the taking, title, or collection for or prevention of damage to real property, and where general laws or court rules provide that proper venue is in the county in which the real property affected is situate.

~~(d)~~ (c) This section ~~shall apply~~ applies only to ~~such~~ proceedings ~~as are~~ not prohibited by the constitutional immunity of the state from suit under section thirty-five, article VI of the Constitution of the State.

## CHAPTER 56. PLEADING AND PRACTICE.

### ARTICLE 1. VENUE.

#### §56-1-1. Venue generally.

(a) Any civil action or other proceeding, except where it is otherwise specially provided, may hereafter be brought in the circuit court of any county:

(1) Wherein any of the defendants may reside or the cause of action arose, except that an action of ejectment or unlawful detainer must be brought in the county wherein the land sought to be recovered, or some part thereof, is;

(2) If a corporation or other corporate entity ~~be is~~ a defendant, wherein its principal office is or wherein its mayor, president or other chief officer resides; or if its principal office ~~be~~ not in this state, and its mayor, president or other chief officer do not reside therein, wherein it does business; or if it ~~be is~~ a corporation or other corporate entity organized under the laws of this state which has its principal office located outside of this state and which has no office or place of business within the state, the circuit court of the county in which the plaintiff resides or the circuit court of the county in which the seat of state government is located ~~shall have~~ has jurisdiction of all actions at law or suits in equity against the

corporation or other corporate entity, where the cause of action arose in this state or grew out of the rights of stockholders with respect to corporate management;

(3) If it ~~be~~ is to recover land or subject it to a debt, where the land or any part may be;

(4) If it ~~be~~ is against one or more nonresidents of the state, where any one of them may be found and served with process or may have estate or debts due him, her, or them;

(5) If it ~~be~~ is to recover a loss under any policy of insurance upon either property, life or health or against injury to a person, where the property insured was situated either at the date of the policy or at the time when the right of action accrued or the person insured had a legal residence at the date of his or her death or at the time when the right of action accrued;

(6) If it ~~be~~ is on behalf of the state in the name of the Attorney General or otherwise, where the seat of government is; or

(7) If a judge of a circuit ~~be~~ is interested in a case which, but for such interest, would be proper for the jurisdiction of his or her court, the action or suit may be brought in any county in an adjoining circuit.

(b) Whenever a civil action or proceeding is brought in the county where the cause of action arose under the provisions of subsection (a) of this section, if no defendant resides in the county, a defendant to the action or proceeding may move the court before which the action is pending for a change of venue to a county where one or more of the defendants resides and upon a showing by the moving defendant that the county to which the proposed change of venue would be made would better afford convenience to the parties litigant and the witnesses likely to be called, and if the ends of justice would be better served by the change of venue, the court may grant the motion

(c) For all civil actions filed on or after July 1, 2018, a nonresident of the state may not bring an action in a court of this state unless all or a substantial part of the acts or omissions giving

rise to the claim asserted occurred in this state: *Provided*, That unless barred by the statute of limitations or otherwise time barred in the state where the action arose, a nonresident of this state may file an action in state court in this state if the nonresident cannot obtain jurisdiction in either federal or state court against the defendant in the state where the action arose. A nonresident bringing such an action in this state shall be required to establish, by filing an affidavit with the complaint for consideration by the court, that the action cannot be maintained in the state where the action arose due to lack of any legal basis to obtain personal jurisdiction over the defendant: *Provided, however*, That the provisions of this subsection do not apply to civil actions filed against West Virginia citizens, residents, corporations, or other corporate entities.

In a civil action where more than one plaintiff is joined, each plaintiff must independently establish proper venue. A person may not intervene or join in a pending civil action as a plaintiff unless the person independently establishes proper venue. If venue is not proper as to any such nonresident plaintiff in any court of this state, the court shall dismiss the claims of such plaintiff without prejudice to refile in a court in any other state or jurisdiction. When venue is proper as to one defendant, it is also proper as to any other defendant with respect to all actions arising out of the same transaction or occurrence.

For purposes of this subsection, “nonresident” means any person, whether a citizen of this state or another state, who was domiciled outside the State of West Virginia at the time of the acts or omissions giving rise to the claim asserted: *Provided*, That a member of the armed forces of the United States who is stationed beyond the territorial limits of this state, but who was a resident of this state at the time of his or her entry into such service, and any full-time student of any college or university of this state, even though he or she is paying nonresident tuition, is considered a resident under this subsection.”

And,

By amending the title of the bill to read as follows:



**Com. Sub. for H. B. 4013** - “A Bill to amend and reenact §6-9A-6 of the Code of West Virginia, 1931, as amended; to amend and reenact §14-2-2 and §14-2-2a of said code, and to amend and reenact §56-1-1 of said code, all relating to venue in West Virginia state courts; providing that the circuit court in the county where the public agency regularly meets is a proper venue for certain claims; providing that any suit for which insurance coverage administered by the state board of risk and insurance management exists may be brought in the circuit court of Kanawha County or in the circuit court of any county where the acts of omissions giving rise to the suit occurred; providing that certain suits filed against a state agency may be brought in the circuit court of Kanawha County or in circuit court of any county where the state agency regularly meets; providing that any civil action in which the governing board of any state institution of higher education or any state institution of higher education is made a party defendant shall be brought in the circuit court of the county wherein the cause of action arose, unless otherwise agreed upon; providing that nonresidents may not bring actions in the courts of this state unless all or a substantial part of the acts or omissions giving rise to the claim occurred in the state; providing an effective date; providing that nonresidents may file actions in the state courts if they cannot otherwise obtain jurisdiction in the state where the action arose, unless barred by the statute of limitations in the state the action arose; requiring the filing of an affidavit; providing that the provisions do not apply to actions filed against West Virginia citizens, residents, corporations, or other corporate entities; providing that each plaintiff must establish venue; providing that persons may not intervene or join in a pending action as plaintiff unless they independently establish venue; providing that courts shall dismiss claims without prejudice if venue is not proper as to a nonresident plaintiff; providing that venue is proper as to other defendants if venue is proper as to one defendant with respect to all actions arising out of the same transaction or occurrence; providing a definition of ‘nonresident’; and providing exceptions for members of the armed forces of the United States and students of any college or university of this state.”

On the adoption of the motion to concur, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 271**), and there were—yeas 25, nays 71, absent and not voting 4, with the yeas and absent and not voting being as follows:

Yeas: Ambler, Anderson, Atkinson, Capito, Cowles, Criss, A. Evans, Fast, Fleischauer, Foster, Frich, Graves, Harshbarger, Higginbotham, Jennings, Lane, C. Miller, Nelson, Pushkin, Robinson, R. Romine, Shott, Sypolt, Zatezalo and Mr. Speaker, Mr. Armstead,

Absent and Not Voting: Deem, Gearheart, Hornbuckle and C. Romine.

So, a majority of the members present and voting not having voted in the affirmative, the motion to concur in the Senate amendment was rejected.

The motion having been rejected, the House of Delegates refused to concur and the Senate is requested to recede therefrom.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate and requested the concurrence of the House of Delegates in the passage, of

**S. B. 632** - “A Bill to amend and reenact §5-10-48 of the Code of West Virginia, 1931, as amended; and to amend and reenact §51-9-10 of said code, all relating to allowing retired judicial officers recalled to service to avoid the limit on the temporary employment payments where a circumstance such as a significant illness, suspension, or other long absence of a sitting judicial officer requires a longer period of service by the retired judicial officer than the current cap would allow”; which was referred to the Committee on the Judiciary.

**Special Calendar****Unfinished Business**

The following resolutions, coming up in regular order, as unfinished business, were reported by the Clerk and adopted:

**Com. Sub. for S. C. R. 11**, Evans Center for Excellence in Aircraft Maintenance,

**H. C. R. 16**, Frenchburg Bridge,

**Com. Sub. for H. C. R. 45**, U. S. Air Force Reserves 2<sup>nd</sup> Lieutenant Richard E. Tyson Memorial Bridge,

**Com. Sub. for H. C. R. 51**, Gill Brothers World War Veterans' Memorial Bridge,

**H. C. R. 62**, Pocahontas County Veterans Memorial Bridge,

**Com. Sub. for H. C. R. 70**, U. S. Marine Sgt. Stephen E. Drummond Memorial Bridge,

**Com. Sub. for H. C. R. 83**, Vietnam Veterans Memorial Highway,

**H. C. R. 84**, Requesting the Department of Health and Human Resources and the Bureau for Medical Services review and update Medicaid reimbursement rates for ground and air ambulance services,

**H. C. R. 86**, Bluefield Police Lt. Aaron L. Crook Memorial Road,

**H. C. R. 87**, Constable Joseph H. Davidson Memorial Bridge,

**H. C. R. 88**, U. S. Air Force Capt. Clarence Virgil Slack, Jr. Memorial Bridge,

And,

**H. C. R. 91**, U.S. Navy Capt. Homer Leroy Smith Memorial Bridge.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein on those requiring the same.

### Third Reading

**Com. Sub. for S. B. 181**, Authorizing MAPS promulgate legislative rules; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 272**), and there were—yeas 95, nays 1, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Martin.

Absent and Not Voting: Deem, Gearheart, Hornbuckle and C. Romine.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 181) passed.

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 273**), and there were—yeas 95, nays 1, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Martin.

Absent and Not Voting: Deem, Gearheart, Hornbuckle and C. Romine.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 181) takes effect from its passage.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**Com. Sub. for S. B. 348**, Allowing for disposal of service weapons of special DNR police officers; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 274**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Deem, Gearheart and C. Romine.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 348) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

**Com. Sub. for S. B. 348** - “A Bill to amend and reenact §20-7-1d and §20-7-1f of the Code of West Virginia, 1931, as amended, all relating to awarding service weapons to natural resources police officers and special natural resources police officers upon retirement; modifying terms to reference weapons rather than revolvers; modifying provisions relating to the disposal of service weapons when they are replaced due to routine wear; exempting weapons replaced due to routine wear from surplus property provisions; authorizing the sale of service weapons that are being replaced due to routine wear to special natural resources police officers at fair market value; and providing that the provisions of these sections do not apply to weapons obtained through the federal donation program operated by the West Virginia State Agency for Surplus Property.”

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**Second Reading**

**Com. Sub. for S. B. 37**, Equalizing penalty for entering without breaking regardless of time of day; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 46**, Permitting pharmacists to inform customers of lower-cost alternative drugs; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 51. PHARMACY AUDIT INTEGRITY AND  
TRANSPARENCY ACT.**

**§33-51-9. Regulation of Pharmacy Benefit Managers.**

(a) A pharmacy and a pharmacist shall have the right to provide a covered individual with information related to lower cost alternatives and cost share for such covered individual to assist health care consumers in making informed decisions. Neither a pharmacy nor a pharmacist shall be penalized by a pharmacy benefit manager for discussing information in this section or for selling a lower cost alternative to a covered individual, if one is available, without using a health insurance policy.

(b) A pharmacy benefit manager shall not collect from a pharmacy or a pharmacist a cost share charged to a covered individual that exceeds the total submitted charges by the pharmacy or pharmacist to the pharmacy benefit manager.

(c) A pharmacy benefit manager may only directly or indirectly charge or hold a pharmacy or pharmacist responsible for a fee related to a claim if:

(1) The total amount of the fee is identified, reported, and specifically explained for each line item on the remittance advice of the adjudicated claim; or

(2) The total amount of the fee is apparent at the point of sale and not adjusted between the point of sale and the issuance of the remittance advice.

(d) This section shall not apply with respect to claims under an employee benefit plan under the Employee Retirement Income Security Act of 1974 or Medicare Part D.”

On motion of Delegate Adkins, the Judiciary Committee amendment was amended on page one, section nine, line one, after the word “pharmacy”, by inserting the word “technician”.

On page one, section nine, line two, after the word “cost”, by inserting the word “cash”.

On page one, section nine, line four, by striking out the words “a pharmacy nor” and inserting in lieu thereof the words “a pharmacy technician nor”.

On page one, section nine, line six, after the word “policy” and the period, by inserting “The employer of the pharmacy technician or pharmacist shall not be penalized by a pharmacy benefit manager for permitting its employees to discuss information in this section or sell a lower cost alternative to a covered individual, if one is available, without using a health insurance policy.”

And,

On page one, section nine, line eleven, after the word “pharmacy”, by inserting a comma and the words “pharmacy technician” and a comma.

The Judiciary Committee amendment, as amended, was then adopted.

The bill was then ordered to third reading.

**Com. Sub. for S. B. 134**, Authorizing Division of Homeland Security and Emergency Management to engage individuals for emergency response and recovery; on second reading, coming up in regular order, was read a second time.

On motion of Delegates Howell and Hamrick, the bill was amended on page two, section three, beginning on line twenty-three, by striking out the code reference “§15-5-3(g)”, and inserting in lieu thereof the code reference “§15-5-3(c)”.

The bill was then ordered to third reading.

**Com. Sub. for S. B. 146**, Correcting technical error within Solid Waste Management Act; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**S. B. 338**, Changing date for employers to file annual reconciliation and withholding statements; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 21. PERSONAL INCOME TAX.**

**§11-21-74. Filing of employer’s withholding return and payment of withheld taxes; annual reconciliation; e-filing required for certain tax preparers and employer.**

(a) *General.* — Every employer required to deduct and withhold tax under this article shall ~~for each calendar quarter, on or before the last day of the month following the close of the calendar quarter, file a withholding return as prescribed by the Tax Commissioner and pay over to the Tax Commissioner the taxes required to be deducted and withheld. Where the average quarterly amount deducted and withheld by any employer is less than \$150 and the aggregate for the calendar year can reasonably be expected to be less than \$600, the Tax Commissioner may by rule permit an employer to file an annual return and pay over to the Tax~~



~~Commissioner the taxes deducted and withheld on or before the last day of the month following the close of the calendar year. The Tax Commissioner may, by nonemergency legislative rules promulgated pursuant to article three, chapter twenty nine a of this code, change the minimum amounts established by this subsection. The Tax Commissioner may, if he or she determines necessary for the protection of the revenues, require any employer to make the return and pay to him or her the tax deducted and withheld at any time or from time to time. Notwithstanding the provisions of this subsection, after December 31, 2008, every employer required to deduct and withhold tax under this article shall file a withholding return as prescribed by the Tax Commissioner and pay over to the Tax Commissioner the taxes required to be deducted and withheld, in accordance with the procedures established by the Internal Revenue Service pursuant to Section 3402 of the Internal Revenue Code.~~

~~(b) *Monthly returns and payments of withheld tax after December 31, 2000.*~~

~~Notwithstanding the provisions of subsection (a) of this section, after December 31, 2000, every employer required to deduct and withhold tax under this article shall, for each of the first eleven months of the calendar year, by the twentieth day of the succeeding month, and for the last calendar month of the year, by the last day of the succeeding month, file a withholding return as prescribed by the Tax Commissioner and pay over to the Tax Commissioner the taxes required to be deducted and withheld, if the withheld taxes aggregate \$ 250 or more for the month, except any employer with respect to whom the Tax Commissioner may have by rule provided otherwise in accordance with the provisions of subsection (a) of this section. Notwithstanding the provisions of this subsection, after December 31, 2008, every employer required to deduct and withhold tax under this article shall file a withholding return as prescribed by the Tax Commissioner and pay over to the Tax Commissioner the taxes required to be deducted and withheld. The due dates for returns and payments shall be established by the Tax Commissioner to match as closely as practicable the due dates in effect for federal income tax purposes, in accordance with the procedures established by the Internal Revenue Service pursuant to~~

Section 3402 of the Internal Revenue Code except as otherwise provided in this section: *Provided*, That not later than January 31, 2019, and January 31 of each year thereafter, employers and payers shall submit to the Tax Commissioner the annual reconciliation of West Virginia income tax withheld, together with state copies of all withholding tax statements reflecting West Virginia tax withholding, including, but not limited to, forms W-2, W-2G, and 1099, furnished to each employee or payee for the preceding calendar year, notwithstanding the fact that the employer or payer may have a calendar tax year ending on December 31 or a fiscal tax year ending on a date other than December 31. Notwithstanding the provisions of this section, where the average quarterly amount deducted and withheld by any employer is less than \$150 and the aggregate for the calendar year can reasonably be expected to be less than \$600, the Tax Commissioner may by rule permit an employer to file an annual return and pay over to the Tax Commissioner the taxes deducted and withheld on or before the last day of the month following the close of the calendar year.

(e) (b) *Annual returns and payments of withheld tax of certain domestic and household employees.* — Employers of domestic and household employees whose withholdings of federal income tax are annually paid and reported by the employer pursuant to the filing of Schedule H of federal form 1040, 1040A, 1040NR, 1040NR-EZ, 1040SS, or 1041 ~~may~~ shall, on or before January 31 next succeeding the end of the calendar year for which withholdings are deducted and withheld, file an annual withholding return with the Tax Commissioner, and annually remit to the Tax Commissioner, West Virginia personal income taxes deducted and withheld for the employees together with state copies of all withholding tax statements reflecting West Virginia tax withholding, including, but not limited to, forms W-2, W-2G, and 1099, furnished to each employee or payee for the preceding calendar year, notwithstanding the fact that the employer or payer may have a calendar tax year ending on December 31 or a fiscal tax year ending on a date other than December 31. The Tax Commissioner may promulgate legislative or other rules pursuant to §29A-3-1 et seq. of this code for implementation of this subsection. ~~Notwithstanding the provisions of this subsection, after~~

~~December 31, 2008, every employer required to deduct and withhold tax under this article shall file a withholding return as prescribed by the Tax Commissioner and pay over to the Tax Commissioner the taxes required to be deducted and withheld. The due dates for annual returns and payments shall be established by the Tax Commissioner to match as closely as practicable the due dates in effect for federal income tax purposes, in accordance with the procedures established by the Internal Revenue Service pursuant to Section 3402 of the Internal Revenue Code~~

~~(d)~~ (c) *Deposit in trust for Tax Commissioner.* — Whenever any employer fails to collect, truthfully account for, or pay over the tax, or to make returns of the tax as required in this section, the Tax Commissioner may serve a notice requiring the employer to collect the taxes which become collectible after service of the notice, to deposit the taxes in a bank approved by the Tax Commissioner, in a separate account, in trust for and payable to the Tax Commissioner and to keep the amount of the tax in the separate account until payment over to the Tax Commissioner. The notice remains in effect until a notice of cancellation is served by the Tax Commissioner.

~~(e)~~ (d) *Accelerated payment.* —

(1) ~~Notwithstanding the provisions of subsections (a) and (b) of this section, after June 30, 2014, every~~ Every employer required to deduct and withhold tax whose average payment per calendar month for the preceding calendar year under subsection ~~(b)~~ (a) of this section exceeded \$100,000 shall remit the tax attributable to the first 15 days of June each year by June 23.

(2) For purposes of complying with subdivision (1) of this subsection, the employer shall remit an amount equal to the withholding tax due under this article on employee compensation subject to withholding tax payable or paid to employees for the first ~~fifteen~~ 15 days of June or, at the employer's election, the employer may remit an amount equal to ~~fifty~~ 50 percent of the employer's liability for withholding tax under this article on compensation payable or paid to employees for the preceding month of May.

(3) For an employer which has not been in business for a full calendar year, the total amount the employer was required to deduct and withhold under subsection ~~(b)~~ (a) of this section for the prior calendar year shall be divided by the number of months, including fractions of a month, that it was in business during the prior calendar year and if that amount exceeds \$100,000, the employer shall remit the tax attributable to the first ~~fifteen~~ 15 days of June each year by June 23, as provided in subdivision (2) of this subsection.

(4) When an employer required to make an advanced payment of withholding tax under subdivision (1) of this subsection makes out its return for the month of June, which is due by July 20, that employer may claim as a credit against its liability under this article for tax on employee compensation paid or payable for employee services rendered during the month of June the amount of the advanced payment of tax made under subdivision (1) of this subsection.

~~(f) The amendments to this section enacted in the year 2006 are effective for tax years beginning after December 31, 2005~~

~~(g)~~ (e) An annual reconciliation of West Virginia personal income tax withheld shall be submitted by the employer by ~~February 28~~ January 31, following the close of the calendar year, together with Tax Division copies of all withholding tax statements for that preceding calendar year. The reconciliation shall be accompanied by a list of the amounts of income withheld for each employee in such form as the Tax Commissioner prescribes and shall be filed separately from the employer's monthly or quarterly return.

~~(h)~~ (f) Any employer required to file a withholding return for ~~two hundred fifty or more employees shall file its return using electronic filing as defined in section fifty four of this article: Provided, That for any tax period beginning after December 31, 2010, any employer with 50 or more employees shall file its return using electronic filing as defined in section fifty-four~~ §11-21-54 of this article code: Provided, That for any tax period beginning after December 31, 2017, any employer that uses a payroll service or is

required to file a withholding return for 25 or more employees shall file its return using electronic filing as defined in §11-21-54 of this code. An employer that is required to file electronically but does not do so is subject to a penalty in the amount of \$25 per employee for whom the return was not filed electronically, unless the employer shows that the failure is due to a technical inability to comply.”

The bill was then ordered to third reading.

**Com. Sub. for S. B. 360**, Clarifying oil and gas permits not be on flat well royalty leases; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**S. B. 364**, Allowing parent or legal guardian of homeschooled child provide signed statement for obtaining permit or license to operate motor vehicle; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 415**, Permitting wagering on certain professional or collegiate sports events authorized as WV Lottery Sports Wagering activities; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk on page two, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 22D. WEST VIRGINIA LOTTERY SPORTS WAGERING ACT.**

**§29-22D-1. Short title.**

This article shall be known and may be cited as the West Virginia Lottery Sports Wagering Act.

**§29-22D-2. State authorization of sports wagering at licensed racetrack facilities and historic resort hotel; legislative findings and declarations.**

(a) Operation of West Virginia lottery sports wagering. — Notwithstanding any provision of law to the contrary, the operation of sports wagering and ancillary activities are only lawful when conducted in accordance with the provisions of this article and rules of the commission.

(b) Legislative findings. —

(1) The Legislature finds that the operation of the four racetracks and the historic resort hotel in this state play a critical role in the economy of this state, and such constitutional lotteries are rightfully authorized as state enterprises consistent with the rights and powers granted to the states under the Tenth Amendment of the United States Constitution. The federal government is a government of limited and enumerated powers, and powers not delegated to the United States by the Constitution nor prohibited by it to the states are reserved for the states and its respective citizens.

(2) The Legislature finds that section 36, article VI of the Constitution of the State of West Virginia grants the state the exclusive right to lawfully own and operate a lottery in this state. Authorization of wagering on any constitutional lottery within West Virginia is within the state's sovereign rights as a state to act in the best interest of its citizens.

(3) The Legislature finds that it is in the best interests of the State of West Virginia for the state to operate a lottery in the form of sports wagering and that it is the intent of the Legislature to authorize sports wagering when federal law is enacted or repealed, or a federal court decision is issued that permits a state to regulate sports wagering, as such power is reserved to the states.

(4) The Legislature finds that illegal sports wagering channels operating throughout the United States pose a critical threat to the safety and welfare of the citizens of West Virginia and that creating civil and criminal penalties to prosecute illegal operators, while transferring this black market demand into a secure and highly regulated environment, will protect the public and positively benefit state revenues and the state's economy.

(5) The Legislature finds that in order to protect residents of this state who wager on sports or other events and to capture revenues and create jobs generated from sports wagering, it is in the best interests of this state and its citizens to regulate this activity by authorizing and establishing a secure, responsible, fair, and legal system of sports wagering immediately, when the federal ban on sports wagering is lifted.

(6) The Legislature finds that the most effective and efficient manner in which the state can operate and regulate the forms of lottery authorized by the provisions of this article is to limit the number of authorized operators to those who are licensed, pursuant to the provisions of §29-22A-1 *et seq.* of this code, and to facilities licensed to operate video lottery terminals, pursuant to the provisions of §29-25-1 *et seq.* of this code.

(7) The Legislature finds that the granting of licenses pursuant to the provisions of this article, while maintaining all ownership rights and exercising control through strict regulation of all West Virginia Lottery sports wagering authorized by the provisions of this article, constitutes an appropriate exercise by the Legislature of the power granted it by the provisions of section 36, article VI of the Constitution of the State of West Virginia.

(8) The Legislature finds that the operation of West Virginia Lottery sports wagering at racetracks, licensed pursuant to the provisions of §29-22A-1 *et seq.* of this code, and at a historic resort hotel, licensed pursuant the provisions of §29-25-1 *et seq.* of this code, serves to protect, preserve, promote, and enhance the tourism industry of the state as well as the general fiscal well-being of the state and its subdivisions.

### **§29-22D-3. Definitions.**

For the purposes of this article, the following terms have the meanings ascribed to them in this section:

(1) ‘Adjusted gross sports wagering receipts’ means an operator’s gross sports wagering receipts from West Virginia

Lottery sports wagering, less winnings paid to wagerers in such games.

(2) ‘Collegiate sport or athletic event’ means a sport or athletic event offered or sponsored by, or played in connection with, a public or private institution that offers educational services beyond the secondary level.

(3) ‘Commission’ or ‘State Lottery Commission’ means the West Virginia Lottery Commission, created by §29-22-1 *et seq.* of this code.

(4) ‘Director’ means the director of the West Virginia State Lottery Commission, appointed pursuant to §29-22-6 of this code.

(5) ‘Gaming equipment’ or ‘sports wagering equipment’ means any mechanical, electronic or other device, mechanism, or equipment, and related supplies used or consumed in the operation of West Virginia Lottery sports wagering at a licensed gaming facility including, but not limited to, a kiosk installed to accept sports wagers.

(6) ‘Gaming facility’ means a designated area on the premises of an existing historic resort hotel, licensed under §29-25-1 *et seq.* of this code, to operate video lottery and table games or the facility of an entity authorized to operate racetrack video lottery machines, pursuant to §29-22A-1 *et seq.* of this code.

(7) ‘Government’ means any governmental unit of a national, state, or local body exercising governmental functions, other than the United States Government.

(8) ‘Gross sports wagering receipts’ means the total gross receipts received by a licensed gaming facility from sports wagering.

(9) ‘License’ means any license, applied for or issued by the commission under this article, including, but not limited to:

(A) A license to act as agent of the commission in operating West Virginia Lottery sports wagering at a licensed gaming facility



(‘Operator License’ or ‘West Virginia Lottery sports wagering license’):

(B) A license to supply a gaming facility, licensed under this article, to operate sports wagering with sports wagering equipment or services necessary for the operation of sports wagering (‘Supplier License’):

(C) A license to be employed at a racetrack or gaming facility, licensed under this article, to operate West Virginia Lottery sports wagering when the employee works in a designated gaming area that has sports wagering or performs duties in furtherance of or associated with the operation of sports wagering at the licensed gaming facility (‘Occupational License’); or

(D) A license to provide management services under a contract to a gaming facility, licensed under this article, to operate sports wagering (‘Management Services Provider License’).

(10) ‘Licensed gaming facility’ means a designated area on the premises of an existing historic resort hotel, pursuant to §29-25-1 *et seq.* of this code, or the facility of an entity authorized to operate racetrack video lottery machines, pursuant to §29-22A-1 *et seq.* of this code, licensed under this article to conduct West Virginia Lottery sports wagering.

(11) ‘Lottery’ means the public gaming systems or games regulated, controlled, owned, and operated by the State Lottery Commission in the manner provided by general law, as provided in this article, §29-22-1 *et seq.*, §29-22A-1 *et seq.*, §29-22B-1 *et seq.*, §29-22C-1 *et seq.*, and §29-25-1 *et seq.* of this code.

(12) ‘National criminal history background check system’ means the criminal history record system maintained by the Federal Bureau of Investigation, based on fingerprint identification or any other method of positive identification.

(13) ‘Operator’ means a licensed gaming facility which has elected to operate a sports pool and other authorized West Virginia Lottery sports wagering activities;

(14) ‘Professional sport or athletic event’ means an event at which two or more persons participate in sports or athletic events and receive compensation in excess of actual expenses for their participation in such event;

(15) ‘Sports event’ or ‘sporting event’ means any professional sport or athletic event, any collegiate sport or athletic event, motor race event, or any other special event authorized by the commission under this article;

(16) ‘Sports pool’ means the business of accepting wagers on any sports event by any system or method of wagering;

(17) ‘Sports wagering account’ means a financial record established by a licensed gaming facility for an individual patron in which the patron may deposit and withdraw funds for sports wagering and other authorized purchases, and to which the licensed gaming facility may credit winnings or other amounts due to that patron or authorized by that patron.

(18) ‘Sports Wagering Agreement’ means a written agreement between the commission and one or more other governments whereby persons who are physically located in a signatory jurisdiction may participate in sports wagering conducted by one or more operators licensed by the signatory governments.

(19) ‘Sports Wagering Fund’ means the special fund in the State Treasury, created in §29-22D-17 of this code.

(20) ‘Supplier’ means a person that requires a supplier license to provide a sports wagering licensee with goods or services to be used in connection with operation of West Virginia Lottery sports wagering.

(21) ‘Wager’ means a sum of money or thing of value risked on an uncertain occurrence.

(22) ‘West Virginia Lottery sports wagering’ or ‘sports wagering’ means the business of accepting wagers on sporting events and other events, the individual performance statistics of athletes in a sporting event or other events, or a combination of any

of the same by any system or method of wagering approved by the commission including, but not limited to, mobile applications and other digital platforms that utilize communications technology to accept wagers originating within this state. The term includes, but is not limited to, exchange wagering, parlays, over-under, moneyline, pools, and straight bets. The term does not include:

(A) Pari-mutuel betting on the outcome of horse or dog races, authorized by §19-23-12a and §19-23-12d of this code;

(B) Lottery games of the West Virginia state lottery, authorized by §29-22-1 et seq. of this code;

(C) Racetrack video lottery, authorized by §29-22A-1 et seq. of this code;

(D) Limited video lottery, authorized by §29-22B-1 et seq. of this code;

(E) Racetrack table games, authorized by §29-22C-1 et seq. of this code;

(F) Video lottery and table games, authorized by §29-25-1 et seq. of this code; and

(G) Daily Fantasy Sports (DFS).

(23) ‘West Virginia Lottery sports wagering license’ means authorization granted under this article by the commission to a gaming facility that is already licensed under §29-22A-1 et seq. or §29-25-1 et seq. of this code, which permits the gaming facility as an agent of the commission to operate West Virginia Lottery sports wagering in one or more designated areas or in one or more buildings owned by the licensed gaming facility on the grounds where video lottery is conducted by the licensee or through any other authorized platform developed by the gaming facility. This term is synonymous with ‘operator’s license.’

#### **§29-22D-4. Commission duties and powers.**

(a) In addition to the duties set forth elsewhere in this article, §29-22-1 et seq., §29-22A-1 et seq., §29-22B-1 et seq., §29-22C-1 et seq. and §29-25-1 et seq. of this code, the commission shall have the authority to regulate sports pools and the conduct of sports wagering under this article.

(b) The commission shall examine the regulations implemented in other states where sports wagering is conducted and shall, as far as practicable, adopt a similar regulatory framework through promulgation of rules and regulations.

(c) The commission has the authority, pursuant to §29A-1-1, et seq. and §29A-3-1, et seq. of this code, to promulgate or otherwise enact any legislative, interpretive, and procedural rules the commission considers necessary for the successful implementation, administration, and enforcement of this article. Rules proposed by the commission before December 1, 2018, may be promulgated as emergency rules pursuant to §29A-3-15 of this code.

(1) Regulations promulgated by the commission may include, but are not limited to, those governing the acceptance of wagers on a sports event or a series of sports events; maximum wagers which may be accepted by an operator from any one patron on any one sports event; type of wagering tickets which may be used; method of issuing tickets; method of accounting to be used by operators; types of records which shall be kept; use of credit and checks by patrons; type of system for wagering; protections for patrons placing wagers; and promotion of social responsibility, responsible gaming, and inclusion of the statement, ‘If you or someone you know has a gambling problem and wants help, call 1-800 GAMBLER,’ in every designated area approved for sports wagering and on any mobile application or other digital platform used to place wagers.

(2) The commission shall establish minimum internal control standards (MICS) and approve minimum internal control standards proposed by licensed operators for administration of sports wagering operations, wagering equipment and systems, or other

items used to conduct sports wagering, as well as maintenance of financial records and other required records.

(d) The commission shall determine the eligibility of a person to hold or continue to hold a license, shall issue all licenses, and shall maintain a record of all licenses issued under this article. The commission may accept applications, evaluate qualifications of applicants, and undertake initial review of licenses prior to promulgation of emergency rules upon the effective date of this article.

(e) The commission shall levy and collect all fees, surcharges, civil penalties, and weekly tax on adjusted gross sports wagering receipts imposed by this article, and deposit all moneys into the Sports Wagering Fund, except as otherwise provided under this article.

(f) The commission may sue to enforce any provision of this article or any rule of the commission by civil action or petition for injunctive relief.

(g) The commission may hold hearings, administer oaths, and issue subpoenas or subpoenas duces tecum: *Provided*, That all hearings shall be conducted pursuant to the provisions of the State Administrative Procedures Act, §29A-2-1, *et seq.* of this code and the Lottery Administrative Appeal Procedures, W.Va. CSR §179-2-1, *et seq.*

(h) The commission may exercise any other powers necessary to effectuate the provisions of this article and the rules of the commission.

#### **§29-22D-5. Licenses required.**

(a) The commission shall not grant a license required under this article to any applicant until the commission has published the notice in the State Register, as required by §29-22D-15(f) of this code.

(b) No person may engage in any activity in connection with West Virginia Lottery sports wagering in this state unless all

necessary licenses have been obtained in accordance with this article and rules of the commission. Four types of licenses: (1) Operator, (2) Supplier, (3) Management Services Provider, and (4) Occupational—are issued pursuant to this article, and no person or entity may engage in any sports wagering operation or activity without first obtaining the appropriate license.

(c) The commission may not grant a license until it determines that each person who has control of the applicant meets all qualifications for licensure. The following persons are considered to have control of an applicant:

(1) Each person associated with a corporate applicant, including any corporate holding company, parent company, or subsidiary company of the applicant who has the ability to control the activities of the corporate applicant or elect a majority of the board of directors of that corporation; this does not include any bank or other licensed lending institution which holds a mortgage or other lien acquired in the ordinary course of business;

(2) Each person associated with a non-corporate applicant who directly or indirectly holds a beneficial or proprietary interest in the applicant's business operation, or who the commission otherwise determines has the ability to control the applicant; and

(3) Key personnel of an applicant, including any executive, employee, or agent, having the power to exercise significant influence over decisions concerning any part of the applicant's business operation.

(d) License application requirements. – All applicants for any license issued under this article shall submit an application to the commission in the form the commission requires and submit fingerprints for a national criminal records check by the Criminal Identification Bureau of the West Virginia State Police and the Federal Bureau of Investigation. The fingerprints shall be furnished by all persons required to be named in the application and shall be accompanied by a signed authorization for the release of information by the Criminal Investigation Bureau and the Federal Bureau of Investigation. The commission may require additional

background checks on licensees when they apply for annual license renewal, and any applicant convicted of any disqualifying offense shall not be licensed.

(e) Each sports wagering licensee, licensed supplier, or a licensed management services provider shall display the license conspicuously in its place of business or have the license available for inspection by any agent of the commission or any law-enforcement agency.

(f) Each holder of an occupational license shall carry the license and have some indicia of licensure prominently displayed on his or her person when present in a licensed gaming facility at all times, in accordance with the rules of the commission.

(g) Each person licensed under this article shall give the commission written notice within 30 days of any change to any information provided in the licensee's application for a license or renewal.

(h) No commission employee may be an applicant for any license issued under this article nor may any employee of any such licensee directly or indirectly hold an ownership or a financial interest in any West Virginia Lottery sports wagering license.

**§29-22D-6. Operator license; West Virginia Sports Wagering operators.**

(a) In addition to the casino games permitted pursuant to the provisions of §29-22A-1 et seq., §29-22C-1 et seq., and §29-25-1 et seq. of this code, a licensed gaming facility may operate West Virginia Lottery sports wagering upon the approval of the commission, and the commission shall have the general responsibility for the implementation of this article and all other duties specified in §29-22-1 et seq., §29-22A-1 et seq., §29-22C-1 et seq., and §29-25-1 et seq. of this code, the provisions of this article, and applicable regulations.

(b) All sports wagering authorized by this article shall be West Virginia Lottery games owned by the State of West Virginia. An operator license granted by the commission pursuant to this article

grants licensees lawful authority to conduct West Virginia Lottery sports wagering within the terms and conditions of the license and any regulations promulgated under this article.

(c) *Sports wagering licenses.* — The commission may issue up to five licenses to operate West Virginia Lottery sports wagering in accordance with the provisions of this article. No more than five licenses to operate a gaming facility with West Virginia Lottery sports wagering shall be permitted in this state.

(d) *Grant of license.* — Upon application by a gaming facility and payment of a \$100,000 application fee, the commission shall immediately grant a West Virginia Lottery sports wagering license to an operator that provides for the right to conduct West Virginia Lottery sports wagering: *Provided*, That the applicant must hold a valid racetrack video lottery license issued by the commission, pursuant to §29-22A-1 *et seq.* of this code, or a valid license to operate a gaming facility, issued by the commission pursuant to §29-25-1 *et seq.* of this code, and otherwise meet the requirements for licensure under the provisions of this article and the rules of the commission. This license shall be issued for a five-year period, and may be renewed for five-year periods upon payment of a \$100,000 renewal fee, as long as an operator continues to meet all qualification requirements.

(e) *Location.* — A West Virginia Lottery sports wagering license authorizes the operation of West Virginia Lottery sports wagering at locations and through any mobile application or other digital platforms approved by the commission.

(f) *Management service contracts.* —

(1) *Approval.* — A West Virginia Lottery sports wagering licensee may not enter into any management service contract that would permit any person other than the licensee to act as the commission's agent in operating West Virginia Lottery sports wagering unless the management service contract: (A) is with a person licensed under this article to provide management services; (B) is in writing; and (C) has been approved by the commission.



(2) Material change. — The West Virginia Lottery sports wagering licensee shall submit any material change in a management service contract, previously approved by the commission, to the commission for its approval or rejection before the material change may take effect.

(3) Other commission approvals and licenses. — The duties and responsibilities of a management services provider under a management services contract may not be assigned, delegated, subcontracted, or transferred to a third party without the prior approval of the commission. Third parties must be licensed as a management services provider under this article before providing services.

(g) Expiration date and renewal. —

(1) A licensed operator shall submit to the commission such documentation or information as the commission may require demonstrating to the satisfaction of the director that the licensee continues to meet the requirements of the law and regulations. Required documentation or information shall be submitted no later than five years after issuance of an operator license and every five years thereafter, or within lesser periods based on circumstances specified by the commission.

(2) If the licensee fails to apply to renew its license issued pursuant to §29-22A-1 et seq. or §29-25-1 et seq. of this code prior to expiration, the commission shall renew its license under this article at the time the expired license is renewed as long as the licensee was operating in compliance with applicable requirements in the preceding license year.

(h) Surety bond. — A West Virginia Lottery sports wagering licensee shall execute a surety bond in an amount and in the form approved by the commission, to be given to the state, to guarantee the licensee faithfully makes all payments in accordance with the provisions of this article and rules promulgated by the commission.

(i) Audits. — Upon application for a license and annually thereafter, a West Virginia Lottery sports wagering licensee shall

submit to the commission an annual audit of the financial transactions and condition of the licensee's total operations prepared by a certified public accountant in accordance with generally accepted accounting principles and applicable federal and state laws.

(j) *Commission office space.* — A West Virginia Lottery sports wagering licensee shall provide suitable office space at the sports wagering facility, at no cost, for the commission to perform the duties required of it by this article and the rules of the commission.

(k) *Facility qualifications.* — A West Virginia Lottery sports wagering licensee shall demonstrate that its gaming facility with West Virginia Lottery sports wagering will: (1) be accessible to disabled individuals, in accordance with applicable federal and state laws; (2) be licensed in accordance with this article, and all other applicable federal, state, and local laws; and (3) meet any other qualifications specified in rules adopted by the commission. Notwithstanding any provision of this code or any rules promulgated by the Alcohol Beverage Control Commissioner to the contrary, vacation of the premises after service of beverages ceases is not required for any licensed gaming facility.

#### **§29-22D-7. Management services providers; license requirements.**

(a) *License.* — The holder of a license to operate West Virginia Lottery sports wagering may contract with an entity to conduct that operation in accordance with the regulations of the commission. That entity shall obtain a license as a management services provider prior to the execution of any such contract, and such license shall be issued pursuant to the provisions of this article and any regulations promulgated by the commission.

(b) *License qualifications and fee.* — Each applicant for a management services provider license shall meet all requirements for licensure and pay a nonrefundable license and application fee of \$1,000. The commission may adopt rules establishing additional requirements for an authorized management services provider. The commission may accept licensing by another jurisdiction, that it

specifically determines to have similar licensing requirements, as evidence the applicant meets authorized management services provider licensing requirements.

(c) *Renewal.* – Management services provider licenses shall be renewed annually to any licensee who continues to be in compliance with all requirements and who pays the annual renewal fee of \$1,000.

(d) Any entity or individual who shares in revenue, including any affiliate operating under a revenue share agreement, shall be licensed under this section.

#### **§29-22D-8. Suppliers; license requirements.**

(a) *Supplier License.* –

(1) The commission may issue a supplier license to a person to sell or lease sports wagering equipment, systems, or other gaming items necessary to conduct sports wagering, and offer services related to such equipment or other gaming items to a West Virginia Lottery sports wagering licensee while the license is active. The commission may establish the conditions under which the commission may issue provisional licenses, pending completion of final action on an application.

(2) The commission may adopt rules establishing additional requirements for a West Virginia Lottery sports wagering supplier and any system or other equipment utilized for wagering. The commission may accept licensing by another jurisdiction, that it specifically determines to have similar licensing requirements, as evidence the applicant meets West Virginia Lottery sports wagering supplier licensing requirements.

(b) *Supplier specifications.* — An applicant for a supplier license shall demonstrate that the equipment, system, or services that the applicant plans to offer to the sports wagering licensee conform to standards established by the commission and applicable state law. The commission may accept approval by another jurisdiction, that it specifically determines have similar equipment

standards, as evidence the applicant meets the standards established by the commission and applicable state law.

(c) License application and renewal fees. – Applicants shall pay to the commission a nonrefundable license and application fee in the amount of \$1,000. After the initial one-year term, the commission shall renew supplier licenses annually thereafter. Renewal of a supplier license will be granted to any renewal applicant who has continued to comply with all applicable statutory and regulatory requirements, upon submission of the commission issued renewal form and payment of a \$1,000 renewal fee.

(d) Inventory. — A licensed sports wagering supplier shall submit to the commission a list of all sports wagering equipment and services sold, delivered to, or offered to a West Virginia Lottery sports wagering licensee in this state, as required by the commission, all of which must be tested and approved by an independent testing laboratory approved by the commission. A sports wagering licensee may continue to use supplies acquired from a licensed sports wagering supplier, even if a supplier's license expires or is otherwise cancelled, unless the commission finds a defect in the supplies.

#### **§29-22D-9. Occupational licenses.**

(a) All persons employed to be engaged directly in sports wagering-related activities, or otherwise conducting or operating sports wagering, shall be licensed by the Commission and maintain a valid occupational license at all times and the commission shall issue such license to be employed in the operation of sports wagering to a person who meets the requirements of this section.

(b) An occupational license to be employed by a gaming facility with West Virginia Lottery sports wagering permits the licensee to be employed in the capacity designated by the commission while the license is still active. The commission may establish, by rule, job classifications with different requirements to recognize the extent to which a particular job has the ability to impact the proper operation of West Virginia Lottery sports wagering.

(c) Application and fee. — Applicants shall submit any required application forms established by the commission and pay a nonrefundable application fee of \$100. The fee may be paid on behalf of an applicant, by the employer.

(d) Renewal fee and form. — Each licensed employee shall pay to the commission an annual license fee of \$100 by June 30 of each year. The fee may be paid on behalf of the licensed employee, by the employer. In addition to a renewal fee, each licensed employee shall annually submit a renewal application on the form required by the commission.

### **§29-22D-10. License prohibitions.**

(a) The commission may not grant any license, pursuant to the provisions of this article, if evidence satisfactory to the commission exists that the applicant:

(1) Has knowingly made a false statement of a material fact to the commission;

(2) Has been suspended from operating a gambling game, gaming device, or gaming operation, or had a license revoked by any governmental authority responsible for regulation of gaming activities;

(3) Has been convicted of a crime of moral turpitude, a gambling-related offense, a theft or fraud offense, or has otherwise demonstrated, either by a police record or other satisfactory evidence, a lack of respect for law and order; or

(4) Is a company or individual who has been directly employed by any illegal or offshore book that serviced the United States, or otherwise accepted black market wagers from individuals located in the United States.

(b) The commission may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license:

(1) If the applicant or licensee has not demonstrated to the satisfaction of the commission financial responsibility sufficient to adequately meet the requirements of the proposed enterprise;

(2) If the applicant or licensee is not the true owner of the business or is not the sole owner and has not disclosed the existence or identity of other persons who have an ownership interest in the business; or

(3) If the applicant or licensee is a corporation which sells more than five percent of a licensee's voting stock, or more than five percent of the voting stock of a corporation which controls the licensee, or sells a licensee's assets, other than those bought and sold in the ordinary course of business, or any interest in the assets, to any person not already determined by the commission to have met the qualifications of a licensee under this article.

(c) In the case of an applicant for a sports wagering license, the commission may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if an applicant has not met the requirements of this section or any other provision of this article.

#### **§29-22D-11. Sports wagering house rules; posting of rules.**

(a) Each operator shall adopt comprehensive house rules for game play governing sports wagering transactions with its patrons. These comprehensive rules will be published as part of the minimum internal control standards. The rules shall specify the amounts to be paid on winning wagers and the effect of schedule changes. House rules shall be approved by the commission prior to implementation.

(b) The house rules, together with any other information the commission deems appropriate, shall be conspicuously displayed and included in the terms and conditions of the sports wagering system. Copies shall be made readily available to patrons.

(c) The commission shall license and require the display of West Virginia Lottery game logos on game surfaces, other gaming items, and any locations the commission considers appropriate.

**§29-22D-12. Operator duties; sports wagering operations at a licensed gaming facility.**

(a) General. — All operators licensed under this article to conduct West Virginia Lottery sports wagering shall:

(1) Employ a monitoring system utilizing software to identify non-normal irregularities in volume or odds swings which could signal suspicious activities that should require further investigation which shall be immediately reported and investigated by the commission. System requirements and specifications shall be developed according to industry standards and implemented by the commission as part of the minimum internal control standards.

(2) Promptly report to the commission any facts or circumstances related to the operation of a West Virginia Lottery sports wagering licensee which constitute a violation of state or federal law and immediately report any suspicious betting over a threshold set by the operator that has been approved by the commission to the appropriate state or federal authorities;

(3) Conduct all sports wagering activities and functions in a manner which does not pose a threat to the public health, safety, or welfare of the citizens of this state and does not adversely affect the security or integrity of the West Virginia Lottery;

(4) Hold the commission and this state harmless from and defend and pay for the defense of any and all claims which may be asserted against a licensee, the commission, the state, or employees thereof, arising from the licensee's actions or omission while acting as an agent of the commission operating West Virginia Lottery sports wagering pursuant to this article;

(5) Assist the commission in maximizing sports wagering revenues; and

(6) Keep current in all payments and obligations to the commission.

(b) Duties. — All West Virginia Lottery sports wagering licensees shall:

(1) Acquire West Virginia Lottery sports wagering gaming equipment by purchase, lease, or other assignment and provide a secure location for the placement, operation, and play of sports wagering gaming equipment;

(2) Prevent any person from tampering with or interfering with the operation of any West Virginia Lottery sports wagering;

(3) Ensure that West Virginia Lottery sports wagering conducted at a gaming facility is within the sight and control of designated employees of the licensee and such wagering at the facility or otherwise available by the licensee is conducted under continuous observation by security equipment in conformity with specifications and requirements of the commission;

(4) Ensure that West Virginia Lottery sports wagering occurs only in the specific locations within designated gaming areas approved by the commission or using a commission approved mobile application or other digital platform that utilizes communications technology to accept wagers originating within this state, or on a sports wagering device. West Virginia Lottery sports wagering shall only be relocated or offered in additional authorized manners in accordance with the rules of the commission;

(5) Maintain sufficient cash and other supplies to conduct sports wagering at all times; and

(6) Maintain daily records showing the gross sports wagering receipts and adjusted gross sports wagering receipts of the licensee from West Virginia Lottery sports wagering and shall timely file with the commission any additional reports required by rule or by other provisions of this code.

**§29-22D-13. Posting of betting limits.**

A sports wagering licensee shall conspicuously post a sign at each West Virginia Lottery sports wagering location indicating the minimum and maximum wagers permitted at that location and shall comply with the same.



**§29-22D-14. Sports wagering agreements with other governments.**

(a) On behalf of the State of West Virginia, the commission is authorized to:

(1) Enter into sports wagering agreements with other governments whereby persons who are physically located in a signatory jurisdiction may participate in sports wagering conducted by one or more operators licensed by the signatory governments; and

(2) Take all necessary actions to ensure that any sports wagering agreement entered into, pursuant to this section, becomes effective.

(b) The regulations adopted by the commission pursuant to this section may include provisions prescribing:

(1) The form, length, and terms of an agreement entered into by the commission and another government, including, but not limited to, provisions relating to how: taxes are to be treated by this state and another government; revenues are to be shared and distributed; and disputes with patrons are to be resolved;

(2) The information to be furnished to the commission by a government that proposes to enter into an agreement with this state pursuant to this section;

(3) The information to be furnished to the commission to enable the commission and director to carry out the purposes of this section;

(4) The manner and procedure for hearings conducted by the commission pursuant to this section, including any special rules or notices; and

(5) The information required to be furnished to the commission to support any recommendations made to the commission, pursuant to this section.

(c) The commission may not enter into any sports wagering agreement, pursuant to this section, unless the agreement includes provisions that:

(1) Account for the sharing of revenues by this state and another government;

(2) Permit the effective regulation of sports wagering by this state, including provisions relating to licensing of persons, technical standards, resolution of disputes by patrons, requirements for bankrolls, enforcement, accounting, and maintenance of records;

(3) Require each government that is a signatory to the agreement to prohibit operators of sports wagering, management or other service providers, or suppliers, manufacturers or distributors of sports wagering systems from engaging in any activity permitted by the sports wagering agreement unless they are licensed in this state or in a signatory jurisdiction with similar requirements approved by the commission;

(4) No variation from the requirements of the sports wagering agreement is permitted for any signatory government without a lack of opposition by this state and all signatory governments;

(5) Prohibit any subordinate or side agreements among any subset of governments that are signatories to the agreement unless it relates exclusively to the sharing of revenues; and

(6) Require the government to establish and maintain regulatory requirements governing sports wagering that are consistent with the requirements of this state in all material respects if the sports wagering agreement allows persons physically located in this state to participate in sports wagering conducted by another government or an operator licensed by another government.

**§29-22D-15. Authorization of sports wagering in this state; requirements.**

(a) An operator shall accept wagers on sports events and other events authorized under this article from persons physically present

in a licensed gaming facility where authorized sports wagering occurs, or from persons not physically present who wager by means of electronic devices. A person placing a wager shall be at least 21 years of age.

(b) An operator may accept wagers from an individual physically located within this state using a mobile or other digital platform or a sports wagering device, approved by the commission, through the patron's sports wagering account.

(c) An operator may accept wagers from an individual physically located in a state or jurisdiction with which the commission has entered into a sports wagering agreement using a mobile or other digital platform or a sports wagering device through the patron's sports wagering account, so long as the device or platform is approved by the commission and all other requirements of the agreement are satisfied.

(d) The commission or operator may ban any person from entering a gaming area of a gaming facility conducting sports wagering or the grounds of a gaming facility licensed under this article or from participating in the play or operation of any West Virginia Lottery sports wagering. A log of all excluded players shall be kept by the commission and each licensee, and no player on the commission's exclusion list or the licensed operator's exclusion list shall wager on any West Virginia Lottery sports wagering under this article.

(e) The commission shall promulgate regulations implementing the provisions of subsection (a) of this section by interpretive rule and minimum internal control standards.

(f) The commission shall, when a Federal law is enacted or repealed or when a Federal court decision is issued that permits a state to regulate sports wagering, publish a notice in the State Register notifying the public of the enactment or repeal of federal law or of the issuance of such court decision. The commission shall not be authorized to conduct sports wagering in this state until the notice prescribed in this subsection is published in the State Register.

(g) No licensed gaming facility employee may place a wager on any sports wagering at the employer's facility or through any other mobile application or digital platform of their employer.

(h) No commission employee may knowingly wager or be paid any prize from any wager placed at any licensed gaming facility with West Virginia Lottery sports wagering within this state or at any facility outside this jurisdiction that is directly or indirectly owned or operated by a sports wagering licensee.

**§29-22D-16. Sports wagering revenues; accounting for the state's share of revenue imposed for the privilege of offering West Virginia Lottery sports wagering; limitation of other taxes; recoupment for improvements.**

(a) Imposition and rate of assessment. — For the privilege of holding a license to operate sports wagering under this article, the state shall impose and collect ten percent of the licensee's adjusted gross sports wagering receipts from the operation of West Virginia Lottery sports wagering (hereinafter 'privilege tax' or 'tax'). The accrual method of accounting shall be used for purposes of calculating the amount of the tax owed by the licensee.

(b) Operator revenue reports and payment of privilege tax. —

(1) The tax levied and collected pursuant to subsection (a) of this section is due and payable to the commission in weekly installments on or before the Wednesday following the calendar week in which the adjusted gross sports wagering receipts were received and the tax obligation was accrued.

(2) The licensed operator shall complete and submit the return for the preceding week by electronic communication to the commission, on or before Wednesday of each week, in the form prescribed by the commission that provides:

(A) The total gross sports wagering receipts and adjusted gross sports wagering receipts from operation of West Virginia Lottery sports wagering during that week;

(B) The tax amount for which the sports wagering licensee is liable; and

(C) Any additional information necessary in the computation and collection of the tax on adjusted gross sports wagering receipts required by the commission.

(3) The tax amount shown to be due shall be remitted by electronic funds transfer simultaneously with the filing of the return. All moneys received by the commission pursuant to this section shall be deposited in the Sports Wagering Fund in accordance with the provisions of this article.

(4) When adjusted gross receipts for a week is a negative number because the winnings paid to patrons wagering on the licensee's West Virginia Lottery sports wagering exceeds the licensee's total gross receipts from sports wagering by patrons, the commission shall allow the licensee to carry over the negative amount to returns filed for subsequent weeks. The negative amount of adjusted gross receipts may not be carried back to an earlier week and moneys previously received by the commission will not be refunded, except if the licensee surrenders its operator's license and the licensee's last return reported negative adjusted gross receipts. In that case, the commission shall multiply the amount of negative adjusted gross receipts by 10 percent and pay the amount to the licensee in the manner approved by the commission.

(c) *Privilege tax obligation imposed by this section is in lieu of other taxes.* —

With the exception of the ad valorem property tax collected under chapter eleven-a of this code, the privilege tax on adjusted gross sports wagering receipts imposed by this section is in lieu of all other state and local taxes and fees imposed on the operation of, or the proceeds from operation of West Virginia Lottery sports wagering, except as otherwise provided in this section. The Consumers Sales and Services Tax imposed pursuant to §11-15-1 et seq. of this code, the Use Tax imposed by §11-15A-1 et seq. of this code and any similar local tax imposed at the municipal or county level, shall not apply to the licensee's gross receipts from

any West Virginia Lottery sports wagering or to the licensee's purchase of sports wagering equipment, supplies, or services directly used in operation of the sports wagering authorized by this article.

(d) Acquisition of any system or wagering equipment and other items related to the operation of West Virginia sports wagering shall be considered 'facility modernization improvements' eligible for recoupment as defined in §29-22A-10(b)(2) and §29-25-22(c) of this code.

(e) *Prohibition on credits.* — Notwithstanding any other provision of this code to the contrary, no credit may be allowed against the privilege tax obligation imposed by this section or against any other tax imposed by any other provision of this code for any investment in gaming equipment or for any investment in or improvement to real property that is used in the operation of West Virginia Lottery sports wagering.

**§29-22D-17. West Virginia Lottery Sports Wagering Fund; distribution of funds.**

(a) The special fund in the State Treasury known as the West Virginia Lottery Sports Wagering Fund is hereby created and all moneys collected under this article by the commission shall be deposited with the State Treasurer to the West Virginia Lottery Sports Wagering Fund. The fund shall be an interest-bearing account with all interest or other return earned on the money of the fund credited to and deposited in the fund. All expenses of the commission incurred in the administration and enforcement of this article shall be paid from the Sports Wagering Fund pursuant to subsection (b) of this section.

(b) The commission shall deduct an amount sufficient to reimburse its actual costs and expenses incurred in administering sports wagering at licensed gaming facilities from the gross deposits into the Sports Wagering Fund. The amount remaining after the deduction for administrative expenses is the net profit.

(1) *Administrative allowance.* — The commission shall retain up to 15 percent of gross deposits for the fund operation and its administrative expenses: *Provided*, That in the event that the percentage allotted for operations and administration generates a surplus, the surplus shall be allowed to accumulate but may not exceed \$250,000. On a monthly basis, the director shall report any surplus in excess of \$250,000 to the Joint Committee on Government and Finance and remit the entire amount of those surplus funds in excess of \$250,000 to the State Treasurer which shall be allocated as net profit.

(2) *Distribution of net profit.* — In each fiscal year, net profit shall be deposited into the State Lottery Fund created by §29-22-18 of this code until a total of \$15 million is deposited; thereafter, the remainder shall be deposited into the Public Employees Insurance Agency Financial Stability Fund to stabilize and preserve the future solvency of PEIA, and such amount may not be included in the calculation of any plan year aggregate premium cost-sharing percentages between employers and employees.

#### **§29-22D-18. Law enforcement.**

(a) Notwithstanding any provision of this code to the contrary, the commission shall, by contract or cooperative agreement with the West Virginia State Police, arrange for those law-enforcement services uniquely related to gaming, as such occurs at facilities of the type authorized by this article, that are necessary to enforce the provisions of this article that are not subject to federal jurisdiction: *Provided*, That the State Police shall only have exclusive jurisdiction over offenses committed on the grounds of a licensed gaming facility that are offenses relating to gaming.

#### **§29-22D-19. Civil penalties.**

(a) The commission may impose, on any person who violates the provisions of this article, a civil penalty not to exceed \$50,000 for each violation. Such penalty shall be imposed on all individuals and is not limited to individuals licensed under this article. This provision shall not be construed as applicable to office pools.

(b) The provisions of §29A-5-1 et seq. of this code apply to any civil penalty imposed pursuant to the provisions of this section.

**§29-22D-20. Crimes and penalties related to unauthorized sports wagering operations.**

(a) Any person, other than a licensee under this article, who engages in accepting, facilitating, or operating a sports wagering operation is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$10,000 or confined in jail for not more than ninety days, or both fined and confined.

(b) Notwithstanding the penalty provisions of subsection (a) of this section, any person convicted of a second violation of subsection (a) is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$50,000, or confined in jail for not more than 6 months, or both fined and confined.

(c) Notwithstanding the penalty provisions of subsections (a) or (b) of this section, any person convicted of a third or subsequent violation of said subsection (a) is guilty of a felony, and upon conviction thereof, shall be fined not less than \$25,000 nor more than \$100,000 or imprisoned in a state correctional facility for not less than one year nor more than five years, or both fined and confined.

**§29-22D-21. Crimes and penalties related to authorized sports wagering operation.**

(a) A sports wagering licensee is guilty of unlawful operation and is guilty of a misdemeanor when:

(1) The licensee operates West Virginia Lottery sports wagering without authority of the commission to do so;

(2) The licensee operates West Virginia Lottery sports wagering in any location or by any manner that is not approved by the commission;

(3) The licensee knowingly conducts, carries on, operates, or allows any sports wagering to occur on premises or through any



other device if equipment or material has been tampered with, or exposed to conditions in which it will be operated in a manner designed to deceive the public;

(4) The licensee employs an individual who does not hold a valid occupational license in a position for which a license is required or otherwise allows an individual to perform duties for which such license is required or continues to employ an individual after the employee's occupational license is no longer valid;

(5) The licensee acts or employs another person to act as if he or she is not an agent or employee of the licensee in order to encourage participation in West Virginia Lottery sports wagering at the licensed gaming facility;

(6) The licensee knowingly permits an individual under the age of 21 to enter or remain in a designated gaming area or to engage in sports wagering at a licensed gaming facility; or

(7) The licensee exchanges tokens, chips, electronic media, or other forms of credit used for wagering for anything of value except money or credits applied to a sports wagering account at a gaming facility authorized under this article.

(b) A person is guilty of a felony when:

(1) A person offers, promises, or gives anything of value to anyone for the purpose of influencing the outcome of a race, sporting event, contest, or game upon which a wager may be made, or a person places, increases, or decreases a wager after acquiring knowledge, not available to the general public, that anyone has been offered, promised, or given anything of value for the purpose of influencing the outcome of the race, sporting event, contest, or game upon which the wager is placed, increased or decreased, or attempts to do any of the same;

(2) A person changes or alters the normal outcome of any game played on a mobile or other digital platform, including any interactive gaming system used to monitor the same or the way in which the outcome is reported to any participant in the game;

(3) The person manufactures, sells, or distributes any device that is intended by that person to be used to violate any provision of this article or the sports wagering laws of any other state;

(4) The person places a bet or aids any other individual in placing a bet on a sporting event or other sports wagering game or offering authorized under this article after unlawfully acquiring knowledge of the outcome on which winnings from that bet are contingent;

(5) The person claims, collects, or takes anything of value from a gaming facility with West Virginia Lottery sports wagering with intent to defraud or attempts such action without having made a wager in which such amount or value is legitimately won or owed;

(6) The person knowingly places a wager using counterfeit currency or other counterfeit form of credit for wagering at a gaming facility with West Virginia Lottery sports wagering; or

(7) The person, not a licensed gaming facility under this article or an employee or agent of a gaming facility licensed under this article acting in furtherance of the licensee's interest, has in his or her possession on grounds owned by the gaming facility licensed under this article or on grounds contiguous to the licensed gaming facility, any device intended to be used to violate a provision of this article or any rule of the commission.

(c) Any person who violates any provision of subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or confined in jail for not more than six months, or both fined and confined, except any violation that is not committed by a natural person may result in a fine of not more than \$25,000.

(d) Any person who violates any provision of subsection (b) of this section is guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than \$10,000, or confined in a state correctional facility for not less than one year nor more than five years, or both fined and confined.

(e) With regard to subsection (b) of this section, each West Virginia sports wagering licensee shall post notice of the prohibitions and penalties of this section in a manner determined by the rules of the commission.

**§29-22D-22. Preemption.**

No local law or rule providing any penalty, disability, restriction, regulation, or prohibition for operating a gaming facility with West Virginia Lottery sports wagering or supplying a licensed gaming facility may be enacted, and the provisions of this article preempt all regulations, rules, ordinances, and laws of any county or municipality in conflict with this article.

**§29-22D-23. Exemption from federal law.**

Pursuant to Section 2 of Chapter 1194, 64 Stat. 1134, 15 U.S.C. §1172, approved January 2, 1951, the State of West Virginia, acting by and through duly elected and qualified members of the Legislature, does declare and proclaim that the state is exempt from chapter 1194, 64 Stat. 1134, 15 U.S.C. §1171 to §1178.

**§29-22D-24. Shipment of gambling devices.**

All shipments of gambling devices including any sports wagering devices or related materials to licensed gaming facilities in this state are legal shipments of gambling devices into the State of West Virginia, as long as the registering, recording, and labeling of which have been completed by the supplier thereof in accordance with Chapter 1194, 64 Stat. 1134, 15 U.S.C. §1171 to §1178.”

Delegates Canestraro and Ferro moved to amend the Finance Committee amendment, on page twenty-eight, after section twenty-four, by inserting a new section, designated section twenty-five, to read as follows:

**“§29-22D-25. Authorization of Limited Lottery Sports Betting.**

Notwithstanding any provision of the law to the contrary, the State Lottery Commission may authorize Limited Video Lottery

licensees licensed pursuant to §29-22B-1 et seq. of this code to conduct sports betting activities as provided in this article. The Commission may authorize and regulate, in a manner consistent with the provisions of this article, only upon promulgation of legislative rules pursuant to §29A-3-1 et seq. of this code authorizing and establishing the regulatory scheme for licensing, operation and enforcement. Upon promulgation of such rules, Limited Video Lottery licensees may apply for and be licensed pursuant to the applicable provisions of this article. Any licenses issued shall be consistent with the applicable provisions of this article as reasonably practicable. All criminal and civil sanctions established pursuant to this article shall be applicable to Limited Video Lottery licensees receiving such license and persons betting or otherwise regulated pursuant to the provisions of this article.”

Delegate Robinson requested to be excused from voting on the amendment under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The question before the House being the adoption of the amendment to the amendment, the same was put and did not prevail.

The Finance Committee amendment was then adopted.

There being no further amendments, the bill was ordered to third reading.

**S. B. 444**, Repealing antiquated code sections regarding safety glass and lighting in motor vehicles; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 451**, Relating generally to hunting and fishing; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**S. B. 464**, Changing statutory payment date for incremental salary increases due state employees; on second reading, coming up in regular order, was read a second time.

An amendment, offered by Delegate Bates, was reported by the Clerk, on page one, section two, line two, by striking out “\$60” and inserting in lieu thereof “\$90”.

On page one, section two, line three, by striking out “\$60” and inserting in lieu thereof “\$90”.

And,

On page one, section two, line nine, by striking out “\$60” and inserting in lieu thereof “\$90”.

Whereupon,

Delegate Bates asked and obtained unanimous consent that the amendment be withdrawn.

The bill was then ordered to third reading.

### **First Reading**

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

**S. B. 143**, Permitting DNR identification tag be used to identify trap,

**S. B. 343**, Limiting expenses in preparing list for notice to redeem,

And,

**S. B. 350**, Eliminating obsolete requirement that Lottery Commission file racetrack video lottery game rules with Secretary of State.

### Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Deem, Gearheart and C. Romine.

At 12:25 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 5:00 p.m.

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### Evening Session

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The House of Delegates was called to order by the Honorable Tim Armstead, Speaker.

At the request of Delegate Cowles and by unanimous consent, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

### Committee Reports

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. J. R. 12**, No Constitutional right to abortion Amendment,

And reports the same back with the recommendation that it be adopted.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

**S. B. 346**, Permitting full-time nonresident students purchase lifetime resident hunting, trapping and fishing licenses,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 528**, Providing additional circuit judge for nineteenth judicial circuit,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 528) was referred to the Committee on Finance.

Delegate Hanshaw, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 1<sup>st</sup> day of March, 2018, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

**H. B. 4380**, Making a supplementary appropriation to the Department of Agriculture,

**H. B. 4381**, Making a supplementary appropriation to the Department of Education,

**H. B. 4384**, Making a supplementary appropriation to the Department of Transportation,

And,

**H. B. 4386**, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – Community Mental Health Services.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**S. B. 351**, Permitting ballot commissioners serve while candidates for certain offices,

And,

**S. B. 539**, Increasing limit for settling claims against DOH,

And reports the same back with the recommendation that they each do pass.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 395**, Providing for judicial review of appealed decisions of Air Quality Review Board, Environmental Quality Board and Surface Mine Board,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

Delegate Anderson, Chair of the Committee on Energy, submitted the following report, which was received:

Your Committee on Energy has had under consideration:

**S. B. 525**, Relating to certification for emergency medical training - mining,

And reports the same back with the recommendation that it do pass, as amended, but that it first be referred to the Committee on Government Organization.

In accordance with the former direction of the Speaker, the bill (S. B. 525) was referred to the Committee on Government Organization.



**Miscellaneous Business**

Pursuant to House Rule 132, unanimous consent was requested and obtained to print the remarks of the following Members in the Appendix to the Journal:

- Delegate C. Miller during the debate on yesterday regarding Com. Sub. for H. B. 4145

Pursuant to House Rule 94b, Members filed forms with the Clerk's Office to be added as a cosponsor of the following:

- Delegates Sobonya and C. Miller for H. C. R. 74
- Delegate Pack for H. R. 4

At 5:48 p.m., the House of Delegates adjourned until 11:00 a.m., Friday, March 2, 2018.



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Friday, March 2, 2018

**FIFTY-SECOND DAY**

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

Prayer was offered and the House was led in recitation of the Pledge of Allegiance.

The Clerk proceeded to read the Journal of Thursday, March 1, 2018, being the first order of business, when the further reading thereof was dispensed with and the same approved.

At the request of Delegate Cowles, and by unanimous consent, the House of Delegates proceeded to the Seventh Order of Business for the purpose of introducing and considering a resolution.

**Introduction of Resolutions**

Delegate Sponaugle, on Behalf of All Members of the House, offered the following resolution:

**H. R. 12** - “Memorializing the life of the Honorable Clyde McNeill See, Jr., former Speaker of the House of Delegates, dedicated community leader, public servant and family man.”

Whereas, Clyde McNeill See, Jr. was born on October 20, 1941, in South Fork in Hardy County, West Virginia; and

Whereas, Clyde was the son of the late Clyde McNeill See, Sr., and Minnie Alice Crites See. Clyde’s father spent his entire life working as a farm hand and his mother worked as a school teacher until her untimely death when Clyde was a child, leaving his dad to raise Clyde and his sister Snow; and

Whereas, Clyde dropped out of Moorefield High School when he was 16 years old to join the U. S. Army. While stationed in

Hawaii, Clyde completed the Army Ranger School on a dare by his executive officer. In addition, Clyde completed his GED while serving on active duty and he left the Army as a Corporal E-4; and

Whereas, Upon his return to West Virginia, Clyde used the G.I. Bill and attended his first year of college at Concord College, or as he referred to it U.C.L.A. - The University of Concord Located in Athens. Following his freshman year, Clyde transferred to West Virginia University and obtained his undergraduate degree in English in 1967. He went on to graduate from the West Virginia School of Law in 1970; and

Whereas, Following his graduation from law school, Clyde returned to Moorefield and for the next 47 years very proudly practiced law as a “country lawyer” while raising his family. For many of these years, Clyde served as a member of the Moorefield Volunteer Fire Department; and

Whereas, In 1974, Clyde was first elected to the West Virginia House of Delegates and began a rapid rise in the ranks of House leadership by becoming Vice-Chairman of the Judiciary Committee in his first term. During his second term, he was Majority Leader and in 1978 he was elected Speaker, a position he held for six years; and

Whereas, In 1984 Clyde ran for Governor of West Virginia, won the Democratic nomination for Governor, but fell short in the General Election, and then again ran for Governor in 1988, but once again fell short; and

Whereas, During his tenure in the West Virginia House of Delegates he became known for his quick wit, tell-it-like-it-is approach to dealing with members and lobbyists, being a stickler for proper use of the procedural rules of the Legislature, and a willingness to correct any wayward member on any rules transgression with clarity and firmness; and

Whereas, Clyde was also admired for and was singularly unique in his amazing storytelling and joke abilities, his contagious belly-rolling laugh, compassionate nature, which made him a joy

to his friends and family and will never to be forgotten by those who knew him; and

Whereas, To this day, two of Clyde's jokes, one "that in the Legislature, fat possums travel late at night" and the other "that Delegates being elected to the Senate raises the IQ of both bodies" are still regularly invoked; and

Whereas, Although Clyde was often known for his brashness, he was also known as a tireless advocate for his county, with great love and a pure vision of the goodness of our state and its people, and he held in the highest esteem our system of government, and the important role of the Legislature in making our great state better for its citizens; and

Whereas, His innumerable contributions and dedication to the state and county he loved created a legacy for his family of a life well lived, done with gusto and compassion of which his children and grandchildren can cherish and always be proud; and

Whereas, Sadly, the Honorable Clyde McNeill See, Jr. passed away on Sunday, April 6, 2017 at home, his family by his side, leaving behind his four children, Jennifer, Joshua, Lucas and Amy, and his 7 grandchildren, Jordan, Olivia, Shelby, Marin, Darah, Margo and Jackson; therefore, be it

*Resolved by the House of Delegates:*

That the House of Delegates hereby memorializes the life of Clyde McNeill See, Jr., dedicated father, grandfather, attorney and public servant; and, be it

*Further Resolved*, That the House of Delegates hereby extends its sincere sympathy at the passing of the Honorable Clyde McNeill See, Jr.; and, be it

*Further Resolved*, That the Clerk of the House of Delegates provide a copy of this resolution to the family of the Honorable Mr. Speaker, Clyde McNeill See, Jr.

At the request of Delegate Cowles, and by unanimous consent, reference of the resolution (H. R. 12) to a committee was dispensed with, and it was taken up for immediate consideration and read by the Clerk.

The question now being on the adoption of the resolution, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 275**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Deem, Eldridge, Rodighiero and Rowe.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the resolution (H. R. 12) adopted.

### **Committee Reports**

Delegate Ellington, Chair of the Committee on Prevention and Treatment of Substance Abuse, submitted the following report, which was received:

Your Committee on Prevention and Treatment of Substance Abuse has had under consideration:

**Com. Sub. for S. B. 469**, Converting Addiction Treatment Pilot Program to permanent program,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on Health and Human Resources.

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 469) was referred to the Committee on Health and Human Resources.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

**Com. Sub. for S. B. 273**, Reducing use of certain prescription drugs,

**Com. Sub. for S. B. 401**, Requiring specified coverage in health benefit plans for treatment of substance abuse disorders,

And,

**Com. Sub. for S. B. 443**, Terminating parental rights when certain conditions are met,

And reports the same back, with amendment, with the recommendation that they each do pass, as amended, but that they first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bills (Com. Sub. for S. B. 273, Com. Sub. for S. B. 401 and Com. Sub. for S. B. 443) were each referred to the Committee on the Judiciary.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

**Com. Sub. for S. B. 456**, Physical Therapy Licensure Compact Act,

And,

**Com. Sub. for S. B. 499**, Requiring one year of certain approved postgraduate clinical training for persons with foreign medical degrees,

And reports the same back, with amendment, with the recommendation that they each do pass, as amended.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

**S. B. 242**, Requiring health insurance providers provide coverage for certain Lyme disease treatment,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bill (S. B. 242) was referred to the Committee on the Judiciary.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

**Com. Sub. for S. B. 510**, Designating hospitals for stroke treatment,

And reports the same back with the recommendation that it do pass.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**S. B. 47**, Requiring Defense Department advocacy groups be notified in abuse or neglect of military person's child,

And reports the same back with the recommendation that it do pass.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:



Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 7**, Relating to claims under Wage Payment and Collection Act,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

**S. B. 427**, Modifying form of notice for certain tax delinquencies,

And,

**S. B. 441**, Relating to health care provider taxes.

And reports the same back, with amendments, with the recommendation that they each do pass, as amended.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

**S. B. 298**, Authorizing county assessors make separate entries in landbooks when real property is partly used for exempt and partly for nonexempt purposes,

And reports the same back with the recommendation that it do pass.

Delegate Westfall, Chair of the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration:

**S. B. 406**, Clarifying that ground emergency medical transportation is eligible for Medicare and Medicaid reimbursement,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (S. B. 406) was referred to the Committee on Finance.

Delegate Westfall, Chair of the Committee on Banking and Insurance submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration:

**Com. Sub. for S. B. 493**, Relating to guaranty associations,

And reports the same back with the recommendation that it do pass, and with the recommendation that second reference of the bill to the Committee on the Judiciary be dispensed with.

In the absence of objection, reference of the bill (Com. Sub. for S. B. 493) to the Committee on the Judiciary was abrogated.

On motion for leave, a resolution was introduced (Originating in the Committee on Banking and Insurance with the recommendation that it be adopted, but that it first be referred to the Committee on Rules), which was read by its title, as follows:

**By Delegates Westfall, Rowe, Walters, Lovejoy, Hartman, Iaquinta, Criss, Bates, A. Evans, Shott, White, Frich and Robinson:**

**H. C. R. 99** – “Requesting the Joint Committee on Government and Finance to study the feasibility and propriety of requiring liability insurance or other means of security on certain motorboats and personal watercraft in this state.”

Whereas, 43,839 motorboats and 2,026 personal watercraft were registered in the state of West Virginia in 2017; and

Whereas, Motorboats and personal watercraft, by their inherent nature as motorized mobile devices, create a risk of potential collision or contact with other boats, other person's property and, most importantly, also create the risk of personal injury to people on the state's public waterways; and

Whereas, The operation of motorboats and personal watercraft create risk of personal injury and property damage similar to the inherent risks of the operation of motor vehicles; and

Whereas, Since 1981, West Virginia has required every owner or registrant of a motor vehicle required to be registered and licensed in this state to maintain minimum security via insurance or other adequate prescribed security to provide compensation for personal injury and property damage as a result of the unlawful, improper, or negligent operation of each registered and licensed motor vehicle in this state; and

Whereas, Insurance or other prescribed security to provide minimum compensation to victims injured by the improper, unlawful or negligent operation of a motorboat or personal watercraft in this state, as well as protecting the financial interests of owners and operators of these watercrafts would be in the public interest of West Virginia;

Whereas, The Legislature finds that it would be prudent to study and examine the issues related to the feasibility and propriety of requiring liability insurance or other means of security on certain motorboats and personal watercraft in this state; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is requested to study the feasibility and propriety of requiring liability insurance or other means of security on certain motorboats and personal watercraft in this state; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the Legislature, on the first day of the regular session, 2019, on its findings, conclusions and recommendations together with drafts of any legislation to effectuate its recommendations; and, be it

*Further Resolved*, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

The Speaker referred the resolution to the Committee on Rules.

Delegate Westfall, Chair of the Committee on Banking and Insurance, submitted the following report, which was received:

Your Committee on Banking and Insurance has had under consideration:

**Com. Sub. for S. B. 495**, Designating specific insurance coverages exempt from rate filing requirements,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 495) was referred to the Committee on the Judiciary.

Delegate Espinosa, Chair of the Committee on Education submitted the following report, which was received:

Your Committee on Education has had under consideration:

**Com. Sub. for S. B. 319**, Allowing individuals who completed home schooling be eligible for PROMISE scholarship without equivalent diploma,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, and with the

recommendation that second reference to the Committee on Finance be dispensed with.

In the absence of objection, reference of the bill (Com. Sub. for S. B. 319) to the Committee on Finance was abrogated.

Delegate Hill, Chair of the Committee on Small Business, Entrepreneurship and Economic Development submitted the following report, which was received:

Your Committee on Small Business, Entrepreneurship and Economic Development has had under consideration:

**S. B. 365**, Relating to Young Entrepreneur Reinvestment Act,

And reports the same back with the recommendation that it do pass, and with the recommendation that second reference of the bill to the Committee on Finance be dispensed with.

In the absence of objection, reference of the bill (S. B. 365) to the Committee on Finance was abrogated.

Delegate Ellington, Chair of the Committee on Prevention and Treatment of Substance Abuse, submitted the following report, which was received:

Your Committee on Prevention and Treatment of Substance Abuse has had under consideration:

**Com. Sub. for S. B. 272**, Relating generally to drug control,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, and with the recommendation that second reference to the Committee on Finance be dispensed with.

In the absence of objection, reference of the bill (Com. Sub. for S. B. 272) to the Committee on Finance was abrogated.

### **Resolutions Introduced**

Delegate Walters offered the following resolution, which was read by its title and referred to the Committee on Rules:

**H. R. 11** - “Urging the United States Congress to reinstate the separation of commercial and investment banking functions previously in effect under the Glass-Steagall Act and support efforts to return to national banking policies to repair our nation’s infrastructure.”

Whereas, The Federal Reserve has fed a speculative bubble on Wall Street, much like that of 2007; and

Whereas, This speculative bubble is tied to more than \$250 trillion of derivatives officially on the books of the major Wall Street banks; and

Whereas, This speculative bubble has soaked up all available credit and resulted in a weak performance of the United States economy; and

Whereas, State budgets throughout the nation have reflected the constriction of revenue due to the collapse of production and high-paying jobs; and

Whereas, A growing, productive economy will require a return to the policies that successfully guided the nation out of similar crises, including the creation of direct credit to industry, infrastructure investment, and science-driven innovations; and

Whereas, A prudent course of action would be to restore the provisions of the Glass-Steagall Act that immediately separate investment and commercial banking; and

Whereas, As law for 66 years, the Glass-Steagall Act prevented banking crises like the one experienced in 2008; and

Whereas, A return to national banking and direct credit to industry and infrastructure was completed under President George Washington and Secretary of the Treasury Alexander Hamilton,

President John Quincy Adams, President Abraham Lincoln, and President Franklin D. Roosevelt; and

Whereas, The early infrastructure of the United States, from canals to rail systems, was built by national banks; and

Whereas, National banking policies orchestrated by Henry Carey under President Abraham Lincoln created industrial expansion, including the construction of modern rail and steel programs; and

Whereas, The Reconstruction Finance Corporation (RFC), a federal credit program approved in 1932, was modeled on the War Finance Corporation and on Alexander Hamilton's prototype, the First National Bank; and

Whereas, The State of West Virginia recovered from the Great Depression during Franklin D. Roosevelt's administration with the help of significant RFC projects; and

Whereas, A new national bank would be chartered with no less than \$1 trillion of capital, not taxpayer funds, to finance new projects; and

Whereas, This approach would put millions of unemployed or underemployed people, especially young people, back to work; therefore, be it

*Resolved by the House of Delegates:*

That the Congress of the United States be urged to reinstate the separation of commercial and investment banking functions previously in effect under the Glass-Steagall Act and support efforts to return to national banking policies to repair our nation's infrastructure; and, be it

*Further Resolved*, That the Clerk of the West Virginia House of Delegates is hereby requested to forward copies of this resolution to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the West Virginia congressional delegation.

Delegates Hamrick, Dean, Folk, Graves, Higginbotham, Howell, Martin, McGeehan, Pack, Queen, Rohrbach, C. Romine, Storch, Westfall and White offered the following resolution, which was read by its title and referred to the Committee on Rules:

**H. C. R. 93** - "Requesting the Joint Committee on Government and Finance study exempting state employees from the payment of state income tax."

Whereas, Exempting state employees from West Virginia income tax may attract more qualified individuals to become citizens of the state and retain qualified individuals currently working for the state; and

Whereas, With many high school graduates leaving the state to attend college and many students upon graduation from the state's colleges either leaving the state for employment or seeking employment in the private sector, elimination of the state income tax would serve as an inducement for those graduates to seek a career in state government which in turn would contribute to the economic vitality, cultural diversity and social progress of the state's communities; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is hereby requested to study exempting state employees from the payment of state income tax; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2019, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved*, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.



Delegates C. Miller, Foster, Overington, Jennings, Ambler, Butler, Cooper, Dean, Graves, Hamrick, Hanshaw, Harshbarger, Higginbotham, Howell, Kessinger, Maynard, Pack, Paynter, Queen, Rohrbach, R. Romine, Rowan and Storch offered the following resolution, which was read by its title and referred to the Committee on Rules:

**H. C. R. 94** - “Requesting the Joint Committee on Government and Finance to conduct a study comparing West Virginia’s asbestos rules with those in other states and the federal government and determine whether simplified and less restrictive rules could also be effective.”

Whereas, West Virginia has statutes and rules regarding the handling, abatement, and disposal of asbestos containing materials, including those enforced by the Department of Environmental Protection’s Division of Air Quality, Office of Solid Waste Management, and the Division of Water and Waste Management and the Department of Health and Human Resources’ Bureau for Public Health; and

Whereas, A number of the current West Virginia rules related to the handling, abatement, and disposal of asbestos-containing materials are more stringent than those imposed by the federal government; and

Whereas, More than forty percent of the commercial buildings in the country were built prior to 1970, and before a ban on the use of products containing asbestos; and

Whereas, Asbestos abatement projects can significantly increase the cost of the construction and rehabilitation of existing structures within the state; and

Whereas, The high costs to comply with such rules may curtail investment by businesses desiring to rehabilitate buildings within the state; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is hereby requested to conduct a study comparing West Virginia's asbestos rules with those in other states and the federal government and determine whether simplified and less restrictive rules could also be effective; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2019, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved*, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Delegate Westfall offered the following resolution, which was read by its title and referred to the Committee on Rules:

**H. C. R. 95** - "Requesting the Joint Committee on Government and Finance study the feasibility and propriety of requiring liability insurance or other means of security on certain motorboats and personal watercraft in this state."

Whereas, There were 43,839 motorboats and 2,026 personal watercraft registered in the State of West Virginia in 2017; and

Whereas, Motorboats and personal watercraft, by their inherent nature as motorized mobile devices, create a risk of potential collision or contact with other boats, other person's property and, most importantly, also create the risk of personal injury to people on the state's public waterways; and

Whereas, The operation of motorboats and personal watercraft create a risk of personal injury and property damage similar to the inherent risks of the operation of motor vehicles; and

Whereas, Since 1981, West Virginia has required every owner or registrant of a motor vehicle to be registered and licensed in this state to maintain minimum security via insurance or other adequate

prescribed security to provide compensation for personal injury and property damage as a result of the unlawful, improper, or negligent operation of each registered and licensed motor vehicle in this state; and

Whereas, Insurance or other prescribed security to provide minimum compensation to victims injured by the improper, unlawful or negligent operation of a motorboat or personal watercraft in this state, as well as protecting the financial interests of owners and operators of these watercraft, would be in the public interest of West Virginia; and

Whereas, The Legislature finds that it would be prudent to study and examine the issues related to the feasibility and propriety of requiring liability insurance or other means of security on certain motorboats and personal watercraft in this state; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is hereby requested to study the feasibility and propriety of requiring liability insurance or other means of security on certain motorboats and personal watercraft in this state; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2019, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved*, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Delegates Rowe, Robinson and White offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

**H. C. R. 96** - "Requesting the Division of Highways to name bridge number 20-83-8.49 (20A266), locally known as Standard

Bridge, carrying County Route 83 Spur over Paint Creek in Kanawha County, the 'Kidd Brothers Bridge'."

Whereas, Charles Edward Kidd was born on March 26, 1918, and served in the U. S. Army in World War II; and

Whereas, Having arrived at Pearl Harbor on December 6, 1941, Charles Edward Kidd was awakened the following morning, December 7, 1941, by the infamous Japanese air attack; and

Whereas, Howard Clifford Kidd was born on April 25, 1920, and served in the U. S. Air Force in World War II; and

Whereas, Frank James Kidd was a medic on the beach during the Allied invasion of Normandy on June 6, 1944; and

Whereas, Frank James Kidd was born on January 20, 1922, and served in the U. S. Army in World War II; and

Whereas, Fred Alfred Kidd was born on February 11, 1924, and served in the U. S. Air Force in World War II; and

Whereas, Mark Edgar Kidd was born on November 7, 1925, and served in the U. S. Marine Corps in World War II; and

Whereas, Narry Wesley Kidd, Jr. was born on October 31, 1934, and served in the U. S. Navy in the Korean War; and

Whereas, The six Kidd brothers were the sons of Wesley and Annie Kidd, who also had seven daughters; and

Whereas, The youngest, Narry Wesley Kidd, Jr., remembers that when his five brothers served during World War II, his mother placed a miniature flag and a star on the front window of their home in Standard for each of them while they were in the service; and

Whereas, The five Kidd brothers were among the 54 men from Standard who served their country during World War II, and were among the 52 who returned home; and

Whereas, Mark Kidd was in the Iwo Jima and Okinawa invasions, and during the latter invasion he saw the bomb drop on Hiroshima, saying, “It gave us a pretty good jar”; and

Whereas, While on Iwo Jima, Mark Kidd also witnessed another momentous event, the raising of the flag, which Joe Rosenthal memorialized in his iconic photograph; and

Whereas, Of the six brothers, only Narry Wesley Kidd, Jr. is still living; and

Whereas, The Kidd family remembers that the brothers never discussed among themselves their service in the armed forces; and

Whereas, It is appropriate to name this bridge to honor the six Kidd brothers’ service to their country and state; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 20-83-8.49 (20A266), locally known as Standard Bridge, carrying County Route 83 Spur over Paint Creek in Kanawha County, the “Kidd Brothers Bridge”; and, be it

*Further Resolved*, That the Division of Highways is requested to have made and be placed signs identifying the bridge as the “Kidd Brothers Bridge”; and, be it

*Further Resolved*, That the Clerk of the House of Delegates forward a copy of this resolution to the Commissioner of the Division of Highways.

Delegates Eldridge, Maynard, Rodighiero, C. Miller, C. Romine, Phillips, Hornbuckle, Love, R. Miller, Marcum, Hicks and Adkins offered the following resolution, which was read by its title and referred to the Committee on Roads and Transportation then Rules:

**H. C. R. 97** - “Requesting the Division of Highways name a 3.1-mile section of Route 18, beginning at a point 3.1 miles from its intersection with Route 119 and ending at a point 3.1 miles

further down Route 18, in Lincoln County, the ‘Hill Family Veterans Memorial Highway’.”

Whereas, U. S. Army Private Herschel Critland Hill was born on September 22, 1895 in Leet, West Virginia, was married to Zema Radabaugh, enlisted in the U. S. Army on September 20, 1917, was discharged on October 15, 1918, died on December 11, 1935 and is buried in the Hill Family Cemetery in Leet; and

Whereas, Paul Lester Hill was born on August 4, 1924 in Leet, enlisted in the U. S. Navy on May 11, 1943, was awarded the Victory Medal and the Philippines Liberation Medal with two stars and was discharged on February 17, 1946; and

Whereas, U. S. Army PFC George Hill, Jr. was born on May 16, 1926 in Leet, enlisted in the U. S. Army on November 3, 1944, served in Northern France during the war, was awarded the Good Conduct Medal, the European African Middle Eastern Theater Ribbon, the World War II Victory Ribbon, and the Army Occupation Medal (Germany) and was discharged on July 31, 1946; and

Whereas, Dorance D. Hill was born on September 15, 1930 in Leet, entered the U. S. Army on December 31, 1948, was awarded the Korean Service Ribbon with five stars and the ROK Unit Citation and was discharged on January 5, 1952; and

Whereas, Lewis Wetzel Hill was born on November 1, 1934, enlisted in the U. S. Army May 29, 1954, was awarded the National Defense Service Medal and the Good Conduct Medal, and his reserve status was terminated on May 28, 1962; and

Whereas, Lowell L. Hill was born on May 19, 1939 in Rector, West Virginia, enlisted in the U. S. Air Force on February 21, 1961 was discharged on February 19, 1965; and

Whereas, David Gerald Hill was born on October 10, 1941 in Leet, enlisted in the U. S. Air Force on November 15, 1960 and was discharged on November 13, 1964; and

Whereas, Curtis Ray Hill was born on January 31, 1916 in Leet, retired as a Master Sergeant from the U. S. Air Force on May 31, 1963 after 20 years and six months' service; and

Whereas, James E. Hill, Jr. was born in Leet, served in the U. S. Army and was discharged in 1950; and

Whereas, Bobby Ellsworth Hill was born on December 14, 1930 in Leet, entered the U. S. Marine Corps on January 6, 1949 and was discharged on January 5, 1950; and

Whereas, Thomas O. Hill was born on May 23, 1935 in Rector, entered the U. S. Army on April 27, 1955 and was discharged on March 1, 1958; and

Whereas, Freddie Hill was born on October 15, 1939 in Logan, West Virginia, entered the U. S. Army on June 20, 1958 and was discharged on May 8, 1961; and

Whereas, Herman Hill was born on October 3, 1948 in Madison, West Virginia, served in the U. S. Army for one year and seven months, and was awarded the National Defense Medal, the Vietnam Campaign Medal and the Vietnam Service Medal; and

Whereas, David Lee Hill was born on October 10, 1953 in Leet, served for one year and five months in the U. S. Marine Corps and was awarded the Good Conduct Medal; and

Whereas, Obed M. Pauley was born on May 16, 1919 in Turtle Creek, West Virginia, enlisted in the U. S. Army on July 7, 1941, served during World War II and was awarded the World War II Victory Medal, the American Defense ATO Medal and the Good Conduct Medal; and

Whereas, Leo Edwin Pauley was born on September 15, 1930 in Turtle Creek, enlisted in the U. S. Navy on December 13, 1948, and was discharged on December 12, 1949; and

Whereas, It is appropriate to name this road for the Hill family veterans for their service to their communities and to their country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name a 3.1-mile section of Route 18, beginning at a point 3.1 miles from its intersection with Route 119 and ending at a point 3.1 miles further down Route 18, in Lincoln County, the “Hill Family Veterans Memorial Highway”; and, be it

*Further Resolved*, That the Division of Highways is requested to have made and be placed signs identifying the road as the “Hill Family Veterans Memorial Highway”; and, be it

*Further Resolved*, That the Clerk of the House of Delegates forward a copy of this resolution to the Commissioner of the Division of Highways.

Delegates Cowles, Dean, Folk, Foster, Harshbarger, Maynard, Rohrbach, Storch, Wagner, Westfall and Williams offered the following resolution, which was read by its title and referred to the Committee on Government Organization then Rules:

**H. C. R. 98** - “Requesting the Joint Committee on Government Organization to conduct a study to consider removing solid waste facilities and the intrastate transportation of solid waste from the jurisdiction of the Public Service Commission.”

Whereas, Solid waste facilities and the intrastate transportation of solid waste are currently under the jurisdiction of the Public Service Commission by virtue of its jurisdiction over public utilities, W. Va. Code §24-2-1 *et seq.*; and

Whereas, There are other regulatory bodies with oversight into the intrastate transportation of solid waste and solid waste facilities including: The Solid Waste Management Board, W. Va. Code §22C-3-1 *et seq.*, by virtue of its statutory purpose to provide for the proper collection, disposal, and recycling of solid waste; the Department of Natural Resources, W. Va. Code §20-1-1 *et seq.*, by virtue of its statutory purpose to conserve, develop, and protect the natural resources of the State of West Virginia; and the Department of Environmental Protection, by virtue of the Solid Waste Management Act, W. Va. Code §22-15-1, *et seq.*, and its purpose



to provide an efficient and reasonable permitting process for the location, operation, and oversight of the solid waste collection and disposal process; and

Whereas, Removing the Public Service Commission's jurisdiction will eliminate unnecessary overlap, duplicative regulation, and preserve taxpayer resources; and

Whereas, The Solid Waste Management Board, Division of Natural Resources, and Department of Environmental Protection have substantial expertise and experience addressing issues particular to solid waste facilities, the intrastate transportation of solid waste, and related matters; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government Organization is hereby requested to conduct a study to consider removing solid waste facilities and the intrastate transportation of solid waste from the jurisdiction of the Public Service Commission; and, be it

*Further Resolved*, That the Joint Committee on Government Organization report to the regular session of the Legislature, 2019, on its findings, conclusions, and recommendations together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved*, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

## **Special Calendar**

### **Third Reading**

**Com. Sub. for S. B. 37**, Equalizing penalty for entering without breaking regardless of time of day; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 276**), and there were—yeas 94, nays 4, absent

and not voting 2, with the nays and absent and not voting being as follows:

Nays: Fluharty, Pushkin, Rowe and Sponaule.

Absent and Not Voting: Deem and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 37) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**Com. Sub. for S. B. 46**, Permitting pharmacists to inform customers of lower-cost alternative drugs; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 277**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Deem and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 46) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

**Com. Sub. for S. B. 46** - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-51-9, all relating to pharmacy benefit managers; providing that a pharmacy or pharmacist may inform consumers of lower cost alternatives and cost share to assist health care consumers in making informed decisions; prohibiting pharmacy benefit managers from penalizing a pharmacy or pharmacist for discussing certain information with consumers; prohibiting pharmacy benefit managers from collecting cost shares exceeding

the total submitted charges by a pharmacy or pharmacist; setting forth limitations on pharmacy benefit managers when charging certain claim fees to a pharmacy or pharmacist; and excluding an employee benefit plan under the Employee Retirement Income Security Act of 1974 or Medicare Part D from this code section.”

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**Com. Sub. for S. B. 134**, Authorizing Division of Homeland Security and Emergency Management to engage individuals for emergency response and recovery; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 278**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Deem and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 134) passed.

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 279**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Deem and Upson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 134) takes effect from its passage.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**Com. Sub. for S. B. 146**, Correcting technical error within Solid Waste Management Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 280**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Deem and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 146) passed.

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 281**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Deem and Upson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 146) takes effect from its passage.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**S. B. 338**, Changing date for employers to file annual reconciliation and withholding statements; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 282**), and there were—yeas 98, nays none,

absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Deem and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 338) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**Com. Sub. for S. B. 360**, Clarifying oil and gas permits not be on flat well royalty leases; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 283**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Foster and Moore.

Absent and Not Voting: Deem and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 360) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**S. B. 364**, Allowing parent or legal guardian of homeschooled child provide signed statement for obtaining permit or license to operate motor vehicle; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 284**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Ferro.

Absent and Not Voting: Deem and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 364) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**Com. Sub. for S. B. 415**, Permitting wagering on certain professional or collegiate sports events authorized as WV Lottery Sports Wagering activities; on third reading, coming up in regular order, was read a third time.

Delegate Frich requested to be excused from voting on the passage of Com. Sub. for S. B. 415 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The Speaker addressed the House stating that there had previously been requests pursuant to House Rule 49 due to Delegates or their family members being PEIA system participants. The Speaker ruled that any impact on Delegates making such a request in regard to Com. Sub. for S. B. 415 would be as a member of a class of persons possibly to be affected by the passage of the bill and directed the members to vote.

He further stated that any such members wishing to have this noted in the Journal to inform the Clerk, which was done by Delegates E. Evans, Ferro, Iaquina, Moye, Zatezalo and Mr. Speaker, Mr. Armstead.

The Speaker announced that the ruling of yesterday, pursuant to House Rule 49, directing Delegate Robinson to vote on the amendment to the amendment would also apply to passage of the bill and the Delegate was directed to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 285**), and there were—yeas 77, nays 22, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Anderson, Boggs, Butler, Fast, Frich, Graves, Hollen, Iaquina, Jennings, Kelly, Love, Martin, C. Miller, Moye, Overington, Pack, C. Romine, Rowan, Sobonya, Summers, Sypolt and Mr. Speaker, Mr. Armstead.

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 415) passed.

An amendment to the title of the bill, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the title to read as follows:

**Com. Sub. for S. B. 415** - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §29-22D-1, §29-22D-2, §29-22D-3, §29-22D-4, §29-22D-5, §29-22D-6, §29-22D-7, §29-22D-8, §29-22D-9, §29-22D-10, §29-22D-11, §29-22D-12, §29-22D-13, §29-22D-14, §29-22D-15, §29-22D-16, §29-22D-17, §29-22D-18, §29-22D-19, §29-22D-20, §29-22D-21, §29-22D-22, §29-22D-23, and §29-22D-24, all relating to permitting wagering on the results of certain professional or collegiate sports or athletic events and other events authorized as West Virginia Lottery sports wagering activities, after a federal law against such wagering is no longer in effect; providing legislative findings; defining terms; detailing duties and powers of the West Virginia Lottery Commission; providing rule-making authority and emergency rule-making authority; requiring Commission to levy and collect all fees, surcharges, civil penalties, and weekly tax on adjusted gross sports wagering receipts and deposit them into the West Virginia Lottery Sports Wagering Fund; limiting sports wagering to existing racetrack casinos and the casino in a historic resort hotel; providing for four types of licenses to be issued related to sports betting; establishing license

requirements and prohibitions; authorizing licensing fees; requiring adoption and posting of house rules; defining duties of an operator conducting sports wagering; requiring the posting of betting limits; authorizing sports wagering agreements with other governments; providing powers and duties of Commission and operators; limiting certain activities of employees; authorizing the West Virginia Lottery to levy and collect a privilege tax in the amount of ten percent of adjusted gross sports wagering receipts; requiring reports and submission of taxes; providing for certain carry over and carry back allowances; clarifying that tax is in lieu of certain other taxes; providing that certain expenditures related to sports wagering are facility modernization improvements eligible for recoupment; providing that credits are not allowed against the privilege tax; creating the West Virginia Lottery Sports Wagering Fund; authorizing the West Virginia Lottery to collect an administrative allowance from gross sports wagering receipts; providing for distribution of moneys deposited in the West Virginia Lottery Sports Wagering Fund; authorizing certain agreements between the West Virginia Lottery and law enforcement; imposing civil penalties for certain violations, and exception; prohibiting unauthorized sports wagering in this state; establishing crimes related to unauthorized sports wagering and imposing criminal penalties; establishing crimes related to authorized sports wagering and imposing criminal penalties; preempting provisions from state and local law; and establishing certain exemptions from federal law.”

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 286**), and there were—yeas 85, nays 13, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Speaker Armstead, Butler, Fast, Frich, Hollen, Jennings, Martin, C. Miller, Moye, Overington, Pack, Rowan and Sobonya.

Absent and Not Voting: Deem and Thompson.



So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 415) takes effect from its passage.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**S. B. 444**, Repealing antiquated code sections regarding safety glass and lighting in motor vehicles; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 287**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Upson.

Absent and Not Voting: Deem and Statler.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 444) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**Com. Sub. for S. B. 451**, Relating generally to hunting and fishing; on third reading, coming up in regular order, was read a third time.

Delegate Marcum requested to be excused from voting on the passage of Com. Sub. for S. B. 451 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 288**), and there were—yeas 92, nays 6, absent

and not voting 2, with the nays and absent and not voting being as follows:

Nays: Butler, Fast, Graves, Hanshaw, Iaquinta and Jennings.

Absent and Not Voting: Canestraro and Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 451) passed.

On motion of Delegate Hamilton, the title of the bill was amended to read as follows:

**Com. Sub. for S. B. 451** – “A Bill to amend and reenact §20-2-5 of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-7-9 of said code, all relating generally to hunting and fishing; authorizing the use of certain technologies for hunting coyote, fox, racoon, opossum, and skunk; regulating firearm use and possession in certain places; prohibiting the use of a drone or unmanned aircraft to wound, harass, or transport wildlife; allowing certain persons to carry firearms, including handguns, rifles, or shotguns, for self-defense with certain exceptions; creating a misdemeanor and providing penalties for catching, taking, killing or attempting to catch, take, or kill any fish by any means within 200 feet of agency personnel stocking fish into public waters; removing a limitation on the starting time for Sunday hunting on private lands with the landowner’s permission; providing that the misdemeanor offenses of hunting, trapping, or fishing on the lands of another person, entering posted lands, hunting on private land on Sunday without written permission, and destroying posted land signs will all carry penalties equivalent to the penalty for the offense of criminal trespass; providing increased penalties upon conviction of second and subsequent violations of certain natural resources laws; permitting Sunday hunting on public lands; permitting noodling, or fishing for catfish using one’s bare hands; and making technical changes.”

**S. B. 464**, Changing statutory payment date for incremental salary increases due state employees; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 289**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Canestraro and Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 464) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

At 1:33 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 5:00 p.m.

\* \* \* \* \*

### **Evening Session**

\* \* \* \* \*

The House of Delegates was called to order by the Honorable Tim Armstead, Speaker.

### **Special Calendar**

#### **Second Reading**

- continued -

**S. B. 143**, Permitting DNR identification tag be used to identify trap; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 2. WILDLIFE RESOURCES.****§20-2-19. Marking of traps.**

All traps used for taking game or fur-bearing animals shall be marked with a durable plate or tag, attached to the snare, trap, or trap chain, bearing: either the name and address of the owner of the trap; or the Division of Natural Resources identification number of the owner of the trap.”

The bill was then ordered to third reading.

**S. B. 343**, Limiting expenses in preparing list for notice to redeem; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**S. B. 350**, Eliminating obsolete requirement that Lottery Commission file racetrack video lottery game rules with Secretary of State; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 22A. RACETRACK VIDEO LOTTERY.****§29-22A-5. Video lottery terminal requirements; filing of specific game rules with the Secretary of State application for approval of a video lottery terminal; testing of video lottery terminals; report of test results; modifications to previously approved models; conformity to prototype; seizure and destruction of terminals.**

(a) Video lottery terminals registered with and approved by the commission for use at licensed racetracks may offer video lottery games regulated, controlled, and owned and operated by the commission in accordance with the provisions of this section: ~~and utilizing specific game rules separately filed from time to time by the commission with the Secretary of State~~ Provided, That the

Secretary of State shall post on the secretary's website that the rules for video lottery games that have been approved by the commission are available for review at the office of the commission and provide relevant contact information.

(b) A manufacturer may not sell or lease a video lottery terminal for placement at a licensed racetrack in this state unless the terminal has been approved by the commission. Only manufacturers with permits may apply for approval of a video lottery terminal or associated equipment. The manufacturer shall submit two copies of terminal illustrations, schematics, block diagrams, circuit analysis, technical and operation manuals, and any other information requested by the commission for the purpose of analyzing and testing the video lottery terminal or associated equipment.

(c) The commission may require that two working models of a video lottery terminal be transported to the location designated by the commission for testing, examination, and analysis.

(1) The manufacturer shall pay all costs of testing, examination, analysis, and transportation of such video lottery terminal models. The testing, examination, and analysis of any video lottery terminal model may require dismantling of the terminal and some tests may result in damage or destruction to one or more electronic components of such terminal model. The commission may require that the manufacturer provide specialized equipment or pay for the services of an independent technical expert to test the terminal.

(2) The manufacturer shall pay the cost of transportation of two video lottery terminals to lottery headquarters. The commission shall conduct an acceptance test to determine terminal functions and central system compatibility. If the video lottery terminal fails the acceptance test conducted by the commission, the manufacturer shall make all modifications required by the commission.

(d) After each test has been completed, the commission shall provide the terminal manufacturer with a report containing findings, conclusions, and pass/fail results. The report may contain recommendations for video lottery terminal modification to bring the terminal into compliance with the provisions of this article. Prior to approving a particular terminal model, the commission may require a trial period not in excess of 60 days for a licensed racetrack to test the terminal. During the trial period, the manufacturer may not make any modifications to the terminal model unless such modifications are approved by the commission.

(e) The video lottery terminal manufacturer and licensed racetrack are jointly responsible for the assembly and installation of all video lottery terminals and associated equipment. The manufacturer and licensed racetrack shall not change the assembly or operational functions of a terminal licensed for placement in West Virginia unless a request for modification of an existing video terminal prototype is approved by the commission. The request must contain a detailed description of the type of change, the reasons for the change, and technical documentation of the change.

(f) Each video lottery terminal approved for placement at a licensed racetrack must conform to the exact specifications of the video lottery terminal prototype tested and approved by the commission. If any video lottery terminal or any video lottery terminal modification, which has not been approved by the commission, is supplied by a manufacturer and operated by a licensed racetrack, the commission shall seize and destroy all of that licensed racetrack's and manufacturer's noncomplying video lottery terminals and shall suspend the license and permit of the licensed racetrack and manufacturer."

The bill was then ordered to third reading.

### **First Reading**

The following bills and Joint Resolution on first reading, coming up in regular order, were each read a first time and ordered to second reading:

**Com. Sub. for S. J. R. 12**, No Constitutional right to abortion Amendment,

**Com. Sub. for S. B. 73**, Modifying crime of fleeing from scene of accident,

**Com. Sub. for S. B. 110**, Requiring certain licensees notify law enforcement or EMS of life-threatening emergency on premises,

**Com. Sub. for S. B. 307**, Declaring fundraising on state highway or roadway by volunteer fire department is not obstruction or nuisance,

**Com. Sub. for S. B. 327**, Providing extortion of anything of value, including sexual contact, subjects person to criminal penalty,

**S. B. 346**, Permitting full-time nonresident students purchase lifetime resident hunting, trapping and fishing licenses,

**S. B. 351**, Permitting ballot commissioners serve while candidates for certain offices,

**Com. Sub. for S. B. 395**, Providing for judicial review of appealed decisions of Air Quality Review Board, Environmental Quality Board and Surface Mine Board,

**Com. Sub. for S. B. 397**, Creating crime of impersonating blind or disabled person,

**Com. Sub. for S. B. 404**, Relating to sex offender registry information,

**S. B. 539**, Increasing limit for settling claims against DOH,

And,

**Com. Sub. for S. B. 561**, Increasing minimum contract price requiring execution of bond with respect to building or repairing school property.

### Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 2694**, Relating to the development and implementation of a program to facilitate commercial sponsorship of rest areas.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 2843**, Permitting Class III municipalities to be included in the West Virginia Tax Increment Act.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 2890**, Establishing a Library Facilities Improvement Fund that will serve to support library facilities construction, maintenance and improvement projects.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 3104**, Transfer of the West Virginia Traumatic Brain and Spinal Cord Injury Rehabilitation Fund.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to recede from its amendment and requested the House of Delegates to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses as to

**Com. Sub. for H. B. 4013**, Clarifying venue in West Virginia state courts as it applies to nonresidents of the state.



The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Trump, Weld and Baldwin.

On motion of Delegate Cowles, the House of Delegates agreed to the appointment of a Committee of Conference from each house on the disagreeing votes of the two houses.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Hanshaw, Moore and Lovejoy.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 4022**, Exempting the consumer sales and service tax and use tax for services for the repair, remodeling and maintenance of certain aircraft.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4138**, Requiring certain public or private schools and daycare centers to install carbon monoxide detectors.

On motion of Delegate Cowles, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, section sixteen-a, line ten, by striking out the words "So as to" and inserting in lieu thereof the word "To".

On page one, section sixteen-a, line twelve, by striking out the word “thereof” and inserting in lieu thereof the words “of the dwelling”.

On page two, section sixteen-a, line twenty-seven, by striking out the word “and” and inserting in lieu thereof the word “shall”.

On page two, section sixteen-a, line thirty-six, by striking out the word “being”.

On page three, section sixteen-a, line fifty, by striking out the words “shall only be” and inserting in lieu thereof the word “is only”.

On page three, section sixteen-a, line fifty-nine, after the words “of the”, by inserting the word “installed”.

And,

On page three, section sixteen-a, line fifty-nine, after the word “detector”, by striking out the word “installed”.

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 290**), and there were—yeas 93, nays 1, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Deem, Hicks, Hornbuckle, Kelly, Storch and Walters.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4138) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 4175**, Preventing requirement that an advanced practice registered nurse participate in a collaborative relationship to obtain payment.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4199**, Permitting a nursing home to use trained individuals to administer medication.

On motion of Delegate Cowles, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“CHAPTER 16. PUBLIC HEALTH.**

**ARTICLE 5AA. MEDICATION ADMINISTRATION BY UNLICENSED PERSONNEL IN NURSING HOMES.**

**§16-5AA-1. Definitions.**

The following terms are defined for this article:

‘Administration of medication’ means assisting a person in the ingestion, application, or inhalation of medications, or the supervision or providing of assistance of self-administered medication both according to the legibly written or printed directions of the health care professional or as written on the prescription label: *Provided*, That ‘administration’ does not include judgment, evaluation, assessments, or injections of medication (except for prefilled insulin or insulin pens).

‘Approved medication assistive personnel (AMAP)’ means a staff member, who meets eligibility requirements, has successfully

completed the required training and competency testing developed by the authorizing agency, and is considered competent by the authorized registered professional nurse to administer medications to residents of the nursing home in accordance with this article.

‘Authorized practitioner’ means a physician actively licensed under the provisions of §30-3-1 *et seq.* of this code or §30-14-1 *et seq.* of this code.

‘Authorized registered professional nurse’ means a person who is actively licensed pursuant to §30-7-1 *et seq.* of this code and meets the requirements to train and supervise approved medication assistive personnel pursuant to this article, and has completed and passed the facility trainer/instructor course developed by the authorizing agency.

‘Authorizing agency’ means the Office of Health Facility Licensure and Certification.

‘Delegation’ means transferring to a competent individual, as determined by the authorized registered professional nurse, the authority to administer medications or perform a health maintenance task.

‘Health care professional’ means an allopathic physician, osteopathic physician, registered professional nurse, advanced practice registered nurse, physician’s assistant, dentist, optometrist, or respiratory therapist licensed pursuant to the provisions of Chapter 30 of this code.

‘Health maintenance tasks’ means:

- (1) Administering glucometer tests;
- (2) Administering gastrostomy tube feedings;
- (3) Administering enemas;
- (4) Performing tracheostomy and ventilator care for residents.

‘Prescribing practitioner’ means an individual who has prescriptive authority as provided in Chapter 30.

‘Medication’ means a drug, as defined in §60A-1-101 of this code, which has been prescribed by a health care professional to be ingested through the mouth, inhaled through the nose or mouth, applied to the outer skin, eye or ear, or applied through nose drops, or applied through vaginal or rectal suppositories. Medication does not mean a controlled substance listed in Schedule I as provided in §60A-2-204 of this code and Schedule II as provided in §60A-2-206 of this code.

‘Nursing Home’ means as defined in §16-5C-2 of this code.

‘Registered professional nurse’ means a person who is actively licensed pursuant to §30-7-1 *et seq.* of this code.

‘Resident’ means a person living in a nursing home who is in a stable condition.

‘Self-administration of medication’ means the act of a resident, who is independently capable of reading and understanding the labels of medication ordered by an authorized practitioner, in opening and accessing prepackaged drug containers, accurately identifying and taking the correct dosage of the drugs as ordered by the health care professional, at the correct time and under the correct circumstances.

‘Self-administration of medication with assistance’ means assisting residents who are otherwise able to self-administer their own medications except their physical disabilities prevent them from completing one or more steps in the process.

‘Stable’ means the resident’s health condition is predictable and consistent as determined by the registered professional nurse.

‘Staff member’ means an individual employed by a nursing home but does not include a health care professional acting within his or her scope of practice.

‘Supervision of self-administration of medication’ means a personal service which includes reminding residents to take medications, opening medication containers for residents, reading the medication label to residents, observing residents while they

take medication, checking the self-administered dosage against the label on the container and reassuring residents that they have obtained and are taking the dosage as prescribed.

**§16-5AA-2. Administration of medications.**

(a) The authorizing agency shall create a program for the administration of medications in nursing homes. The authorizing agency shall create the program in consultation with the appropriate agencies and licensing boards.

(b) Administration of medication shall be performed by an AMAP who has been trained and retrained every two years and who is subject to the supervision of and approval by an authorized registered professional nurse.

(c) After assessing the health status of a resident daily, a registered professional nurse, in collaboration with the resident's prescriber, may allow an AMAP to administer medication.

(d) Nothing in this article prohibits a staff member from administering medications or performing health maintenance tasks or providing any other prudent emergency assistance to aid any person who is in acute physical distress or requires emergency assistance.

**§16-5AA-3. Exemption from licensure; statutory construction.**

(a) A staff member who is not authorized by law to administer medication may do so in a nursing home if he or she meets the requirements of this article.

(b) An AMAP is exempt from the licensing requirements of Chapter 30 of this code.

(c) A health care professional remains subject to his or her respective licensing laws.

(d) This article shall not be construed to violate or conflict with Chapter 30 of this code.

**§16-5AA-4. Instruction and training.**

(a) The authorizing agency shall develop and approve training curricula and competency evaluation procedures for an AMAP. The authorizing agency shall consult with the West Virginia Board of Examiners for Registered Nurses in developing the training curricula and competency evaluation procedures.

(b) The program developed by the authorizing agency shall require that a person who applies to act as an AMAP shall:

(1) Hold a high school diploma or its equivalent;

(2) Be a Certified Nurse Aide with at least one year of full-time experience;

(3) Be certified in cardiopulmonary resuscitation and first aid;

(4) Participate in the initial training program developed by the authorizing agency;

(5) Pass a competency evaluation developed by the authorizing agency;

(6) Not have a statement on the stated administered nurse aide registry indicating that the staff member has been the subject of finding of abuse or neglect of a long-term care nursing home resident or convicted of the misappropriation of a resident's property; and

(7) Participate in a retraining program every two years.

(c) A nursing home may offer the training and competency evaluation program developed by the authorizing agency to its staff members. The training and competency programs shall be provided by the nursing home through a registered professional nurse.

(d) A registered professional nurse who is authorized to train staff members to administer medications in nursing homes shall:

(1) Possess a current active license as set forth in §30-7-1 et seq. of this code to practice as a registered professional nurse;

(2) Have practiced as a registered professional nurse in a position or capacity requiring knowledge of medications for the immediate two years prior to being authorized to train staff members;

(3) Be familiar with the nursing care needs of the residents as described in this article; and

(4) Have completed and passed the nursing home trainer/instructor course developed by the authorizing agency.

**§16-5AA-5. Eligibility requirements of nursing home staff.**

(a) In order to administer medication an AMAP shall:

(1) Determine the medication to be administered is in its original container in which it was dispensed by a pharmacist or the physician;

(2) Make a written record of assistance of medication with regard to each medication administered, including the time, route, and amount taken;

(3) Display the title ‘Approved Medication Assistive Personnel’ at all times; and

(4) Comply with the legislative rules promulgated pursuant to §29A-3-1 *et seq.* of this code to implement the provisions of this article.

**§16-5AA-6. Oversight of approved medication assistive personnel.**

A nursing home using an AMAP shall establish an administrative monitoring system and shall comply with the applicable provisions of the legislative rules promulgated pursuant to §16-5O-11 of this code.

**§16-5AA-7. Withdrawal of authorization.**

(a) The registered professional nurse who supervises an AMAP may withdraw authorization for an AMAP to administer



medications, if the nurse determines that the AMAP is not performing the function in accordance with the training and written instructions.

(b) The withdrawal of the authorization shall be documented and relayed to the nursing home and the authorizing agency. The agency shall remove the AMAP from the list of authorized individuals. The department shall maintain a list of the names of persons whose authorization has been withdrawn and the reasons for withdrawal of authorization. The list may be accessed by registered professional nurses and administrative personnel of nursing homes.

**§16-5AA-8. Fees.**

The authorizing agency may set and collect any appropriate fees necessary for the implementation of the provisions of this article pursuant to the legislative rules authorized by this article.

**§16-5AA-9. Limitations on medication administration.**

(a) An AMAP may not:

(1) Perform an injection, except that prefilled insulin or insulin pens may be administered;

(2) Administer irrigations or debriding agents to treat a skin condition or minor abrasions;

(3) Act upon verbal medication orders;

(4) Transcribe medication orders;

(5) Convert or calculate drug dosages;

(6) Administer medications to be given ‘as needed’ as ordered by the health care professional unless the supervising nurse has first performed and documented a bedside assessment, and then the AMAP may administer the medication based on the written order with specific parameters which preclude independent judgment; or

(7) Perform health maintenance tasks.

(b) An AMAP's primary responsibility shall be to administer medication when assigned. While performing medication administration he or she may respond to routine requests from residents as long as it would not conflict with the administration of medication. An AMAP may perform other resident care activities during such times that the AMAP is not engaged in, or scheduled to be engaged in, the administration of medication.

**§16-5AA-10. Permissive Participation.**

The provisions of this article are not mandatory upon any nursing home or nursing home employee. A nursing home may not, as a condition of employment, require any of its health care professionals to use AMAPs.

**CHAPTER 30. PROFESSIONS AND OCCUPATIONS.**

**ARTICLE 7D. MEDICATION ASSISTIVE PERSONS.**

**§30-7D-1. Pilot program.**

[Repealed]

**§30-7D-2. Definitions.**

[Repealed]

**§30-7D-3. Certificate required.**

[Repealed]

**§30-7D-4. Designated facilities.**

[Repealed]

**§30-7D-5. Qualifications.**

[Repealed]

**§30-7D-6. Scope of work.**

[Repealed]

**§30-7D-7. Renewal of certifications.**

[Repealed]

**§30-7D-8. Disciplinary actions.**

[Repealed]

**§30-7D-9. Offenses and Penalties.**

[Repealed]

**§30-7D-10. Injunction.**

[Repealed]

**§30-7D-11. Medication Assistive Person Advisory Committee.**

[Repealed]

**§30-7D-12. Applicability of article.**

[Repealed]

**§30-7D-13. Rulemaking authority.**

[Repealed]”

And,

By amending the title of the bill to read as follows:

**Com. Sub. for H. B. 4199** - “A Bill to repeal §30-7D-1, §30-7D-2, §30-7D-3, §30-7D-4, §30-7D-5, §30-7D-6, §30-7D-7, §30-7D-8, §30-7D-9, §30-7D-10, §30-7D-11, §30-7D-12, and §30-7D-13 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §16-5AA-1, §16-5AA-2, §16-5AA-3, §16-5AA-4, §16-5AA-5, §16-5AA-6, §16-5AA-7, §16-5AA-8, §16-5AA-9, and §16-5AA-10, all

relating to permitting a nursing home to use trained individuals to administer medication under the direction of a registered professional nurse; defining terms; authorizing an AMAP to administer medication in nursing home; providing certain exemptions from chapter thirty licensing requirements; establishing requirements for training curricula and competency evaluation procedures; establishing eligibility criteria; establishing procedures by which an AMAP must administer medication; requiring nursing homes using an AMAP to establish an administrative monitoring system; permitting a registered professional nurse to withdraw authorization for an AMAP to administer medications in certain circumstances; allowing certain fees to be collected; providing limits on administration of medication by an AMAP; providing that use of an AMAP in nursing homes is permissive; and repealing a pilot program designed to monitor the practice of unlicensed personnel administering medication in a nursing home setting.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 291**), and there were—yeas 51, nays 43, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: Adkins, Bates, Blair, Boggs, Brewer, Butler, Byrd, Campbell, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Fast, Ferro, Fleischauer, Fluharty, Graves, Hollen, Iaquina, Isner, Longstreth, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Paynter, Pushkin, Pyles, Queen, Rodighiero, Rohrbach, Rowan, Rowe, Sponaugle, Summers, Thompson, Upson, Wagner, Ward and Williams.

Absent and Not Voting: Deem, Hicks, Hornbuckle, Kelly, Storch and Walters.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4199) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

**H. B. 4285**, Relating to the West Virginia Safe Mortgage Licensing Act.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates as follows:

**H. B. 4385**, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services.

At the request of Delegate Cowles and by unanimous consent, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

### **Committee Reports**

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 102**, Creating WV Uniform Fiduciary Access to Digital Assets Act,

**Com. Sub. for S. B. 133**, Exempting renewal of certain contracts entered into during declared state of emergency,

And,

**S. B. 545**, Relating to driving privileges and requirements for persons under 18,

And reports the same back, with amendment, with the recommendation that they each do pass, as amended.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 412**, Relating to authority of county litter control officers,

And,

**Com. Sub. for S. B. 522**, Relating generally to Administrative Procedures Act,

And reports the same back with the recommendation that they each do pass.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

**Com. Sub. for S. B. 419**, Establishing classification and base salaries of certain civilian employees of WV State Police Forensic Laboratory,

And,

**Com. Sub. for S. B. 490**, Relating to Revised Uniform Athlete Agents Act of 2015,

And reports the same back with the recommendation that they each do pass, but that they first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bills (Com. Sub. for S. B. 419 and Com. Sub. for S. B. 490) were each referred to the Committee on Finance.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

**Com. Sub. for S. B. 514**, Enacting Recognition of Emergency Medical Services Personnel Licensure Interstate Compact ,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 514) was referred to the Committee on the Judiciary.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

**Com. Sub. for S. B. 515**, Clarifying PSC jurisdiction over water and sewer utilities,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on the Judiciary.

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 515) was referred to the Committee on the Judiciary.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

**S. B. 393**, Relating to compensation and composition of WV Racing Commission,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (S. B. 393) was referred to the Committee on Finance.

Delegate Espinosa, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

**Com. Sub. for S. B. 572**, Creating Farm-to-School Grant Program,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 572) was referred to the Committee on Finance.

### **Leaves of Absence**

At the request of Delegate Cowles, and by unanimous consent, leave of absence for the day was granted Delegate Deem.

### **Miscellaneous Business**

Delegate Rowe noted to the Clerk that had he been at his desk when the vote was taken on Roll No. 275, he would have voted "Yea" thereon.

Delegate Upson noted to the Clerk that she was absent on today when the votes were taken on Com. Sub. for S. B. 37, Com. Sub. for S. B. 46, Com. Sub. for S. B. 134, Com. Sub. for S. B. 146, S. B. 338, Com. Sub. for S. B. 360 and S. B. 364, and that had she been present, she would have voted "Yea" thereon.



Pursuant to House Rule 132, unanimous consent was requested and obtained to print the remarks of Delegate C. Romine regarding Marshall University in the Appendix to the Journal.

At 5:39 p.m., the House of Delegates adjourned until 9:30 a.m., Saturday, March 3, 2018.



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Saturday, March 3, 2018

**FIFTY-THIRD DAY**

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 9:30 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

Prayer was offered and the House was led in recitation of the Pledge of Allegiance.

The Clerk proceeded to read the Journal of Friday, March 2, 2018, being the first order of business, when the further reading thereof was dispensed with and the same approved.

**Committee Reports**

Delegate Hanshaw, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 2<sup>nd</sup> day of March, 2018, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

**Com. Sub. for S. B. 71**, Defining “veteran” as it pertains to veteran-owned business,

And,

**Com. Sub. for S. B. 237**, Authorizing Department of Revenue promulgate legislative rules.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

**S. B. 297**, Eliminating taxation on annuity considerations collected by life insurer,

**Com. Sub. for S. B. 359**, Authorizing Supreme Court establish curricula for mental hygiene commissioners and certain magistrates,

And,

**Com. Sub. for S. B. 500**, Authorizing City of White Sulphur Springs to expend principal and interest from special interest-bearing fund,

And reports the same back with the recommendation that they each do pass.

### **Executive Messages**

Mr. Speaker, Mr. Armstead, presented a communication from His Excellency, the Governor, advising that on March 2, 2018, he approved **H. B. 4380, H. B. 4381, H. B. 4384 and H. B. 4386.**

### **Messages from the Senate**

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 2696**, Relating to crossbow hunting.

On motion of Delegate Cowles, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

The Committee on the Judiciary moved to amend the bill by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 2. WILDLIFE RESOURCES.**

**§20-2-42a. Class A resident hunting and trapping license.**

1 A Class A license is a resident hunting and trapping license and  
2 entitles the licensee to hunt and trap all legal species of wild  
3 animals and wild birds in all counties of the state, except ~~that the~~  
4 ~~licensee may not hunt deer during the deer archery, and muzzle-~~  
5 ~~loader seasons, or black bear, wild turkey or wild boar during the~~  
6 ~~respective seasons, big game as provided in §20-2-42v of this code,~~  
7 and except as prohibited by rules of the Director or Natural  
8 Resources Commission and when additional licenses, stamps, or  
9 permits are required. It shall be issued only to residents or aliens  
10 lawfully residing in the United States who have been domiciled  
11 residents of West Virginia for a period of 30 consecutive days or  
12 more immediately prior to the date of their application for a license.  
13 The fee for the license is \$18. This is a base license and does not  
14 require the purchase of a prerequisite license to participate in the  
15 activities specified in this section, except as noted.

**§20-2-42q. Class RB resident and Class RRB nonresident archery deer hunting stamp for an additional deer.**

1 The Director ~~has the authority to~~ may issue a Class RB resident  
2 and a Class RRB nonresident archery deer hunting stamp when  
3 ~~deemed~~ considered essential for the proper management of the  
4 wildlife resources. This stamp allows the licensee to hunt and take  
5 an additional deer during the deer archery or crossbow seasons as  
6 designated by the director. The fee for a Class RB stamp is \$20 and  
7 the fee for a Class RRB stamp is \$35. The director may ~~promulgate~~  
8 propose rules for promulgation in accordance with §29A-3-1 *et*  
9 *seq.* of this code governing the issuance and use of these stamps.  
10 These stamps require that the licensee purchase the appropriate  
11 base license before participating in the activities specified in this  
12 section ~~except as noted~~.

**§20-2-42s. Class UU nonresident archery deer hunting stamp.**

1 A Class UU stamp is a nonresident archery deer hunting stamp  
2 and entitles the licensee to hunt and take deer with a bow during  
3 the archery deer season or with a crossbow in the crossbow deer  
4 season in all counties of the state, except as prohibited by the rules

5 of the Director or Natural Resources Commission. The fee for a  
6 Class UU stamp is \$30. The stamp, issued in a form prescribed by  
7 the director, ~~shall be~~ is in addition to a Class E license. This stamp  
8 requires that the licensee purchase the appropriate base license  
9 before participating in the activities specified in this section ~~except~~  
10 ~~as noted.~~

**§20-2-42v. Class BG resident big game stamp.**

1 A Class BG stamp is a resident big game stamp and entitles the  
2 Class A licensee to hunt deer during the deer archery, crossbow,  
3 and muzzleloader seasons, and bear, wild turkey, and wild boar  
4 during the respective seasons, except as prohibited by rules of the  
5 Director or Natural Resources Commission: *Provided*, That the  
6 licensee possesses all other required permits ~~and/or~~ and stamps.  
7 The fee for the stamp is \$10. The stamp, issued in a form prescribed  
8 by the director, shall be in addition to a Class A license. This stamp  
9 requires that the licensee purchase the appropriate base license  
10 before participating in the activities specified in this section ~~except~~  
11 ~~as noted.~~”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 292**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Blair, Deem, Eldridge, Ellington, Hornbuckle, Storch, Sypolt and Upson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2696) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**H. B. 4332**, Relating to home peritoneal renal dialysis.

On motion of Delegate Cowles, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 5. PHARMACISTS, PHARMACY TECHNICIANS,  
PHARMACY INTERNS AND PHARMACIES.**

**§30-5-22. Pharmacies to be registered.**

(a) A pharmacy, an ambulatory health care facility, and a charitable clinic pharmacy shall register with the board.

(b) A person desiring to operate, maintain, open or establish a pharmacy shall register with the board.

(c) To be eligible for a registration to operate, maintain, open or establish a pharmacy the applicant shall:

- (1) Submit a written application to the board;
- (2) Pay all applicable fees;
- (3) Designate a pharmacist-in-charge; and
- (4) Successfully complete an inspection by the board.

(d) A separate application shall be made and separate registration issued for each location.

(e) Registration is not transferable.

(f) Registration expire and shall be renewed annually.

(g) If a registration expires, the pharmacy shall be reinspected and an inspection fee is required.

(h) A registrant shall employ a pharmacist-in-charge and operate in compliance with the legislative rules governing the practice of pharmacist care and the operation of a pharmacy.

(i) The provisions of this section do not apply to the sale of nonprescription drugs which are not required to be dispensed pursuant to a practitioner's prescription.

(j) The provisions of this section do not apply to the sale or distribution of dialysate, drugs or devices necessary to perform home peritoneal renal dialysis to patients with end state renal disease, provided the requirements of §30-5-29 of this code are met.

**§30-5-29. Limitations of article.**

(a) This article may not be construed to prevent, restrict or in any manner interfere with the sale of nonnarcotic nonprescription drugs which may be lawfully sold without a prescription in accordance with the United States Food, Drug and Cosmetic Act or the laws of this state, nor may any legislative rule be adopted by the board which shall require the sale of nonprescription drugs by a licensed pharmacist or in a pharmacy or which shall prevent, restrict or otherwise interfere with the sale or distribution of such drugs by any retail merchant. The sale or distribution of nonprescription drugs may not be deemed to be improperly engaging in the practice of pharmacist care.

(b) This article may not be construed to interfere with any legally qualified practitioner of medicine, dentistry or veterinary medicine, who is not the proprietor of the store for the dispensing or retailing of drugs and who is not in the employ of such proprietor, in the compounding of his or her own prescriptions or to prevent him or her from supplying to his or her patients such medicines as he or she may deem proper, if such supply is not made as a sale.

(c) The exception provided in subsection (b) of this section does not apply to an ambulatory health care facility: *Provided*, That a legally licensed and qualified practitioner of medicine or



dentistry may supply medicines to patients that he or she treats in a free clinic and that he or she deems appropriate.

(d) This article may not be construed to prevent, restrict or in any manner interfere with the sale or distribution of dialysate, drugs or devices necessary to perform home peritoneal renal dialysis to patients with end state renal disease, nor may any legislative rule be adopted by the board which shall require the sale or distribution of such peritoneal dialysis products by a licensed pharmacist or in a pharmacy, provided the following criteria are met:

(1) The dialysate, drugs or devices are approved or cleared by the Food and Drug Administration, as required by federal law.

(2) The dialysate, drugs or devices are lawfully held by a manufacturer or a manufacturer's agent that has obtained the proper permit from the board as a manufacturer or wholesale distributor, or third-party logistics provider.

(3) The dialysate, drugs or devices are held and delivered in their original, sealed packaging from the manufacturing facility.

(4) The dialysate, drugs or devices are delivered only upon receipt of a physician's prescription by a licensed pharmacy, and the transmittal of an order from the licensed pharmacy to the manufacturer or the manufacturer's agent; and

(5) The manufacturer or a manufacturer's agent delivers the dialysate, drugs, or devices directly to:

(A) A patient with chronic kidney failure, or his/her designee, for the patient's self-administration of the dialysis therapy; or

(B) A health care provider or institution for administration or delivery of the dialysis therapy to a patient with chronic kidney failure.

(e) The provisions of §30-5-29(d) of this code shall not alter the manner in which dialysate, drugs, devices necessary to perform home peritoneal renal dialysis to patients with end state renal

disease are billed by Medicaid under the current pharmacy benefit structure.

(f) A person who handles a prescription drug only during the point of sale to provide the prescription drug to a patient and accept payment is not subject to the licensure requirements of this article. This handling process includes the cashier having access to the pharmacy's operating system to verify unique information for each patient. A pharmacy may require an individual to complete a criminal background check before he or she is hired."

And,

By amending the title of the bill to read as follows:

**H. B. 4332** - "A Bill to amend and reenact §30-5-22 and §30-5-29 of the Code of West Virginia, 1931, as amended, all relating to the pharmacy practice act; allowing home peritoneal renal dialysis equipment and drugs to be distributed to patients with end state renal disease; providing for payment by Medicaid under the current benefit structure; and exempting cashiers from licensure under the Larry W. Border Pharmacy Practice Act."

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 293**), and there were—yeas 90, nays 3, absent and not voting 7, with the nays and absent and not voting being as follows:

Nays: Isner, Marcum and Rodighiero.

Absent and Not Voting: Blair, Deem, Eldridge, Ellington, Hornbuckle, Storch and Upson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4332) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect July 1, 2018, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 4619**, Relating to supporting implementation of comprehensive systems for teacher and leader induction and professional growth.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, to take effect from passage, of

**Com. Sub. for S. B. 181**, Authorizing MAPS promulgate legislative rules.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**Com. Sub. for S. B. 348**, Allowing for disposal of service weapons of special DNR police officers.

### **Motions**

On motion of Delegate Cowles, the House reconsidered the adoption, on yesterday, of the title amendment to **Com. Sub. for S. B. 451**, Relating generally to hunting and fishing.

On motion of Delegate Cowles, the House then reconsidered the passage of the bill.

Delegate Cowles asked unanimous consent that the rule be suspended to permit amendment of the bill on third reading, which consent was not obtained, objection being heard.

Delegate Cowles then moved that the rule be suspended to permit amendment of the bill on third reading.

On this question, the yeas and nays were taken (**Roll No. 294**), and there were—yeas 90, nays 6, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Fleischauer, Jennings, Lane, Lynch, Pushkin and Rowe.

Absent and Not Voting: Deem, Ellington, Hornbuckle and Storch.

So, two thirds of the members present and voting having voted in the affirmative, the rule was suspended to permit amendment of the bill on third reading.

On motion of Delegates Hamilton, Graves, Martin and Butler, the bill was amended on page three, section five, line thirty-five, by striking out the word “handgun” and inserting in lieu thereof the word “firearm”.

On page three, section five, line forty, after the word “in”, by striking out the word “a”.

On page three, section five, line forty, after the word “park”, by striking out the comma and inserting in lieu thereof the word “or”.

On page three, section five, line forty, after the word “facilities”, by striking out the comma.

On page seven, section nine, line eight, by striking out “§20-2-5b” and inserting in lieu thereof “§20-2-5(b)”.

On page seven, section nine, line twelve, by striking out “§20-2-5b” and inserting in lieu thereof “§20-2-5(b)”.

And,

On page seven, section nine, line sixteen, by striking out “§20-2-5b” and inserting in lieu thereof “§20-2-5(b)”.

The bill was then read a third time.

The question then being on the passage of the bill, the yeas and nays were taken (**Roll No. 295**), and there were—yeas 87, nays 8,

absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Fast, Fleischauer, Hanshaw, Iaquinta, Jennings, Lane, Pushkin and Rowe.

Absent and Not Voting: Cooper, Deem, Ellington, Hornbuckle and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 451) passed.

On motion of Delegate Hamilton, the title of the bill was amended to read as follows:

**Com. Sub. for S. B. 451** - “A Bill to amend and reenact §20-2-5 of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-7-9 of said code, all relating generally to hunting and fishing; authorizing the use of certain technologies for hunting coyote, fox, racoon, opossum, and skunk; regulating firearm use and possession in certain places; prohibiting the use of a drone or unmanned aircraft to wound, harass, or transport wildlife; allowing certain persons to carry firearms, including handguns, rifles, or shotguns, for self-defense with certain exceptions; creating a misdemeanor and providing penalties for catching, taking, killing or attempting to catch, take, or kill any fish by any means within 200 feet of agency personnel stocking fish into public waters; removing a limitation on the starting time for Sunday hunting on private lands with the landowner’s permission; providing that the misdemeanor offenses of hunting, trapping, or fishing on the lands of another person, entering posted lands, hunting on private land on Sunday without written permission, and destroying posted land signs will all carry penalties equivalent to the penalty for the offense of criminal trespass; providing increased penalties upon conviction of second and subsequent violations of certain natural resources laws; permitting Sunday hunting on public lands; permitting noodling, or fishing for catfish using one’s bare hands; and making technical changes.”

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

Delegate Cowles asked and obtained unanimous consent that, for the remainder of the session, members of Conference Committees be permitted to vote on any question or issue before the House which they have missed as a direct result of their duties on Conference Committees, provided that such members notify the Clerk of the House in writing as to how they wish to vote, before the daily Journal is published, and that any such vote will not change the outcome on any question.

## Special Calendar

### Third Reading

**S. B. 143**, Permitting DNR identification tag be used to identify trap; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 296**), and there were—yeas 94, nays 2, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Fleischauer and Pushkin.

Absent and Not Voting: Deem, Ellington, Hornbuckle and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 143) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**S. B. 343**, Limiting expenses in preparing list for notice to redeem; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 297**), and there were—yeas 92, nays 4, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Anderson, Frich, Lynch and Marcum.

Absent and Not Voting: Deem, Ellington, Hornbuckle and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 343) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

**S. B. 343** - “A Bill to amend and reenact §11A-3-58 of the Code of West Virginia, 1931, as amended, relating to distributions to purchasers after land has been redeemed; increasing the amount of expenses that may be paid to a purchaser for expenses incurred in preparing the list of those to be served with notice to redeem and title examination to \$500.”

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**S. B. 350**, Eliminating obsolete requirement that Lottery Commission file racetrack video lottery game rules with Secretary of State; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 298**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Deem, Ellington, Hornbuckle, Kelly, Storch and Zatezalo.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 350) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

**S. B. 350** - “A Bill to amend and reenact §29-22A-5 of the Code of West Virginia, 1931, as amended, relating to the elimination of a requirement that the Lottery Commission file racetrack video lottery game rules with the Secretary of State; and requiring the Secretary of State to post a notice on its website that the rules for video lottery games that have been approved by the Lottery Commission are available for review at the office of the commission and provide relevant contact information.”

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

### **Second Reading**

**Com. Sub. for S. J. R. 12**, No Constitutional right to abortion Amendment; on second reading, coming up in regular order, was read a second time.

Delegates Canestraro, Miley, Caputo and Brewer moved to amend the resolution on page one, lines ten and eleven, by striking out the words “the next general election to be held in the year” and inserting in lieu thereof the words “a special election to be held July 21” and a comma.

During debate on the amendment to the bill, the Speaker reminded the members to confine remarks to the question before the House.

On the adoption of the amendment, Delegate Canestraro demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 299**), and there were—yeas 35, nays 61, absent and not voting 4, with the yeas and absent and not voting being as follows:



Yeas: Barrett, Bates, Boggs, Brewer, Byrd, Campbell, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hartman, Hicks, Jaquinta, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Thompson and Williams.

Absent and Not Voting: Deem, Ellington, Hornbuckle and Storch.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

The resolution was then ordered to third reading.

**Com. Sub. for S. B. 73**, Modifying crime of fleeing from scene of accident; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 110**, Requiring certain licensees notify law enforcement or EMS of life-threatening emergency on premises; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 7. LICENSES TO PRIVATE CLUBS.**

**§60-7-13. Revocation or suspension of license; monetary penalty; hearing; assessment of costs; establishment of enforcement fund.**

(a) Upon a determination by the commissioner that a licensee has: (i) Violated the provisions of §11-16-1 *et seq.* of this code or of this chapter; (ii) acted in such a way as would have precluded initial or renewal licensure; or (iii) violated any rule or order promulgated by the commissioner, the commissioner may impose any one or a combination of the following sanctions:

- (1) Revoke the licensee's license;
- (2) Suspend the licensee's license;
- (3) Place the licensee on probationary status for a period not to exceed 12 months; and
- (4) Impose a monetary penalty not to exceed \$1,000 for each violation where revocation is not imposed.

(b) Any monetary penalty assessed and collected by the commissioner shall be transmitted to the State Treasurer for deposit into the State Treasury to the credit of a special revenue fund designated the Alcohol Beverage Control Enforcement Fund, which is hereby ~~created~~ continued. All moneys collected, received, and deposited in the Alcohol Beverage Control Enforcement Fund shall be kept and maintained for expenditures by the commissioner for the purpose of enforcement of the statutes and rules pertaining to alcoholic liquor, and shall not be treated by the State Treasurer or State Auditor as any part of the general revenue of the state. At the end of each fiscal year all funds in the Alcohol Beverage Control Enforcement Fund in excess of \$20,000 shall be transferred to the General Revenue Fund.

(c) In addition to the grounds for revocation, suspension, or other sanction of a license set forth in subsection (a) of this section, conviction of the licensee of any offense constituting a violation of the laws of this state or of the United States relating to alcoholic liquor, nonintoxicating beer, or gambling shall be mandatory grounds for such sanctioning of a license. Conviction of the licensee of any violation of the laws of this state or of the United States relating to prostitution, or the sale, possession, or distribution of narcotics or controlled substances, shall be mandatory grounds for revocation of the licensee's license for a period of at least one year.

(d) A licensee shall notify, in a timely manner, emergency medical services or law enforcement if a licensee knows or has reason to know of a life-threatening medical emergency occurring on the licensed premises. In addition to the grounds for revocation,

suspension, or other sanction of a license set forth in this section, the commissioner may, in his or her discretion, revoke, suspend, or otherwise sanction a licensee for failing to comply with the provisions of this subsection.

(e) If a life-threatening medical emergency occurs on a licensee's private premises requiring notification of emergency medical services or law enforcement under subsection (d) of this section, the licensee shall notify the Alcohol Beverage Control Administration within 48 hours of the emergency's occurrence. The commissioner may, in his or her discretion, revoke, suspend, or otherwise sanction a licensee for failing to comply with the 48-hour notification requirement.

(f) As used in this section, a life-threatening medical emergency includes, but is not limited to, respiratory distress or cessation of breathing, severe chest pains, shock, uncontrolled bleeding, poisoning, prolonged unconsciousness, overdose, any complaint or observation which indicates significant head or spinal injury, and life-threatening physical injury caused by a crime of violence against the person occupying or emanating from the licensed premises."

The bill was then ordered to third reading.

**Com. Sub. for S. B. 307**, Declaring fundraising on state highway or roadway by volunteer fire department is not obstruction or nuisance; on second reading, coming up in regular order, was read a second time.

On motion of Delegate R. Miller, the bill was amended on page two, section one, lines nineteen and twenty, by striking out the words "as regulated by the provisions of §29-26-1 *et seq.* of this code nonprofit service organization" and inserting in lieu thereof the words "and nonprofit service organizations".

The bill was then ordered to third reading.

**Com. Sub. for S. B. 327**, Providing extortion of anything of value, including sexual contact, subjects person to criminal

penalty; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**S. B. 346**, Permitting full-time nonresident students purchase lifetime resident hunting, trapping and fishing licenses; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page one, section seven, line one, by striking out “§20-3-1 *et seq.*” and inserting in lieu thereof “§20-2B-3”.

The bill was then ordered to third reading.

**S. B. 351**, Permitting ballot commissioners serve while candidates for certain offices; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 395**, Providing for judicial review of appealed decisions of Air Quality Review Board, Environmental Quality Board and Surface Mine Board; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 1. GENERAL POLICY AND PURPOSE.**

**§22B-1-9. General provisions for judicial review.**

(a) Any person, or the Secretary, as the case may be, adversely affected by an order made and entered by a board after an appeal hearing, held in accordance with the provisions of this chapter, is entitled to judicial review thereof. All of the provisions of §29A-5-4 of this code apply to and govern the review with like effect as if the provisions of that section four were set forth *in extenso* in this section, with the modifications or exceptions set forth in this chapter: *Provided*, That the exceptions set forth in §22B-2-3, §22B-3-3 and §22B-4-3 apply.

(b) The filing of a petition of appeal under the provisions of this chapter does not automatically stay or suspend the effectiveness or execution of the order, permit or official action pending appeal. The board shall file with the clerk of the court wherein the petition for appeal is filed all papers, documents, evidence and other records comprising the complete record in the case, or certified copies thereof, as were before the board at the time of the entry of the order from which the appeal is taken.

(c) Notwithstanding any provisions of this code to the contrary, the Secretary may employ in-house legal counsel to perform all legal services for the Department and Secretary or any director, chief or division therein in all proceedings made under the provisions of this chapter, including those in any administrative proceeding or before any state or Federal court. Additionally, the Secretary may call upon the Attorney General for any legal assistance and representation as provided by law.

## **ARTICLE 2. AIR QUALITY BOARD.**

### **§22B-2-3. Judicial review of air quality board orders.**

All of the provisions of §22B-1-9 of this code apply to and govern such review with like effect as if the provisions of ~~said that~~ section ~~nine~~ were set forth *in extenso* in this section, with the following modifications or exceptions:

~~(1 a)~~ (1 a) As to cases involving an order denying an application for a permit, or approving or modifying the terms and conditions of a permit, the petition for review shall be filed in the ~~circuit court of Kanawha County~~ Supreme Court of Appeals within 30 days of the board's order: *Provided, That, if all parties consent to it, the proceedings may continue in the Circuit Court of Kanawha County; and*

~~(2 b)~~ (2 b) As to all other cases, the petition shall be filed in the circuit court of the county wherein the alleged statutory air pollution complained of originated or in Kanawha County upon agreement between the parties.

**ARTICLE 3. ENVIRONMENTAL QUALITY BOARD.****§22B-3-3. Judicial review.**

All of the provisions of §22B-1-9 of this code apply to and govern such review with like effect as if the provisions of ~~said~~ that section ~~nine~~ were set forth *in extenso* in this section, with the following modifications or exceptions:

(~~1~~ a) As to cases involving an order denying an application for a permit, or approving or modifying the terms and conditions of a permit, the petition shall be filed in the ~~circuit court of Kanawha County~~ Supreme Court of Appeals within 30 days of the board's order: *Provided, That, if all parties consent to it, the proceedings may continue in the Circuit Court of Kanawha County;*

(~~2~~ b) As to cases involving an order revoking or suspending a permit, the petition shall be filed in the circuit court of Kanawha County; and

(~~3~~ c) As to cases involving an order directing that any and all discharges or deposits of solid waste, sewage, industrial wastes or other wastes, or the effluent therefrom, determined to be causing pollution be stopped or prevented or else that remedial action be taken, the petition shall be filed in the circuit court of the county in which the establishment is located or in which the pollution occurs.

**ARTICLE 4. SURFACE MINE BOARD.****§22B-4-3. Judicial review.**

All of the provisions of §22B-1-9 of this code apply to and govern such review with like effect as if the provisions of that ~~said~~ section ~~nine~~ were set forth *in extenso* in this section. ~~except the petition shall be filed in the circuit court of Kanawha County or the county in which the surface mining operation is located with the following modifications or exceptions:~~

(a) As to cases involving an order denying an application for a permit, or approving or modifying the terms and conditions of a

permit, the petition shall be filed in the Supreme Court of Appeals within 30 days of the board's order: *Provided, That, if all parties consent to it, the proceedings may continue in the Circuit Court of Kanawha County;*

(b) As to all other cases, the petition shall be filed in the circuit court of Kanawha County or in the county wherein the surface mining operation is located.”

The bill was then ordered to third reading.

**Com. Sub. for S. B. 397**, Creating crime of impersonating blind or disabled person; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 404**, Relating to sex offender registry information; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Shott, the bill was amended on page five, section two, line ninety-seven, by striking out the words “or adjudicated”.

The bill was then ordered to third reading.

**S. B. 539**, Increasing limit for settling claims against DOH; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 561**, Increasing minimum contract price requiring execution of bond with respect to building or repairing school property; on second reading, coming up in regular order, was read a second time and ordered to third reading.

### First Reading

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

**Com. Sub. for S. B. 7**, Relating to claims under Wage Payment and Collection Act,

**S. B. 47**, Requiring Defense Department advocacy groups be notified in abuse or neglect of military person's child,

**Com. Sub. for S. B. 102**, Creating WV Uniform Fiduciary Access to Digital Assets Act,

**Com. Sub. for S. B. 133**, Exempting renewal of certain contracts entered into during declared state of emergency,

**S. B. 272**, Relating generally to drug control,

**S. B. 298**, Authorizing county assessors make separate entries in landbooks when real property is partly used for exempt and partly for nonexempt purposes,

**S. B. 319**, Allowing individuals who completed home schooling be eligible for PROMISE scholarship without equivalent diploma,

**S. B. 365**, Relating to Young Entrepreneur Reinvestment Act,

**Com. Sub. for S. B. 412**, Relating to authority of county litter control officers,

**S. B. 427**, Modifying form of notice for certain tax delinquencies,

**S. B. 441**, Relating to health care provider taxes,

**Com. Sub. for S. B. 456**, Physical Therapy Licensure Compact Act,

**Com. Sub. for S. B. 493**, Relating to guaranty associations,

**Com. Sub. for S. B. 499**, Requiring one year of certain approved postgraduate clinical training for persons with foreign medical degrees,

**Com. Sub. for S. B. 510**, Designating hospitals for stroke treatment,



**Com. Sub. for S. B. 522**, Relating generally to Administrative Procedures Act,

And,

**S. B. 545**, Relating to driving privileges and requirements for persons under 18.

At the request of Delegate Cowles and by unanimous consent, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

### **Committee Reports**

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**S. B. 347**, Relating to operation of motorboats,

**Com. Sub. for S. B. 543**, Relating to confidentiality of medical records,

**Com. Sub. for S. B. 574**, Relating to crime of misrepresentation of military honors,

And,

**Com. Sub. for S. B. 582**, Allowing candidate for political party executive committee serve as election official.

And reports the same back with the recommendation that they each do pass.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**S. B. 273**, Reducing use of certain prescription drugs,

**Com. Sub. for S. B. 475**, Industrial Hemp Development Act,

**Com. Sub. for S. B. 575**, Approving additional beds for intermediate care facilities,

**Com. Sub. for S. B. 616**, Establishing maximum gross weight for certain wood-bearing trucks,

And,

**S. B. 626**, Relating generally to coal mining,

And reports the same back, with amendment, with the recommendation that they each do pass, as amended.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

**Com. Sub. for S. B. 261**, Transferring certain powers and programs of WV Affordable Housing Trust Fund to WV Housing Development Fund,

**S. B. 299**, Relating to mandatory insurance coverage for medical foods for amino acid-based formulas,

**Com. Sub. for S. B. 461**, Extending time to file petition for motor fuel excise tax refund,

And,

**S. B. 576**, Relating to Patient Injury Compensation Fund,

And reports the same back, with amendments, with the recommendation that they each do pass, as amended.

Delegate Statler, Chair of the Committee on Fire Departments and Emergency Medical Services, submitted the following report, which was received:

Your Committee on Fire Departments and Emergency Medical Services has had under consideration:

**Com. Sub. for S. B. 625**, Creating WV Volunteer Fire and Rescue Act of 2018,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 625) was referred to the Committee on Finance.

Delegate Shott, Chair of the Committee on the Judiciary submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 116**, Providing court costs collected under Second Chance Driver's License Program are not subject to 5 percent offset,

And reports the same back with the recommendation that it do pass, and with the recommendation that second reference of the bill to the Committee on Finance be dispensed with.

In the absence of objection, reference of the bill (Com. Sub. for S. B. 116) to the Committee on Finance was abrogated.

At 11:35 a.m., on motion of Delegate Cowles, the House of Delegates recessed until 3:30 p.m.

\* \* \* \* \*

### **Afternoon Session**

\* \* \* \* \*

The House of Delegates was called to order by the Honorable Tim Armstead, Speaker.

### Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4145**, Increasing the annual salaries of members of the West Virginia State Police, public school teachers and school service personnel.

Delegate Cowles moved the House of Delegates refuse to concur in the following amendment by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“CHAPTER 15. PUBLIC SAFETY.**

**ARTICLE 2. WEST VIRGINIA STATE POLICE.**

**§15-2-5. Career progression system; salaries; exclusion from wages and hour law, with supplemental payment; bond; leave time for members called to duty in guard or reserves.**

(a) The superintendent shall establish within the West Virginia State Police a system to provide for: The promotion of members to the supervisory ranks of sergeant, first sergeant, second lieutenant, and first lieutenant; the classification of nonsupervisory members within the field operations force to the ranks of trooper, senior trooper, trooper first class, or corporal; the classification of members assigned to the forensic laboratory as criminalist I-VIII; and the temporary reclassification of members assigned to administrative duties as administrative support specialist I-VIII.

(b) The superintendent may propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code for the purpose of ensuring consistency, predictability, and independent review of any system developed under the provisions of this section.

(c) The superintendent shall provide to each member a written manual governing any system established under the provisions of this section and specific procedures shall be identified for the

evaluation and testing of members for promotion or reclassification and the subsequent placement of any members on a promotional eligibility or reclassification recommendation list.

(d) Beginning on July 1, 2018, members shall receive annual salaries payable at least twice per month as follows:

~~ANNUAL SALARY SCHEDULE (BASE PAY)~~

~~SUPERVISORY AND NONSUPERVISORY RANKS~~

Cadet During Training .....	\$34,858
Cadet Trooper After Training .....	\$42,122
Trooper Second Year .....	43,130
Trooper Third Year .....	43,513
Senior Trooper .....	43,912
Trooper First Class .....	44,518
Corporal .....	45,124
Sergeant .....	49,425
First Sergeant .....	51,576
Second Lieutenant .....	53,726
First Lieutenant .....	55,877
Captain .....	58,028
Major .....	60,178
Lieutenant Colonel .....	62,329

~~ANNUAL SALARY SCHEDULE (BASE PAY)~~

~~ADMINISTRATION SUPPORT SPECIALIST  
CLASSIFICATION~~

I .....	43,130
II .....	43,912
III .....	44,518
IV .....	45,124
V .....	49,425
VI .....	51,576
VII .....	53,726
VIII .....	55,877

ANNUAL SALARY SCHEDULE (BASE PAY)

CRIMINALIST CLASSIFICATION

I .....	43,130
II .....	43,912
III .....	44,518
IV .....	45,124
V .....	49,425
VI .....	51,576
VII .....	53,726
VIII .....	55,877

ANNUAL SALARY SCHEDULE (BASE PAY)

SUPERVISORY AND NONSUPERVISORY RANKS

<u>Cadet During Training .....</u>	<u>\$35,722</u>
<u>Cadet Trooper After Training .....</u>	<u>42,982</u>

<u>Trooper Second Year</u> .....	<u>43,994</u>
<u>Trooper Third Year</u> .....	<u>44,377</u>
<u>Senior Trooper</u> .....	<u>44,776</u>
<u>Trooper First Class</u> .....	<u>45,382</u>
<u>Corporal</u> .....	<u>45,988</u>
<u>Sergeant</u> .....	<u>50,289</u>
<u>First Sergeant</u> .....	<u>52,440</u>
<u>Second Lieutenant</u> .....	<u>54,590</u>
<u>First Lieutenant</u> .....	<u>56,741</u>
<u>Captain</u> .....	<u>58,892</u>
<u>Major</u> .....	<u>61,042</u>
<u>Lieutenant Colonel</u> .....	<u>63,193</u>

ANNUAL SALARY SCHEDULE (BASE PAY)

ADMINISTRATION SUPPORT SPECIALIST  
CLASSIFICATION

<u>I</u> .....	<u>43,994</u>
<u>II</u> .....	<u>44,776</u>
<u>III</u> .....	<u>45,382</u>
<u>IV</u> .....	<u>45,988</u>
<u>V</u> .....	<u>50,289</u>
<u>VI</u> .....	<u>52,440</u>
<u>VII</u> .....	<u>54,590</u>
<u>VIII</u> .....	<u>56,741</u>

ANNUAL SALARY SCHEDULE (BASE PAY)CRIMINALIST CLASSIFICATION

<u>I .....</u>	<u>43,994</u>
<u>II .....</u>	<u>44,776</u>
<u>III .....</u>	<u>45,382</u>
<u>IV .....</u>	<u>45,988</u>
<u>V .....</u>	<u>50,289</u>
<u>VI .....</u>	<u>52,440</u>
<u>VII .....</u>	<u>54,590</u>
<u>VIII .....</u>	<u>56,741</u>

~~Beginning July 1, 2019, the annual salaries for members of each of the West Virginia State Police, the Administration Support Specialists, and the Criminalist classifications set forth in the schedules in this subsection shall be increased an additional \$432.~~

Each member of the West Virginia State Police whose salary is fixed and specified in this annual salary schedule is entitled to the length of service increases set forth in §15-2-5(e) of this code and supplemental pay as provided in §15-2-5(g) of this code.

(e) Each member of the West Virginia State Police whose salary is fixed and specified pursuant to this section shall receive, and is entitled to, an increase in salary over that set forth in §15-2-5(d) of this code for grade in rank, based on length of service, including that service served before and after the effective date of this section with the West Virginia State Police as follows: Beginning on January 1, 2015, and continuing thereafter, at the end of two years of service with the West Virginia State Police, the member shall receive a salary increase of \$500 to be effective during his or her next year of service and a like increase at yearly intervals thereafter, with the increases to be cumulative.



(f) In applying the salary schedules set forth in this section where salary increases are provided for length of service, members of the West Virginia State Police in service at the time the schedules become effective shall be given credit for prior service and shall be paid the salaries the same length of service entitles them to receive under the provisions of this section.

(g) The Legislature finds and declares that because of the unique duties of members of the West Virginia State Police, it is not appropriate to apply the provisions of state wage and hour laws to them. Accordingly, members of the West Virginia State Police are excluded from the provisions of state wage and hour law. This express exclusion shall not be construed as any indication that the members were or were not covered by the wage and hour law prior to this exclusion.

In lieu of any overtime pay they might otherwise have received under the wage and hour law, and in addition to their salaries and increases for length of service, members who have completed basic training and who are exempt from federal Fair Labor Standards Act guidelines may receive supplemental pay as provided in this section.

The authority of the superintendent to propose a legislative rule or amendment thereto for promulgation in accordance with §29A-3-1 *et seq.* of this code to establish the number of hours per month which constitute the standard pay period for the members of the West Virginia State Police is hereby continued. The rule shall further establish, on a graduated hourly basis, the criteria for receipt of a portion or all of supplemental payment when hours are worked in excess of the standard pay period. The superintendent shall certify at least twice per month to the West Virginia State Police's payroll officer the names of those members who have worked in excess of the standard pay period and the amount of their entitlement to supplemental payment. The supplemental payment may not exceed \$200 per pay period. The superintendent and civilian employees of the West Virginia State Police are not eligible for any supplemental payments.

(h) Each member of the West Virginia State Police, except the superintendent and civilian employees, shall execute, before entering upon the discharge of his or her duties, a bond with security in the sum of \$5,000 payable to the State of West Virginia, conditioned upon the faithful performance of his or her duties, and the bond shall be approved as to form by the Attorney General and as to sufficiency by the Governor.

(i) In consideration for compensation paid by the West Virginia State Police to its members during those members' participation in the West Virginia State Police Cadet Training Program pursuant to §30-29-8 of this code, the West Virginia State Police may require of its members by written agreement entered into with each of them in advance of such participation in the program that, if a member should voluntarily discontinue employment any time within one year immediately following completion of the training program, he or she shall be obligated to pay to the West Virginia State Police a pro rata portion of such compensation equal to that part of such year which the member has chosen not to remain in the employ of the West Virginia State Police.

(j) Any member of the West Virginia State Police who is called to perform active duty training or inactive duty training in the National Guard or any reserve component of the armed forces of the United States annually shall be granted, upon request, leave time not to exceed 30 calendar days for the purpose of performing the active duty training or inactive duty training and the time granted may not be deducted from any leave accumulated as a member of the West Virginia State Police.

## **CHAPTER 18A. SCHOOL PERSONNEL.**

### **ARTICLE 4. SALARIES, WAGES, AND OTHER BENEFITS.**

#### **§18A-4-2. State minimum salaries for teachers.**

(a) It is the goal of the Legislature to increase the state minimum salary for teachers with zero years of experience and an A. B. degree, including the equity supplement, to at least \$43,000 by fiscal year 2019.

(b) (4) For school year 2018–2019, and continuing thereafter, each teacher shall receive the amount prescribed in the State Minimum Salary Schedule as set forth in this section; specific additional amounts prescribed in this section or article; and any county supplement in effect in a county pursuant to §18A-4-5a of this code during the contract year.

### STATE MINIMUM SALARY SCHEDULE

Years	4 <sup>th</sup>	3 <sup>rd</sup>	2 <sup>nd</sup>	A.B.		M.A.		M.A.	M.A.	Doc-
Exp	Class	Class	Class	A.B.	+15	M.A.	+15	+30	+45	torate
0	28,725	29,414	29,680	31,123	31,884	33,651	34,412	35,173	35,934	36,969
1	29,053	29,742	30,008	31,641	32,402	34,170	34,931	35,691	36,452	37,487
2	29,382	30,070	30,336	32,160	32,921	34,688	35,449	36,210	36,971	38,006
3	29,710	30,398	30,664	32,679	33,439	35,207	35,968	36,728	37,489	38,524
4	30,282	30,970	31,236	33,441	34,202	35,970	36,731	37,491	38,252	39,287
5	30,610	31,298	31,564	33,960	34,721	36,488	37,249	38,010	38,771	39,806
6	30,938	31,626	31,892	34,478	35,239	37,007	37,768	38,528	39,289	40,324
7	31,266	31,955	32,220	34,997	35,758	37,525	38,286	39,047	39,808	40,843
8	31,594	32,283	32,549	35,515	36,276	38,044	38,805	39,565	40,326	41,361
9	31,922	32,611	32,877	36,034	36,795	38,562	39,323	40,084	40,845	41,880
10	32,251	32,939	33,205	36,554	37,314	39,082	39,843	40,604	41,364	42,399
11	32,579	33,267	33,533	37,072	37,833	39,601	40,361	41,122	41,883	42,918
12	32,907	33,595	33,861	37,591	38,351	40,119	40,880	41,641	42,401	43,436
13	33,235	33,923	34,189	38,109	38,870	40,638	41,398	42,159	42,920	43,955
14	33,563	34,251	34,517	38,628	39,388	41,156	41,917	42,678	43,438	44,473
15	33,891	34,579	34,845	39,146	39,907	41,675	42,435	43,196	43,957	44,992
16	34,219	34,907	35,173	39,665	40,425	42,193	42,954	43,715	44,475	45,510
17	34,547	35,236	35,501	40,183	40,944	42,712	43,473	44,233	44,994	46,029

18	34,875	35,564	35,830	40,702	41,463	43,230	43,991	44,752	45,513	46,548
19	35,203	35,892	36,158	41,220	41,981	43,749	44,510	45,270	46,031	47,066
20	35,531	36,220	36,486	41,739	42,500	44,267	45,028	45,789	46,550	47,585
21	35,860	36,548	36,814	42,257	43,018	44,786	45,547	46,307	47,068	48,103
22	36,188	36,876	37,142	42,776	43,537	45,304	46,065	46,826	47,587	48,622
23	36,516	37,204	37,470	43,295	44,055	45,823	46,584	47,344	48,105	49,140
24	36,844	37,532	37,798	43,813	44,574	46,342	47,102	47,863	48,624	49,659
25	37,172	37,860	38,126	44,332	45,092	46,860	47,621	48,382	49,142	50,177
26	37,500	38,188	38,454	44,850	45,611	47,379	48,139	48,900	49,661	50,696
27	37,828	38,516	38,782	45,369	46,129	47,897	48,658	49,419	50,179	51,214
28	38,156	38,845	39,110	45,887	46,648	48,416	49,176	49,937	50,698	51,733
29	38,484	39,173	39,439	46,406	47,166	48,934	49,695	50,456	51,216	52,251
30	38,812	39,501	39,767	46,924	47,685	49,453	50,213	50,974	51,735	52,770
31	39,141	39,829	40,095	47,443	48,204	49,971	50,732	51,493	52,253	53,288
32	39,469	40,157	40,423	47,961	48,722	50,490	51,251	52,011	52,772	53,807
33	39,797	40,485	40,751	48,480	49,241	51,008	51,769	52,530	53,291	54,326
34	40,125	40,813	41,079	48,998	49,759	51,527	52,288	53,048	53,809	54,844
35	40,453	41,141	41,407	49,517	50,278	52,045	52,806	53,567	54,328	55,363
<u>Years</u>	<u>4<sup>th</sup></u>	<u>3<sup>rd</sup></u>	<u>2<sup>nd</sup></u>	<u>A.B.</u>	<u>A.B.</u>	<u>M.A.</u>	<u>M.A.</u>	<u>M.A.</u>	<u>M.A.</u>	<u>Doc-</u>
<u>Exp</u>	<u>Class</u>	<u>Class</u>	<u>Class</u>		<u>+ 15</u>		<u>+ 15</u>	<u>+ 30</u>	<u>+ 45</u>	<u>torate</u>
0	29,533	30,222	30,488	31,931	32,692	34,459	35,220	35,981	36,742	37,777
1	29,861	30,550	30,816	32,449	33,210	34,978	35,739	36,499	37,260	38,295
2	30,190	30,878	31,144	32,968	33,729	35,496	36,257	37,018	37,779	38,814
3	30,518	31,206	31,472	33,487	34,247	36,015	36,776	37,536	38,297	39,332
4	31,090	31,778	32,044	34,249	35,010	36,778	37,539	38,299	39,060	40,095
5	31,418	32,106	32,372	34,768	35,529	37,296	38,057	38,818	39,579	40,614
6	31,746	32,434	32,700	35,286	36,047	37,815	38,576	39,336	40,097	41,132
7	32,074	32,763	33,028	35,805	36,566	38,333	39,094	39,855	40,616	41,651

8	32,402	33,091	33,357	36,323	37,084	38,852	39,613	40,373	41,134	42,169
9	32,730	33,419	33,685	36,842	37,603	39,370	40,131	40,892	41,653	42,688
10	33,059	33,747	34,013	37,362	38,122	39,890	40,651	41,412	42,172	43,207
11	33,387	34,075	34,341	37,880	38,641	40,409	41,169	41,930	42,691	43,726
12	33,715	34,403	34,669	38,399	39,159	40,927	41,688	42,449	43,209	44,244
13	34,043	34,731	34,997	38,917	39,678	41,446	42,206	42,967	43,728	44,763
14	34,371	35,059	35,325	39,436	40,196	41,964	42,725	43,486	44,246	45,281
15	34,699	35,387	35,653	39,954	40,715	42,483	43,243	44,004	44,765	45,800
16	35,027	35,715	35,981	40,473	41,233	43,001	43,762	44,523	45,283	46,318
17	35,355	36,044	36,309	40,991	41,752	43,520	44,281	45,041	45,802	46,837
18	35,683	36,372	36,638	41,510	42,271	44,038	44,799	45,560	46,321	47,356
19	36,011	36,700	36,966	42,028	42,789	44,557	45,318	46,078	46,839	47,874
20	36,339	37,028	37,294	42,547	43,308	45,075	45,836	46,597	47,358	48,393
21	36,668	37,356	37,622	43,065	43,826	45,594	46,355	47,115	47,876	48,911
22	36,996	37,684	37,950	43,584	44,345	46,112	46,873	47,634	48,395	49,430
23	37,324	38,012	38,278	44,103	44,863	46,631	47,392	48,152	48,913	49,948
24	37,652	38,340	38,606	44,621	45,382	47,150	47,910	48,671	49,432	50,467
25	37,980	38,668	38,934	45,140	45,900	47,668	48,429	49,190	49,950	50,985
26	38,308	38,996	39,262	45,658	46,419	48,187	48,947	49,708	50,469	51,504
27	38,636	39,324	39,590	46,177	46,937	48,705	49,466	50,227	50,987	52,022
28	38,964	39,653	39,918	46,695	47,456	49,224	49,984	50,745	51,506	52,541
29	39,292	39,981	40,247	47,214	47,974	49,742	50,503	51,264	52,024	53,059
30	39,620	40,309	40,575	47,732	48,493	50,261	51,021	51,782	52,543	53,578
31	39,949	40,637	40,903	48,251	49,012	50,779	51,540	52,301	53,061	54,096
32	40,277	40,965	41,231	48,769	49,530	51,298	52,059	52,819	53,580	54,615
33	40,605	41,293	41,559	49,288	50,049	51,816	52,577	53,338	54,099	55,134
34	40,933	41,621	41,887	49,806	50,567	52,335	53,096	53,856	54,617	55,652
35	41,261	41,949	42,215	50,325	51,086	52,853	53,614	54,375	55,136	56,171

~~(2) For school year 2019-2020, each teacher shall receive the amount prescribed in the State Minimum Salary Schedule as set forth in this section, plus \$404; specific additional amounts prescribed in this section or article; and any county supplement in effect in a county pursuant to §18A-4-5a of this code during the contract year.~~

~~(3) For school year 2020-2021, each teacher shall receive the amount prescribed in the State Minimum Salary Schedule as set forth in this section, plus \$808; specific additional amounts prescribed in this section or article; and any county supplement in effect in a county pursuant to §18A-4-5a of this code during the contract year.~~

(c) Six hundred dollars shall be paid annually to each classroom teacher who has at least 20 years of teaching experience. The payments: (i) Shall be in addition to any amounts prescribed in the applicable State Minimum Salary Schedule; (ii) shall be paid in equal monthly installments; and (iii) shall be considered a part of the state minimum salaries for teachers.

(d) To meet the objective of salary equity among the counties as set forth in §18A-4-5 of this code, each teacher shall be paid an equity supplement amount as applicable for his or her classification of certification or classification of training and years of experience as follows, subject to the provisions of that section:

(1) For '4th Class' at zero years of experience, \$1,781. An additional \$38 shall be paid for each year of experience up to and including 35 years of experience;

(2) For '3rd Class' at zero years of experience, \$1,796. An additional \$67 shall be paid for each year of experience up to and including 35 years of experience;

(3) For '2nd Class' at zero years of experience, \$1,877. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(4) For 'A. B.' at zero years of experience, \$2,360. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(5) For 'A. B. + 15' at zero years of experience, \$2,452. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(6) For 'M. A.' at zero years of experience, \$2,644. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(7) For 'M. A. + 15' at zero years of experience, \$2,740. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(8) For 'M. A. + 30' at zero years of experience, \$2,836. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(9) For 'M. A. + 45' at zero years of experience, \$2,836. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience; and

(10) For 'Doctorate' at zero years of experience, \$2,927. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience.

These payments: (i) Shall be in addition to any amounts prescribed in the applicable State Minimum Salary Schedule, any specific additional amounts prescribed in this section and article and any county supplement in effect in a county pursuant to §18A-4-5a of this code; (ii) shall be paid in equal monthly installments; and (iii) shall be considered a part of the state minimum salaries for teachers.

#### **§18A-4-8a. Service personnel minimum monthly salaries.**

(a) The minimum monthly pay for each service employee shall be as follows:

(1) For school year 2018–2019, and continuing thereafter, the minimum monthly pay for each service employee whose employment is for a period of more than three and one-half hours a day shall be at least the amounts indicated in the State Minimum Pay Scale Pay Grade and the minimum monthly pay for each service employee whose employment is for a period of three and one-half hours or less a day shall be at least one-half the amount indicated in the State Minimum Pay Scale Pay Grade set forth in this subdivision.

### STATE MINIMUM PAY SCALE PAY GRADE

Years	PAY GRADE							
	A	B	C	D	E	F	G	H
0	1,704	1,725	1,767	1,820	1,873	1,936	1,968	2,041
1	1,736	1,758	1,799	1,852	1,906	1,969	2,000	2,074
2	1,769	1,790	1,832	1,885	1,938	2,001	2,033	2,106
3	1,801	1,823	1,865	1,918	1,971	2,034	2,066	2,139
4	1,834	1,856	1,897	1,950	2,003	2,067	2,098	2,173
5	1,867	1,888	1,930	1,983	2,036	2,099	2,131	2,205
6	1,899	1,921	1,964	2,016	2,069	2,132	2,164	2,238
7	1,933	1,953	1,996	2,048	2,101	2,165	2,196	2,271
8	1,966	1,986	2,029	2,081	2,134	2,197	2,229	2,303
9	1,998	2,019	2,062	2,115	2,167	2,230	2,261	2,336
10	2,031	2,052	2,094	2,147	2,199	2,264	2,295	2,369
11	2,064	2,085	2,127	2,180	2,232	2,296	2,328	2,401
12	2,096	2,118	2,159	2,213	2,266	2,329	2,360	2,434
13	2,129	2,150	2,192	2,245	2,298	2,361	2,393	2,467
14	2,162	2,183	2,225	2,278	2,331	2,394	2,426	2,499
15	2,194	2,216	2,257	2,310	2,363	2,427	2,458	2,532
16	2,227	2,248	2,290	2,343	2,396	2,459	2,491	2,565



17	2,259	2,281	2,324	2,376	2,429	2,492	2,524	2,598
18	2,292	2,314	2,356	2,408	2,461	2,525	2,556	2,631
19	2,326	2,346	2,389	2,441	2,494	2,557	2,589	2,663
20	2,358	2,379	2,422	2,475	2,527	2,590	2,622	2,697
21	2,391	2,411	2,454	2,507	2,559	2,623	2,654	2,731
22	2,424	2,445	2,487	2,540	2,592	2,656	2,688	2,763
23	2,456	2,478	2,520	2,573	2,626	2,690	2,722	2,797
24	2,489	2,510	2,552	2,605	2,658	2,724	2,755	2,831
25	2,522	2,543	2,585	2,638	2,692	2,756	2,789	2,863
26	2,554	2,576	2,617	2,672	2,726	2,790	2,821	2,897
27	2,587	2,608	2,650	2,704	2,758	2,822	2,855	2,930
28	2,620	2,641	2,684	2,738	2,792	2,856	2,889	2,964
29	2,652	2,675	2,717	2,770	2,825	2,890	2,921	2,998
30	2,686	2,707	2,751	2,804	2,858	2,922	2,955	3,031
31	2,719	2,741	2,785	2,838	2,892	2,956	2,989	3,064
32	2,753	2,774	2,817	2,871	2,924	2,990	3,021	3,098
33	2,787	2,807	2,851	2,905	2,958	3,022	3,055	3,131
34	2,819	2,841	2,885	2,939	2,992	3,056	3,089	3,164
35	2,853	2,875	2,917	2,971	3,024	3,090	3,122	3,198
36	2,887	2,908	2,951	3,005	3,059	3,123	3,156	3,230
37	2,919	2,942	2,985	3,039	3,093	3,157	3,189	3,264
38	2,953	2,974	3,017	3,071	3,125	3,190	3,222	3,298
39	2,987	3,008	3,051	3,105	3,159	3,223	3,256	3,330
40	3,019	3,042	3,084	3,138	3,193	3,257	3,289	3,364

YearsExp.PAY GRADE

	A	B	C	D	E	F	G	H
0	1,748	1,769	1,811	1,864	1,917	1,980	2,012	2,085

1	1,780	1,802	1,843	1,896	1,950	2,013	2,044	2,118
2	1,813	1,834	1,876	1,929	1,982	2,045	2,077	2,150
3	1,845	1,867	1,909	1,962	2,015	2,078	2,110	2,183
4	1,878	1,900	1,941	1,994	2,047	2,111	2,142	2,217
5	1,911	1,932	1,974	2,027	2,080	2,143	2,175	2,249
6	1,943	1,965	2,008	2,060	2,113	2,176	2,208	2,282
7	1,977	1,997	2,040	2,092	2,145	2,209	2,240	2,315
8	2,010	2,030	2,073	2,125	2,178	2,241	2,273	2,347
9	2,042	2,063	2,106	2,159	2,211	2,274	2,305	2,380
10	2,075	2,096	2,138	2,191	2,243	2,308	2,339	2,413
11	2,108	2,129	2,171	2,224	2,276	2,340	2,372	2,445
12	2,140	2,162	2,203	2,257	2,310	2,373	2,404	2,478
13	2,173	2,194	2,236	2,289	2,342	2,405	2,437	2,511
14	2,206	2,227	2,269	2,322	2,375	2,438	2,470	2,543
15	2,238	2,260	2,301	2,354	2,407	2,471	2,502	2,576
16	2,271	2,292	2,334	2,387	2,440	2,503	2,535	2,609
17	2,303	2,325	2,368	2,420	2,473	2,536	2,568	2,642
18	2,336	2,358	2,400	2,452	2,505	2,569	2,600	2,675
19	2,370	2,390	2,433	2,485	2,538	2,601	2,633	2,707
20	2,402	2,423	2,466	2,519	2,571	2,634	2,666	2,741
21	2,435	2,455	2,498	2,551	2,603	2,667	2,698	2,775
22	2,468	2,489	2,531	2,584	2,636	2,700	2,732	2,807
23	2,500	2,522	2,564	2,617	2,670	2,734	2,766	2,841
24	2,533	2,554	2,596	2,649	2,702	2,768	2,799	2,875
25	2,566	2,587	2,629	2,682	2,736	2,800	2,833	2,907
26	2,598	2,620	2,661	2,716	2,770	2,834	2,865	2,941
27	2,631	2,652	2,694	2,748	2,802	2,866	2,899	2,974
28	2,664	2,685	2,728	2,782	2,836	2,900	2,933	3,008

29	2,696	2,719	2,761	2,814	2,869	2,934	2,965	3,042
30	2,730	2,751	2,795	2,848	2,902	2,966	2,999	3,075
31	2,763	2,785	2,829	2,882	2,936	3,000	3,033	3,108
32	2,797	2,818	2,861	2,915	2,968	3,034	3,065	3,142
33	2,831	2,851	2,895	2,949	3,002	3,066	3,099	3,175
34	2,863	2,885	2,929	2,983	3,036	3,100	3,133	3,208
35	2,897	2,919	2,961	3,015	3,068	3,134	3,166	3,242
36	2,931	2,952	2,995	3,049	3,103	3,167	3,200	3,274
37	2,963	2,986	3,029	3,083	3,137	3,201	3,233	3,308
38	2,997	3,018	3,061	3,115	3,169	3,234	3,266	3,342
39	3,031	3,052	3,095	3,149	3,203	3,267	3,300	3,374
40	3,063	3,086	3,128	3,182	3,237	3,301	3,333	3,408

~~(2) For school year 2019-2020, and continuing thereafter, the minimum monthly pay for each service employee whose employment is for a period of more than three and one half hours a day shall be at least the amounts indicated in the State Minimum Pay Scale Pay Grade, plus \$22; and the minimum monthly pay for each service employee whose employment is for a period of three and one half hours or less a day shall be at least one half the amount indicated in the State Minimum Pay Scale Pay Grade, plus \$11.~~

~~(3)~~(2) Each service employee shall receive the amount prescribed in the State Minimum Pay Scale Pay Grade in accordance with the provisions of this subsection according to their class title and pay grade as set forth in this subdivision:

CLASS TITLE	PAY GRADE
Accountant I .....	D
Accountant II .....	E
Accountant III .....	F
Accounts Payable Supervisor .....	G

Aide I .....	A
Aide II .....	B
Aide III .....	C
Aide IV .....	D
Audiovisual Technician .....	C
Auditor .....	G
Autism Mentor .....	F
Braille Specialist .....	E
Bus Operator .....	D
Buyer .....	F
Cabinetmaker .....	G
Cafeteria Manager .....	D
Carpenter I .....	E
Carpenter II .....	F
Chief Mechanic .....	G
Clerk I .....	B
Clerk II .....	C
Computer Operator .....	E
Cook I .....	A
Cook II .....	B
Cook III .....	C
Crew Leader .....	F

Custodian I .....	A
Custodian II .....	B
Custodian III .....	C
Custodian IV .....	D
Director or Coordinator of Services .....	H
Draftsman .....	D
Early Childhood Classroom Assistant Teacher I .....	E
Early Childhood Classroom Assistant Teacher II .....	E
Early Childhood Classroom Assistant Teacher III .....	F
Educational Sign Language Interpreter I .....	F
Educational Sign Language Interpreter II .....	G
Electrician I .....	F
Electrician II .....	G
Electronic Technician I .....	F
Electronic Technician II .....	G
Executive Secretary .....	G
Food Services Supervisor .....	G
Foreman .....	G
General Maintenance .....	C
Glazier .....	D
Graphic Artist .....	D
Groundsman .....	B

Handyman .....	B
Heating and Air Conditioning Mechanic I .....	E
Heating and Air Conditioning Mechanic II .....	G
Heavy Equipment Operator .....	E
Inventory Supervisor .....	D
Key Punch Operator .....	B
Licensed Practical Nurse .....	F
Locksmith .....	G
Lubrication Man .....	C
Machinist .....	F
Mail Clerk .....	D
Maintenance Clerk .....	C
Mason .....	G
Mechanic .....	F
Mechanic Assistant .....	E
Office Equipment Repairman I .....	F
Office Equipment Repairman II .....	G
Painter .....	E
Paraprofessional .....	F
Payroll Supervisor .....	G
Plumber I .....	E
Plumber II .....	G

Printing Operator .....	B
Printing Supervisor .....	D
Programmer .....	H
Roofing/Sheet Metal Mechanic .....	F
Sanitation Plant Operator .....	G
School Bus Supervisor .....	E
Secretary I .....	D
Secretary II .....	E
Secretary III .....	F
Sign Support Specialist .....	E
Supervisor of Maintenance .....	H
Supervisor of Transportation .....	H
Switchboard Operator-Receptionist .....	D
Truck Driver .....	D
Warehouse Clerk .....	C
Watchman .....	B
Welder .....	F
WVEIS Data Entry and Administrative Clerk .....	B

(b) An additional \$12 per month is added to the minimum monthly pay of each service person who holds a high school diploma or its equivalent.

(c) An additional \$11 per month also is added to the minimum monthly pay of each service person for each of the following:

(1) A service person who holds 12 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(2) A service person who holds 24 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(3) A service person who holds 36 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(4) A service person who holds 48 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(5) A service employee who holds 60 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(6) A service person who holds 72 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(7) A service person who holds 84 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(8) A service person who holds 96 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(9) A service person who holds 108 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(10) A service person who holds 120 college hours or comparable credit obtained in a trade or vocational school as approved by the state board.



(d) An additional \$40 per month also is added to the minimum monthly pay of each service person for each of the following:

- (1) A service person who holds an associate's degree;
- (2) A service person who holds a bachelor's degree;
- (3) A service person who holds a master's degree;
- (4) A service person who holds a doctorate degree.

(e) An additional \$11 per month is added to the minimum monthly pay of each service person for each of the following:

(1) A service person who holds a bachelor's degree plus 15 college hours;

(2) A service person who holds a master's degree plus 15 college hours;

(3) A service person who holds a master's degree plus 30 college hours;

(4) A service person who holds a master's degree plus 45 college hours; and

(5) A service person who holds a master's degree plus 60 college hours.

(f) To meet the objective of salary equity among the counties, each service person is paid an equity supplement, as set forth in §18A-4-5 of this code, of \$164 per month, subject to the provisions of that section. These payments: (i) Are in addition to any amounts prescribed in the applicable State Minimum Pay Scale Pay Grade, any specific additional amounts prescribed in this section and article and any county supplement in effect in a county pursuant to §18A-4-5b of this code; (ii) are paid in equal monthly installments; and (iii) are considered a part of the state minimum salaries for service personnel.

(g) When any part of a school service person's daily shift of work is performed between the hours of 6:00 p. m. and 5:00 a. m.

the following day, the employee is paid no less than an additional \$10 per month and one half of the pay is paid with local funds.

(h) Any service person required to work on any legal school holiday is paid at a rate one and one-half times the person's usual hourly rate.

(i) Any full-time service personnel required to work in excess of their normal working day during any week which contains a school holiday for which they are paid is paid for the additional hours or fraction of the additional hours at a rate of one and one-half times their usual hourly rate and paid entirely from county board funds.

(j) A service person may not have his or her daily work schedule changed during the school year without the employee's written consent and the person's required daily work hours may not be changed to prevent the payment of time and one-half wages or the employment of another employee.

(k) The minimum hourly rate of pay for extra duty assignments as defined in §18A-4-8b of this code is no less than one seventh of the person's daily total salary for each hour the person is involved in performing the assignment and paid entirely from local funds: *Provided*, That an alternative minimum hourly rate of pay for performing extra duty assignments within a particular category of employment may be used if the alternate hourly rate of pay is approved both by the county board and by the affirmative vote of a two-thirds majority of the regular full-time persons within that classification category of employment within that county: *Provided, however*, That the vote is by secret ballot if requested by a service person within that classification category within that county. The salary for any fraction of an hour the employee is involved in performing the assignment is prorated accordingly. When performing extra duty assignments, persons who are regularly employed on a one-half day salary basis shall receive the same hourly extra duty assignment pay computed as though the person were employed on a full-day salary basis.

(l) The minimum pay for any service personnel engaged in the removal of asbestos material or related duties required for asbestos removal is their regular total daily rate of pay and no less than an additional \$3 per hour or no less than \$5 per hour for service personnel supervising asbestos removal responsibilities for each hour these employees are involved in asbestos-related duties. Related duties required for asbestos removal include, but are not limited to, travel, preparation of the work site, removal of asbestos, decontamination of the work site, placing and removal of equipment and removal of structures from the site. If any member of an asbestos crew is engaged in asbestos-related duties outside of the employee's regular employment county, the daily rate of pay is no less than the minimum amount as established in the employee's regular employment county for asbestos removal and an additional \$30 per each day the employee is engaged in asbestos removal and related duties. The additional pay for asbestos removal and related duties shall be payable entirely from county funds. Before service personnel may be used in the removal of asbestos material or related duties, they shall have completed a federal Environmental Protection Act-approved training program and be licensed. The employer shall provide all necessary protective equipment and maintain all records required by the Environmental Protection Act.

(m) For the purpose of qualifying for additional pay as provided in §18A-5-8 of this code, an aide is considered to be exercising the authority of a supervisory aide and control over pupils if the aide is required to supervise, control, direct, monitor, escort, or render service to a child or children when not under the direct supervision of a certified professional person within the classroom, library, hallway, lunchroom, gymnasium, school building, school grounds, or wherever supervision is required. For purposes of this section, 'under the direct supervision of a certified professional person' means that certified professional person is present, with and accompanying the aide."

On the motion to refuse to concur, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 300**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Deem, A. Evans, Fleischauer, Hornbuckle, C. Romine and Storch.

So, a majority of the members present and voting having voted in the affirmative, the House of Delegates refused to concur in the Senate amendment and requested the Senate to recede therefrom.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

At 10:07 p.m., on motion of Delegate Cowles, the House of Delegates recessed for thirty minutes.

\* \* \* \* \*

### Evening Session

\* \* \* \* \*

The House of Delegates was called to order by the Honorable Tim Armstead, Speaker.

### Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to recede from its amendment and requested the House of Delegates to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses as to

**Com. Sub. for H. B. 4145**, Increasing the annual salaries of members of the West Virginia State Police, public school teachers and school service personnel.

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Ferns, Blair and Plymale.

On motion of Delegate Cowles, the House of Delegates agreed to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Anderson, Espinosa and Boggs.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and passage, as amended, of

**S. B. 350**, Eliminating obsolete requirement that Lottery Commission file racetrack video lottery game rules with the Secretary of State.

And,

**Com. Sub. for S. B. 143**, Permitting DNR identification tag be used to identify trap

At the request of Delegate Cowles and by unanimous consent, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

### **Committee Reports**

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 36**, Relating generally to DNA testing,

**Com. Sub. for S. B. 465**, Relating to mandated reporting of child abuse and neglect,

**Com. Sub. for S. B. 555**, Providing immunity from civil liability for qualified directors of certain governmental and nonprofit entities,

And,

**S. B. 631**, Relating generally to one-call system,

And reports the same back with the recommendation that they each do pass.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**S. B. 282**, Exempting State Conservation Committee from Purchasing Division requirements for contracts related to flood recovery,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

**S. B. 584**, Finding certain claims against state to be moral obligations of state,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

**S. B. 479**, Establishing local government monitoring by Auditor,

**Com. Sub. for S. B. 589**, Relating to issuance of personalized plates for antique motor vehicles,

And,

**Com. Sub. for S. B. 590**, Providing special license plate for curing childhood cancer,

And reports the same back with the recommendation that they each do pass.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 51**, Relating to domestic relations.

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**S. B. 627**, Permitting local governments to access certain economic development project-related tax records,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (S. B. 627) was referred to the Committee on Finance.

### **Leaves of Absence**

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Deem, Hornbuckle and Storch.

### **Miscellaneous Business**

Delegate Cooper announced that he was absent when the vote was taken on Com. Sub. for S. B. 451, and that had he been present, he would have voted "Yea" thereon.

Pursuant to House Rule 132, unanimous consent was requested and obtained to print the remarks of the following Members in the Appendix to the Journal:

- Delegates Canestraro and Moye during debate on amendment to Com. Sub. for S. J. R. 12

At 10:49 p.m., the House of Delegates adjourned until 11:00 a.m., Monday, March 5, 2018.



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Monday, March 5, 2018

**FIFTY-FIFTH DAY**

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

Prayer was offered and the House was led in recitation of the Pledge of Allegiance.

The Clerk proceeded to read the Journal of Saturday, March 3, 2018, being the first order of business, when the further reading thereof was dispensed with and the same approved.

**Committee Reports**

Delegate Hanshaw, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 3<sup>rd</sup> day of March, 2018, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

**Com. Sub. for S. B. 360**, Clarifying oil and gas permits not be on flat well royalty leases,

**Com. Sub. for S. B. 415**, Permitting wagering on certain professional or collegiate sports events authorized as WV Lottery Sports Wagering activities,

And,

**Com. Sub. for H. B. 3004**, Relating to filling vacancies in certain offices.

### **Messages from the Senate**

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 2607**, Extending the maximum period of confinement a judge may impose for certain, first-time probationary violations.

On motion of Delegate Cowles, the House of Delegates refused to concur in the following amendment of the bill by the Senate and requested the Senate to recede therefrom:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 12. PROBATION AND PAROLE.**

**§62-12-10. Violation of probation.**

(a) If at any time during the period of probation there shall be reasonable cause to believe that the probationer has violated any of the conditions of his or her probation, the probation officer may arrest him or her with or without an order or warrant, or the court which placed him or her on probation, or the judge thereof in vacation, may issue an order for his or her arrest, whereupon he or she shall be brought before the court, or the judge thereof in vacation, for a prompt and summary hearing.

(1) If the court or judge finds reasonable cause exists to believe that the probationer:

(A) Absconded supervision;

(B) Engaged in new criminal conduct other than a minor traffic violation or simple possession of a controlled substance; or

(C) Violated a special condition of probation designed either to protect the public or a victim;

~~the~~ The court or judge may revoke the suspension of imposition or execution of sentence, impose sentence if none has been imposed, and order that sentence be executed.

(2) If the judge finds that reasonable cause exists to believe that the probationer violated any condition of supervision other than the conditions of probation set forth in §62-12-10(a)(1) of this code then, for the first violation, the judge shall may impose a period of confinement up to sixty days or, for the second violation six months. For subsequent violations, a period of confinement up to one hundred twenty days. For the third violation, the judge may revoke the suspension of imposition or execution of sentence, impose sentence if none has been imposed, and order that sentence be executed, with credit for time spent in confinement under this section.

(3) In computing the period for which the offender is to be confined, the time between his or her release on probation and his or her arrest may not be taken to be any part of the term of his or her sentence.

(b) A probationer confined for a first or second violation pursuant to §66-12-10(a)(2) of this code may be confined in jail, and the costs of confining felony probationers shall be paid out of funds appropriated for the Division of Corrections. Whenever the court orders the incarceration of a probationer pursuant to the provisions of §66-12-10(a)(2) of this section, a circuit clerk shall provide a copy of the order of confinement within five days to the Commissioner of Corrections.

(c) If, despite a violation of the conditions of probation, the court or judge is of the opinion that the interests of justice do not require that the probationer serve his or her sentence or a period of confinement, the judge may, except when the violation was the commission of a felony, again release him or her on probation: *Provided*, That a judge may otherwise depart from the sentence limitations set forth in §66-12-10(a)(2) of this code upon making specific written findings of fact supporting the basis for the departure.”

And,

By amending the title of the bill to read as follows:

**Com. Sub. for H. B. 2607** - “A Bill to amend and reenact §62-12-10 of the Code of West Virginia, 1931, as amended, relating to extending the maximum period of confinement a judge may impose for certain, first-time probationary violations from 60 days to six months; and providing judges greater sentencing discretion for certain violations of probation.”

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 2654**, Expanding county commissions’ ability to dispose of county or district property.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 2983**, Granting priority to roadway construction, reconstruction and maintenance for roadways prone to recurring floods that hinder ingress and egress.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect July 1, 2018, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4024**, Relating generally to direct cremation or direct burial expenses for indigent persons.

On motion of Delegate Cowles, the House of Delegates refused to concur in the following amendment of the bill by the Senate and requested the Senate to recede therefrom:

On page three, section one, line forty-seven, by striking out the word “director” and inserting in lieu thereof the word “establishment”.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4169**, Requiring certain establishments and facilities to post human trafficking assistance notices.

On motion of Delegate Cowles, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 9A. DIVISION OF JUSTICE AND COMMUNITY SERVICES.**

**§15-9A-4. Human Trafficking Assistance Notices.**

(a) For the purpose of assisting victims of human trafficking to obtain help and services, the following businesses and establishments shall post a notice meeting the requirements of this section:

(1) All locations licensed by the Alcohol Beverage Control Commission to allow consumption of alcoholic beverages, pursuant to chapter 60 of this code;

(2) Exotic entertainment facilities, as defined by §60-4-23 of this code;

(3) Primary airports;

(4) Passenger rail stations;

(5) Bus stations;

(6) Locations where gasoline and diesel fuel are sold;

(7) Emergency departments within hospitals;

(8) Urgent care centers;

(9) Locations at which farm labor contractors and day haulers work, if a physical facility is available at those locations upon or in which notice can be posted;

(10) Privately operated job recruitment centers;

(11) Rest areas located along interstate highways in this state, operated by the Division of Highways;

(12) Hotels; and

(13) Any other business or establishment that the director determines, by legislative rule, is an effective location to provide notice to victims of human trafficking.

(b) Requirements for posting of notice. – The notice required by this section must be posted in English, Spanish, and any other language determined by legislative rule by the director. The notice must be posted in each public restroom for the business or establishment, and either in a conspicuous place near the public entrance of the business or establishment or in another location in clear view of the public and employees, where similar notices are customarily posted.

(c) The director shall provide hyperlinks on the division's website to downloadable posters that are eight and one-half inches by 11 inches in size that provide information regarding the National Human Trafficking Resource Center and display the telephone number for the National Human Trafficking Resource Center hotline. These downloadable posters must be available in English, Spanish, and any other language determined by legislative rule by the director. These downloadable posters, if printed and posted, will satisfy the posting requirements of this section.

(d) Any law-enforcement officer, representative of the state health department or of a county health department, representative of the State Alcoholic Beverage Control Commission,

representative of the Division of Labor, or other state representative inspecting a business or establishment or otherwise lawfully acting under his or her state authority, may notify, in writing, any business or establishment that it has failed to comply with the requirements of this section. If the business or establishment does not correct the violation within 30 days from the date of receipt of such written notice, the owner shall be charged with a violation of this section and upon conviction, is guilty of a misdemeanor offense and may be punished by a fine of not more than \$250. Upon a second or subsequent conviction, the owner is guilty of a misdemeanor and shall be punished by a fine of not more than \$500. The notice required by this subsection must be delivered to the noncomplying business or establishment by certified mail, with return receipt requested.

(e) For the purposes of this section, and unless a different meaning is plainly required:

(1) ‘Day hauler’ means any person who is employed by a farm labor contractor to transport, or who, for a fee, transports, by motor vehicle, workers to render personal services in connection with the production of any farm products to, for, or under the direction of a third person: *Provided*, That such term shall not include a person engaged in the production of agricultural products;

(2) ‘Farm labor contractor’ means any person who, for a fee, employs workers to render personal services in connection with the production of any farm products to, for, or under the direction of a third person, or who recruits, solicits, supplies, or hires workers on behalf of an employer engaged in the growing or producing of farm products, and who, for a fee, provides in connection therewith one or more of the following services: furnishes board, lodging, or transportation for those workers; supervises, times, checks, counts, weighs, or otherwise directs or measures their work; or disburses wage payments to such persons: *Provided*, That such term shall not include a person engaged in the production of agricultural products;

(3) ‘Hospital’ shall have the same meaning as set forth in §16-2D-2(21) of this code.

(4) ‘Hotel’ means any establishment which offers overnight accommodations to the public in exchange for a monetary payment;

(5) ‘Primary airport’ shall have the same meaning as set forth in 49 U.S.C. § 47102(16); and

(6) ‘Production of agricultural products’ means raising, growing, harvesting, or storing of crops; feeding, breeding, or managing livestock, equine, or poultry; producing or storing feed for use in the production of livestock.”

And,

By amending the title of the bill to read as follows:

**Com. Sub. for H. B. 4169** - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-9A-4, relating to requiring certain businesses and establishments to post human trafficking assistance notices; establishing where notices must be posted and contents of notice; requiring the Director of the Division of Justice and Community Services to provide certain resources for giving notice on the Division’s website; authorizing certain state and local agents to give notice of violations; providing for criminal penalties for failure to comply with posting of notices once given notice of lawful duty to post; and defining terms.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 301**), and there were—yeas 95, nays 4, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Foster, Marcum, McGeehan and Wilson.

Absent and Not Voting: Deem.



So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4169) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 4180**, Relating to wildlife resources.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect January 1, 2019, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 4230**, Relating to credit for reinsurance.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 4236**, Requiring agencies to provide an annual inventory of real property holdings to the Real Estate Division.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with a title amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4268**, Co-tenancy Modernization and Majority Protection Act.

On motion of Delegate Cowles, the House of Delegates concurred in the following Senate title amendment:

**Com. Sub. for H. B. 4268** - "A Bill to amend and reenact §22C-9-3 and §22C-9-4 of the Code of West Virginia, 1931, as

amended, to amend and reenact §37-7-2 of said code; and to amend said code by adding thereto a new chapter, designated §37B-1-1, §37B-1-2, §37B-1-3, §37B-1-4, §37B-1-5, §37B-1-6, §37B-1-7, §37B-2-1, §37B-2-2, §37B-2-3, §37B-2-4, §37B-2-5, §37B-2-6, §37B-2-7, §37B-2-8, and §37B-2-9, all relating generally to real property; providing the Oil and Gas Conservation Commission enforcement authority for certain mineral development by covenants; providing an exception to waste and trespass for certain oil or natural gas developments; providing a short title; providing declarations of public policy and legislative findings; providing definitions; providing that, in cases where there are seven or more royalty owners, consent for the lawful use and development of oil or natural gas mineral property by the persons owning an undivided three fourths of the royalty interests, as defined, in an oil or natural gas mineral property is permissible, is not waste, and is not trespass; providing that nonconsenting covenants may elect a production royalty interest or a working interest share of production; providing an election period and default elections; providing a certain right of appeal; providing that interests owned by unknown or unlocatable owners be reserved, reported, and deposited in a fund administered by the State Treasurer; providing methods for determination of leasehold and contractual terms; providing for the development of specifically targeted stratigraphic formations; providing the Oil and Gas Conservation Commission rule-making authority; providing a mechanism for surface owners to acquire title to certain severed oil and gas interests; providing limitations of liability for certain nonconsenting covenants and unknown or unlocatable interest owners; prohibiting surface use or disturbance in certain circumstances; preserving common law rights; providing for severability of provisions; providing a short title; providing that the article shall be read in conjunction and not in conflict with the West Virginia Uniform Unclaimed Property Act; providing definitions; providing for quarterly reporting and remittance of each reserved interest for each unknown or unlocatable interest owner to the State Treasurer; providing reporting requirements and administrative duties; creating a fund known as the Unknown and Unlocatable Interest Owners Fund, to be administered by the State Treasurer; permitting investment of moneys in the fund with the West Virginia Board of Treasury

Investments; requiring payment of lawful claims of unknown and unlocatable interest owners; permitting deduction of certain expenses; requiring that certain funds be transferred to the Oil and Gas Reclamation Fund and the Public Employees Insurance Agency Stability Fund in equal amounts; providing for certain notice requirements; providing for the crediting of certain amounts to each owner's account and payment of certain interest earned; providing for rule-making authority; providing for severability of provisions; and providing an effective date.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 302**), and there were—yeas 58, nays 41, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Barrett, Bates, Boggs, Brewer, Byrd, Campbell, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hamilton, Hartman, Hicks, Hill, Hornbuckle, Iaquinta, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, McGeehan, Miley, R. Miller, Moye, Paynter, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Thompson, Wagner and Williams.

Absent and Not Voting: Deem.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4268) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 4289**, Relating to disability pensions of municipal employees.

A message from the Senate, by  
The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 4343**, Relating to the delivery of financial statements to bank shareholders.

A message from the Senate, by  
The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 4347**, Relating to voluntary contributions to the West Virginia State Police Forensic Laboratory Fund.

A message from the Senate, by  
The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**H. B. 4402**, Relating to the prevention of sexual abuse of children.

On motion of Delegate Cowles, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“**ARTICLE 2. STATE BOARD OF EDUCATION.**

**§18-2-41. Education and Prevention of the Sexual Abuse of Children.**

(a) Education of children in grades K-12 — Beginning July 1, 2019, children in grades K-12 shall receive body age-appropriate safety information at least once per academic school year, with a preference for four times per academic year. To facilitate this process and develop resources, the state board shall propose a

legislative rule for promulgation, in accordance with §29A-3b-1 et seq. of this code, by December 31, 2018. The rule shall provide for at least the following:

- (1) Developmentally appropriate education and resources;
- (2) Social media usage and content;
- (3) Implementation of best practices;
- (4) Differing county and school sizes, demographics, etc. relating to implementation strategies;
- (5) Strategies for dealing with disclosures after student education;
- (6) Rules informed by family voice;
- (7) Offender dynamics;
- (8) Child-on-child scenarios;
- (9) Rules on development of supplementary materials, including posting of the child abuse hotline, to embed into the school climate;
- (10) Protocols for local crisis response in conjunction with §18-9F-9 of this code.

(b) Training of public school employees. The state board shall propose by December 31, 2018 a legislative rule for promulgation in accordance with §29A-3b-1 et seq. of this code, and if necessary may promulgate an emergency rule in accordance with said article, for the establishment of standards for training requirements of all public school employees focused on developing skills, knowledge, and capabilities related to preventing child sexual abuse and recognizing and responding to suspected abuse and neglect. The rule shall provide for at least the following:

- (1) This required training shall include comprehensive instruction and information to better equip schools and their employees, including how to:

(A) Recognize sexually offending behaviors in adults, questionable behaviors such as boundary violations, and signs in adults that might indicate they pose a sexual risk to children;

(B) Recognize, appropriately respond to, and prevent sexually inappropriate, coercive, or abusive behaviors among children and youth served by schools;

(C) Recognize behaviors and verbal cues that might indicate a child or youth has been a victim of abuse or neglect;

(D) Support the healthy development of children and youth and the building of protective factors to mitigate against their sexual victimization by adults or peers;

(E) Recognize and appropriately respond to student infatuations and flirtations with adults in schools;

(F) Recognize appropriate and inappropriate social media usage by adults and children;

(G) Provide consistent and standard protocols for responding to disclosures of sexual abuse or reports of boundary-violating behaviors by adults or children in a supportive and appropriate manner which meet mandated reporting requirements;

(H) Provide adequate understanding of the age-appropriate, comprehensive, evidence-informed child sexual abuse prevention education which will be offered to their students; and

(I) Reflect the research on Adverse Childhood Experiences (ACEs) and trauma-informed care.

(2) The rule shall contain provisions to ensure public school employees complete the required training every two years.

(A) The required training shall be at least a cumulative four hours (half day) of instruction on the elements identified in this section.

(B) A skills renewal is required every two years thereafter.

(C) The mode of delivery for the trainings may include in-person or e-learning instruction and may include a series of trainings or modules.

(D) The state board shall provide certificates of satisfactory completion for the employee and the employer documenting the employee completed the required training.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 303**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4402) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

**H. B. 4422**, Permitting permanent endowment funds of cemeteries to invest their principal in certain government bonds, and corporate bonds.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect from passage, a bill of the House of Delegates as follows:

**H. B. 4433**, Declaring certain claims against an agency of the state to be moral obligations of the state.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with a title amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4444**, Clarifying the authority of the State Fire Commission in adopting a State Building Code.

On motion of Delegate Cowles, the House of Delegates concurred in the following Senate title amendment:

**Com. Sub. for H. B. 4444** - "A Bill to amend and reenact §29-3-5b of the Code of West Virginia, 1931, as amended, relating to clarifying the authority of the State Fire Commission; modifying requirement that State Fire Commission propose certain building energy codes; and making stylistic and technical changes."

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 304**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4444) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

**H. B. 4621**, Relating to removing reference to certain entities with respect to work.



A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**H. B. 4624**, Relating to West Virginia coordinate systems.

On motion of Delegate Cowles, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, section five, line three, by striking out the word “successor” and inserting in lieu thereof the word “successors”.

On page seven, section five, line one hundred sixty-eight, by striking out the word “data” and inserting in lieu thereof the word “datums”.

On page seven, section five, line one hundred seventy-six, by striking out the word “data” and inserting in lieu thereof the word “datums”.

And,

By amending the title of the bill to read as follows:

**H. B. 4624** - “A Bill to amend and reenact §1-1-5 of the Code of West Virginia, 1931, as amended, relating to West Virginia coordinate systems; defining terms; updating plane coordinate values; establishing conversion factor for conversion from meters to United States Survey feet; directing use of certain data published by the National Geodetic Survey; setting requirements for survey establishing coordinates that is relied on by governmental entities or the public; setting requirements for certain maps, plats, reports, descriptions or geospatial products to be relied on by governmental entities or the public; setting legal requirements for describing location of land boundary corners; requiring certification of compliance be filed for certain documents recorded in public records or deed records; setting requirements for certain plats and descriptions of surveys; requiring official geodetic data to be referenced in the State be defined for National Spatial Reference System; requiring compliance with accuracy and reporting requirements for certain maps, plats, reports,

descriptions or geospatial products; clarifying that other coordinate systems, data and geodetic reference networks may be used where appropriate; eliminating obsolete language; and updating references.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 305**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Marcum.

Absent and Not Voting: Deem.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4624) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to

**Com. Sub. for S. B. 134**, Authorizing Division of Homeland Security and Emergency Management to engage individuals for emergency response and recovery.

On motion of Delegate Cowles, the House of Delegates receded from its amendment.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 306**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Marcum.

Absent and Not Voting: Boggs and Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 134) passed.

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 307**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Marcum.

Absent and Not Voting: Boggs, Deem and Thompson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 134) takes effect from its passage.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**S. B. 338**, Changing date for employers to file annual reconciliation and withholding statements.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, to take effect from passage, of

**Com. Sub. for S. B. 415**, Permitting wagering on certain professional or collegiate sports events authorized as WV Lottery Sports Wagering activities.

### **Resolutions Introduced**

Delegate Statler offered the following resolution, which was read by its title and referred to the Committee on Rules:

**H. C. R. 100** - "Requesting the Division of Highways name bridge number S331-Hgh/St-0.01, locally known as the South High Street Bridge, carrying County Route 119/39 over Deckers Creek in Monongalia County, the 'Morgantown High School Veterans Bridge'."

Whereas, Through the years many students from Morgantown High School have gone on to serve in our nation's armed forces; and

Whereas, Many of these former students became veterans of combat and several of them have paid the ultimate price in service to our country, including 18 Morgantown High School boys who lost their lives in the Vietnam War; and

Whereas, Notable examples of the sacrifice made by Morgantown High School students include U.S. Army Corporal Thomas W. Bennett, posthumous recipient of the Congressional Medal of Honor and the only conscientious objector to be listed on the Vietnam Veterans Memorial, and USAF Lieutenant Colonel Carroll B. Lilly, whose plane went down while providing close air support on a search and rescue mission in bad weather conditions and whose body was never recovered; and

Whereas, Still others from Morgantown High School have heroically represented their state and their country, but yet have not been honored for their valiant, but humble service; and

Whereas, Even today students from Morgantown High School continue to carry on this record of service by joining our nation's armed forces in a steady demonstration of commitment to our nation; and

Whereas, It is fitting that an enduring memorial be established to commemorate the contributions of all these heroes to our state and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number S331-Hgh/St-0.01, locally known as the South High Street Bridge, carrying County Route 119/39 over Deckers Creek in Monongalia County, the “Morgantown High School Veterans Bridge”; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “Morgantown High School Veterans Bridge”; and, be it

*Further Resolved,* That the Clerk of the House of Delegates forward a copy of this resolution to the Commissioner of the Division of Highways.

Delegates Howell, Blair, Cowles, Espinosa, A. Evans, Folk, Householder, Moore, Overington, Rowan, Upson and Wilson offered the following resolution, which was read by its title and referred to the Committee on Rules:

**H. C. R. 101** - “Requesting the Governor’s Task Force on Public Employee Insurance Agency Stability to review means and methods of including medical facilities in those out-of-state counties that border West Virginia as part of the in-network coverage for PEIA members.”

Whereas, In Executive Order No. 6-18, dated February 28, 2018, Governor Jim Justice ordered that the Task Force on Public Employee Insurance Agency Stability be constituted to review, study and assess the current state of the Public Employees Insurance Agency; and

Whereas, The Task Force has been directed to prepare and issue a final report on its findings and recommendations prior to the Legislature’s December 2018 interim meetings; and

Whereas, While that Executive Order set forth specific areas that the Task Force was to review, the order also directed the Task Force to include anything else that is necessary for a thorough evaluation of issues affecting PEIA members; and

Whereas, Many PEIA members live and work in West Virginia counties that border the surrounding states; and

Whereas, In some of those counties, such as the Eastern Panhandle, the nearest medical facility is actually located outside of the state's borders. When a PEIA-covered employee is treated there, the expenses are considered to be an out-of-network expense resulting in a significant monetary penalty to the employee; and

Whereas, As the use of these out-of-network facilities are causing an undue hardship on PEIA members, the Task Force should review the means and methods to include medical facilities, such as hospitals, clinics, and medical providers, in those out-of-state counties bordering West Virginia as part of the In-Network coverage for PEIA members; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Governor's Task Force on Public Employee Insurance Agency Stability is hereby requested to review means and methods of including medical facilities in those out-of-state counties that border West Virginia as part of the in-network coverage for PEIA members; and, be it

*Further Resolved*, That the Governor's Task Force on Public Employee Insurance Stability is hereby requested to closely examine this issue; and, be it

*Further Resolved*, That the Clerk of the House of Delegates forward a copy of this resolution to the Governor, who shall be responsible for transmitting a copy to each person who is to serve on the Task Force on Public Employee Insurance Agency Stability.

Delegates Rowe, Robinson and White offered the following resolution, which was read by its title and referred to the Committee on Rules:

**H. C. R. 102** - "Requesting the Division of Highways name bridge number 20-60-36.23 (20A160), locally known as US 60 Cedar Grove Overpass 3565 Bridge, carrying US 60 over County Route 81, Kanawha County, the 'U. S. Army PFC Earl Russell

Cobb, SPC4 Carl Bradford Goodson, and SSGT George T. Saunders, Jr., Memorial Bridge’.”

Whereas, Earl Russell Cobb, known throughout his life as “Russell”, was born on October 24, 1946, and grew up in Kanawha County, West Virginia; and

Whereas, Russell Cobb graduated from Cedar Grove High School in the Class of 1966; and

Whereas, Russell Cobb entered the United States Army to serve as a Private First Class in the 22<sup>nd</sup> Infantry Regiment of the 25<sup>th</sup> Infantry Division; and

Whereas, Private First Class Cobb was killed in action on September 4, 1967, just five months into his tour of duty and is now listed on panel 25E, line 96, of the Vietnam Veterans Memorial in Washington, D.C.; and

Whereas, Carl Bradford “Punkin” Goodson was born on October 14, 1948, and grew up in Kelleys Creek outside of Cedar Grove, West Virginia; and

Whereas, Carl Bradford Goodson graduated from Cedar Grove High School in the Class of 1967 and was a member of the Church of God at Ward, West Virginia; and

Whereas, Carl Bradford Goodson served in the United States Army, Light Weapons Infantry, 101st Airborne Division with the rank of Specialist 4; and

Whereas, Army Specialist Goodson was killed in action on April 6, 1970, just five months into his tour of duty and is now listed on panel 12W, line 101, of the Vietnam Veterans Memorial in Washington, D.C., and is buried in the Ward Cemetery at Ward, West Virginia; and

Whereas, George Thomas Saunders, Jr., was born on February 28, 1942, grew up in the community of Cedar Grove, West Virginia; and

Whereas, George Thomas Saunders, Jr., graduated from Cedar Grove High School in the Class of 1959; and

Whereas, George Thomas Saunders, Jr., joined the United States Army, served six years, and attained the rank of Staff Sergeant; and

Whereas, Staff Sergeant Saunders was posted to the First Military Police Company in the First Infantry Division in the Republic of Vietnam in 1965; and

Whereas, On October 31, 1965, less than two weeks into his tour of duty, Staff Sergeant Saunders was killed through hostile fire; and

Whereas, Staff Sergeant Saunders is now listed on panel 3E, line 10, of the Vietnam Veterans Memorial in Washington, D.C., and is buried at Woodland Cemetery in Cedar Grove, West Virginia; and

Whereas, It is fitting that an enduring, local memorial be established to commemorate the service of Private Cobb, Specialist Goodson, and Sergeant Saunders and the sacrifice of three young men from the community of Cedar Grove, West Virginia; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 20-60-36.23 (20A160), locally known as U. S. 60 Cedar Grove Overpass 3565 Bridge, carrying US 60 over County Route 81, Kanawha County, the "U. S. Army PFC Earl Russell Cobb; SPC4 Carl Bradford Goodson, and SSGT George T. Saunders, Jr., Memorial Bridge" and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and placed signs identifying the bridge as the "U. S. Army PFC Earl Russell Cobb, SPC4 Carl Bradford Goodson, and SSGT George T. Saunders, Jr., Memorial Bridge"; and, be it



*Further Resolved*, That the Clerk of the House of Delegates forward a copy of this resolution to the Commissioner of the Division of Highways.

### Special Calendar

#### Third Reading

**Com. Sub. for S. J. R. 12**, No Constitutional right to abortion Amendment; on third reading, coming up in regular order, was read a third time.

During debate on the resolution, Delegate Pushkin moved that the House recess until 5:00 p.m.

On this motion, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 308**), and there were—yeas 35, nays 64, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Barrett, Bates, Boggs, Brewer, Byrd, Campbell, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaule, Thompson and Williams.

Absent and Not Voting: Deem.

So, a majority of the members present and voting not having voted in the affirmative, the motion to recess was rejected.

On the adoption of the resolution, the yeas and nays were taken (**Roll No. 309**), and there were—yeas 73, nays 26, absent and not voting 1, with the yeas, nays and absent and not voting being as follows:

Yeas: Adkins, Ambler, Anderson, Atkinson, Blair, Boggs, Butler, Byrd, Capito, Cooper, Cowles, Criss, Dean, Ellington, Espinosa, A. Evans, Fast, Folk, Foster, Frich, Gearheart, Graves,

Hamilton, Hamrick, Hanshaw, Harshbarger, Hicks, Higginbotham, Hill, Hollen, Householder, Howell, Isner, Jennings, Kelly, Kessinger, Lane, Love, Lovejoy, Lynch, Martin, Maynard, McGeehan, C. Miller, Moore, Moye, Nelson, Overington, Pack, Paynter, Phillips, Queen, Rodighiero, Rohrbach, C. Romine, R. Romine, Rowan, Shott, Sobonya, Statler, Storch, Summers, Sypolt, Thompson, Upson, Wagner, Walters, Ward, Westfall, White, Wilson, Zatezalo and Mr. Speaker, Mr. Armstead.

Nays: Barrett, Bates, Brewer, Campbell, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hartman, Hornbuckle, Iaquinta, Longstreth, Marcum, Miley, R. Miller, Pethel, Pushkin, Pyles, Robinson, Rowe, Sponaugle and Williams.

Absent and Not Voting: Deem.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the resolution (Com. Sub. for S. J. R. 12) adopted, as follows:

**Com. Sub. for S. J. R. 12** - “Proposing an amendment to the Constitution of the State of West Virginia, amending article VI thereof, by adding thereto a new section, designated section 57, relating to clarifying that nothing in the Constitution secures or protects a right to abortion, and nothing in the Constitution requires the funding of an abortion; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.”

*Resolved by the Legislature of West Virginia, two thirds of the members elected to each house agreeing thereto:*

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at the next general election to be held in the year 2018, which proposed amendment is that article VI thereof be amended by adding thereto a new section, designated section 57, to read as follows:

**ARTICLE VI. THE LEGISLATURE.**

**§57. No constitutional right to abortion.**

Nothing in this Constitution secures or protects a right to abortion or requires the funding of abortion.

*Resolved further*, That in accordance with the provisions of §3-11-1 *et seq.* of the Code of West Virginia, 1931, as amended, such proposed amendment is hereby numbered “Amendment No. 1” and designated as “No Constitutional right to abortion Amendment”, and the purpose of the proposed amendment is summarized as follows: “To amend the West Virginia Constitution to clarify that nothing in the Constitution of West Virginia secures or protects a right to abortion or requires the funding of abortion.”

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**Com. Sub. for S. B. 73**, Modifying crime of fleeing from scene of accident; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 310**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Deem, Fast and Pyles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 73) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**Com. Sub. for S. B. 110**, Requiring certain licensees notify law enforcement or EMS of life-threatening emergency on premises; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 311**), and there were—yeas 84, nays 15, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Barrett, Byrd, Capito, Fluharty, Frich, Hornbuckle, Isner, Kessinger, Marcum, Moore, Pushkin, Robinson, Rowe, Sobonya and Summers.

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 110) passed.

On motion of Delegate Hanshaw, the title of the bill was amended to read as follows:

**Com. Sub. for S. B. 110** - “A Bill to amend and reenact §60-7-13 of the Code of West Virginia, 1931, as amended, relating generally to private club licensees; continuing Alcohol Beverage Control Enforcement Fund; requiring a private club licensee to timely notify emergency medical services or law enforcement of a life-threatening medical emergency occurring on the licensee’s premises; authorizing sanctions against licensees’ failing to notify such personnel as required; requiring a licensee to notify the Alcohol Beverage Control Administration within 48 hours of the occurrence of a life-threatening emergency; permitting the commissioner to sanction a licensee for failing to comply with the 48-hour notification requirement; and providing examples of life-threatening medical emergencies.”

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**Com. Sub. for S. B. 307**, Declaring fundraising on state highway or roadway by volunteer fire department is not obstruction or nuisance; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 312**), and there were—yeas 95, nays 3, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Fleischauer, Robinson and Rowe.

Absent and Not Voting: Boggs and Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 307) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**Com. Sub. for S. B. 327**, Providing extortion of anything of value, including sexual contact, subjects person to criminal penalty; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 313**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 327) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**S. B. 346**, Permitting full-time nonresident students purchase lifetime resident hunting, trapping and fishing licenses; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 314**), and there were—yeas 99, nays none,

absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 346) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**S. B. 351**, Permitting ballot commissioners serve while candidates for certain offices; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 315**), and there were—yeas 86, nays 13, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Blair, Byrd, Campbell, Cowles, Hornbuckle, Isner, Kessinger, Marcum, Pushkin, Robinson, Rowe, Thompson and Upson.

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 351) passed.

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 316**), and there were—yeas 94, nays 5, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Hornbuckle, Isner, Marcum, Pyles and Robinson.

Absent and Not Voting: Deem.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 351) takes effect from its passage.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**Com. Sub. for S. B. 395**, Providing for judicial review of appealed decisions of Air Quality Review Board, Environmental Quality Board and Surface Mine Board; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 317**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Fleischauer.

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 395) passed.

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 318**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 395) takes effect from its passage.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**Com. Sub. for S. B. 397**, Creating crime of impersonating blind or disabled person; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 319**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Sponaugle.

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 397) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**Com. Sub. for S. B. 404**, Relating to sex offender registry information; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 320**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Fleischauer.

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 404) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.



**S. B. 539**, Increasing limit for settling claims against DOH; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 321**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Deem and Robinson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 539) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**Com. Sub. for S. B. 561**, Increasing minimum contract price requiring execution of bond with respect to building or repairing school property; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 322**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Storch and Walters.

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 561) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

### Second Reading

**Com. Sub. for S. B. 7**, Relating to claims under Wage Payment and Collection Act; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page three, section twelve, line four, after the word “claim”, by striking out the comma and inserting in lieu thereof the words “and how the amount was calculated” and a comma.

On page three, section twelve, line seven, after the word “business”, by striking out the period and inserting in lieu thereof a colon and the following proviso: “*Provided*, That if the employer is a sub-contractor, then the employer shall notify the prime contractor in writing and by certified mail.”

On page three, section twelve, line nine, after the word “offer”, by striking out the comma and inserting in lieu thereof the words “which shall include an explanation of how the amount offered was calculated, and”.

On page three, section twelve, lines thirteen and fourteen, by striking out the words “unless otherwise agreed to by the parties”, and inserting in lieu thereof the word “then”.

On page four, section twelve, line thirty-nine, after the word “fees”, by inserting the words “regarding fringe benefits”.

And,

On page four, section twelve, line forty, by striking out the words “than 105 percent of” and inserting in lieu thereof the words “favorable than”.

The bill was then ordered to third reading.

**S. B. 47**, Requiring Defense Department advocacy groups be notified in abuse or neglect of military person’s child; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 102**, Creating WV Uniform Fiduciary Access to Digital Assets Act; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“CHAPTER 39B. UNIFORM POWER OF ATTORNEY ACT.  
ARTICLE 2. AUTHORITY.**

**§39B-2-101. Authority that requires specific grant; grant of general authority.**

(a) An agent under a power of attorney may do the following on behalf of the principal or with the principal’s property only if the power of attorney expressly grants the agent the authority and exercise of the authority is not otherwise prohibited by another agreement or instrument to which the authority or property is subject to:

- (1) Create, amend, revoke, or terminate an inter vivos trust;
- (2) Make a gift;
- (3) Create or change rights of survivorship;
- (4) Create or change a beneficiary designation;
- (5) Delegate authority granted under the power of attorney;
- (6) Waive the principal’s right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan;
- (7) Exercise fiduciary powers that the principal has authority to delegate; ~~or~~
- (8) Disclaim property, including a power of appointment; or
- (9) Exercise authority over the content of electronic communications, as defined in 18 U.S.C. Section 2510(12) sent or received by the principal.

(b) Notwithstanding a grant of authority to do an act described in this section, unless the power of attorney otherwise provides, an agent may not exercise authority under a power of attorney to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer, or otherwise, ~~unless the power of attorney expresses in the grant of authority the specific act and identifies the existing property interest with particularity, rather than in general terms.~~

(c) Subject to §39B-2-101(a), §39B-2-101(b), §39B-2-101(d), and §39B-2-101(e) of this code, if a power of attorney grants to an agent authority to do all acts that a principal could do, the agent has the general authority described in §39B-2-104 through §39B-2-116 of this code.

(d) Unless the power of attorney otherwise provides, a grant of authority to make a gift is subject to the provisions of §39B-2-117 of this code.

(e) Subject to §39B-2-101(a), §39B-2-101(b), §39B-2-101(d), and §39B-2-101(e) of this code, if the subjects over which authority is granted in a power of attorney are similar or overlap, the broadest authority controls.

(f) Authority granted in a power of attorney is exercisable with respect to property that the principal has when the power of attorney is executed or acquires later, whether or not the property is located in this state and whether or not the authority is exercised or the power of attorney is executed in this state.

(g) An act performed by an agent pursuant to a power of attorney has the same effect and inures to the benefit of and binds the principal and the principal's successors in interest as if the principal had performed the act.

### **ARTICLE 3. STATUTORY FORMS**

#### **§39B-3-101. Statutory form power of attorney.**

A document substantially in the following form may be used to create a statutory form power of attorney that has the meaning and effect prescribed by this act.

STATE OF WEST VIRGINIA

STATUTORY FORM POWER OF ATTORNEY

IMPORTANT INFORMATION

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in the Uniform Power of Attorney Act ~~insert citation~~, §39B-1-101 et seq. of this code.

This power of attorney does not authorize the agent to make health care decisions for you.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

Your agent is entitled to reasonable compensation unless you state otherwise in the special instructions. This form provides for designation of one agent. If you wish to name more than one agent you may name a coagent in the Special Instructions. Coagents are not required to act together unless you include that requirement in the Special Instructions. If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.

If you have questions about the power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form.

## DESIGNATION OF AGENT

I \_\_\_\_\_ name the following person  
as my agent:

(Name of Principal)

Name of Agent: \_\_\_\_\_

Agent's Address: \_\_\_\_\_

Agent's Telephone Number: \_\_\_\_\_

If my agent is unable or unwilling to act for me, I name as my  
successor agent:

Name of Successor Agent: \_\_\_\_\_

Successor Agent's Address: \_\_\_\_\_

Successor Agent's Telephone Number: \_\_\_\_\_

If my successor agent is unable or unwilling to act for me, I  
name as my second successor agent:

Name of Second Successor Agent: \_\_\_\_\_

Second Successor Agent's Address: \_\_\_\_\_

Second Successor Agent's Telephone Number: \_\_\_\_\_

## GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to  
act for me with respect to the following subjects as defined in the  
Uniform Power of Attorney Act [~~insert citation~~], §39B-1-101 *et*  
seq. of this code:

(INITIAL each subject you want to include in the agent's  
general authority. If you wish to grant general authority over all of  
the subjects you may initial 'All Preceding Subjects' instead of  
initialing each subject.)

- Real Property
- Tangible Personal Property
- Stocks and Bonds
- Commodities and Options
- Banks and Other Financial Institutions
- Operation of Entity or Business
- Insurance and Annuities
- Estates, Trusts, and Other Beneficial Interests
- Claims and Litigation
- Personal and Family Maintenance
- Benefits from Governmental Programs or Civil or Military Service
- Retirement Plans
- Taxes
- All Preceding Subjects

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

(CAUTION: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death. INITIAL ONLY the specific authority you WANT to give your agent.)

- Create, amend, revoke, or terminate an inter vivos trust

Make a gift, subject to the limitations of the West Virginia Uniform Power of Attorney Act and any special instructions in this power of attorney

Create or change rights of survivorship

Create or change a beneficiary designation

Authorize another person to exercise the authority granted under this power of attorney

Waive the principal’s right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan

Exercise fiduciary powers that the principal has authority to delegate

Disclaim or refuse an interest in property, including a power of appointment

Access the content of electronic communications

LIMITATION ON AGENT’S AUTHORITY

An agent that is not my ancestor, spouse, or descendant MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the Special Instructions.

SPECIAL INSTRUCTIONS (OPTIONAL)

You may give special instructions on the following lines:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



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EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the special instructions.

NOMINATION OF [CONSERVATOR OR GUARDIAN]  
(OPTIONAL)

If it becomes necessary for a court to appoint a [conservator or guardian] of my estate or [guardian] of my person, I nominate the following person(s) for appointment:

Name of Nominee for [conservator or guardian] of my estate:

\_\_\_\_\_

Nominee's Address: \_\_\_\_\_

Nominee's Telephone Number: \_\_\_\_\_

Name of Nominee for [guardian] of my person: \_\_\_\_\_

Nominee's Address: \_\_\_\_\_

Nominee's Telephone Number: \_\_\_\_\_

RELIANCE ON THIS POWER OF ATTORNEY

Any person, including my agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows it has terminated or is invalid. Unless expressly stated otherwise, this power of attorney is durable and shall remain valid if I become incapacitated.

SIGNATURE AND ACKNOWLEDGMENT

\_\_\_\_\_

Your Signature \_\_\_\_\_ Date \_\_\_\_\_

Your Name Printed \_\_\_\_\_

Your Address \_\_\_\_\_

Your Telephone Number \_\_\_\_\_

State of \_\_\_\_\_

[County] of \_\_\_\_\_

This document was acknowledged before me on \_\_\_\_\_, by \_\_\_\_\_

(Date)

\_\_\_\_\_.

(Name of Principal)

\_\_\_\_\_ (Seal, if any)

Signature of Notary

My commission expires: \_\_\_\_\_

[This document prepared by: \_\_\_\_\_]

#### IMPORTANT INFORMATION FOR AGENT

#### **Agent's Duties**

When you accept the authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes upon you legal duties that continue until you resign or the power of attorney is terminated or revoked. You must:

(1) Do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interest; act in good faith;

(2) Do nothing beyond the authority granted in this power of attorney; and

(3) Disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as ‘agent’ in the following manner:

\_\_\_\_\_ by \_\_\_\_\_

(Principal’s Name)

(Your Signature) as Agent

Unless the special instructions in this power of attorney state otherwise, you must also:

(1) Act loyally for the principal’s benefit;

(2) Avoid conflicts that would impair your ability to act in the principal’s best interest;

(3) Act with care, competence, and diligence;

(4) Keep a record of all receipts, disbursements, and transactions made on behalf of the principal;

(5) Cooperate with any person that has authority to make health care decisions for the principal to do what you know the principal reasonably expects or, if you do not know the principal’s expectations, to act in the principal’s best interest; and attempt to preserve the principal’s estate plan if you know the plan and preserving the plan is consistent with the principal’s best interest.

#### **TERMINATION OF AGENT’S AUTHORITY**

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include:

(1) Death of the principal;

(2) The principal’s revocation of the power of attorney or your authority;

(3) The occurrence of a termination event stated in the power of attorney;

(4) The purpose of the power of attorney is fully accomplished;  
or

(5) If you are married to the principal, a legal action is filed with a court to end your marriage or for your legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate your authority.

### **LIABILITY OF AGENT**

The meaning of the authority granted to you is defined in the Uniform Power of Attorney Act ~~[insert citation]~~, §39B-1-101 et seq. of this code. If you violate the Uniform Power of Attorney Act ~~[insert citation]~~, as set forth in §39B-1-101 et seq. of this code, or act outside the authority granted, you may be liable for any damages caused by your violation.

If there is anything about this document or your duties that you do not understand, you should seek legal advice.

## **CHAPTER 44. ADMINISTRATION OF ESTATES AND TRUSTS.**

### **ARTICLE 5B. WEST VIRGINIA UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS ACT.**

#### **§44-5B-1. Short title.**

This article may be cited as the West Virginia Uniform Fiduciary Access to Digital Assets Act.

#### **§44-5B-2. Definitions.**

In this article:

‘Account’ means an arrangement under a terms-of-service agreement in which a custodian carries, maintains, processes, receives, or stores a digital asset of the user or provides goods or services to the user;

‘Agent’ means an attorney-in-fact granted authority under a durable or nondurable power of attorney;

‘Carries’ means engages in the transmission of an electronic communication;

‘Catalogue of electronic communications’ means information that identifies each person with whom a user has had an electronic communication, the time and date of the communication, and the electronic address of the person;

‘Conservator’ means a person appointed by a court to manage the estate and financial affairs of a protected person. The term includes a limited conservator and temporary conservator;

‘Content of an electronic communication’ means information concerning the substance or meaning of the communication which:

(1) Has been sent or received by a user;

(2) Is in electronic storage by a custodian providing an electronic communication service to the public or is carried or maintained by a custodian providing a remote computing service to the public; and

(3) Is not readily accessible to the public;

‘Court’ means the circuit court of the county having jurisdiction over the fiduciary or designated recipient;

‘Custodian’ means a person that carries, maintains, processes, receives, or stores a digital asset of a user;

‘Designated recipient’ means a person chosen by a user using an online tool to administer digital assets of the user;

‘Digital asset’ means an electronic record in which an individual has a right or interest. The term does not include an underlying asset or liability, unless the asset or liability is itself an electronic record;

‘Electronic’ means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

‘Electronic communication’ has the meaning set forth in 18 U.S.C. § 2510(12);

‘Electronic communication service’ means a custodian that provides to a user the ability to send or receive an electronic communication;

‘Fiduciary’ means an original, additional or successor personal representative, conservator, agent, or trustee;

‘Information’ means data, text, images, videos, sounds, codes, computer programs, software, databases, or the like;

‘Online tool’ means an electronic service provided by a custodian that allows the user, in an agreement distinct from the terms-of-service agreement between the custodian and user, to provide directions for disclosure or nondisclosure of digital assets to a third person;

‘Person’ means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, instrumentality, or other legal entity;

‘Personal representative’ means an executor, administrator, special administrator, or person that performs substantially the same function under law of this state other than this article;

‘Power of attorney’ means a record that grants an agent authority to act in the place of a principal;

‘Principal’ means an individual who grants authority to an agent in a power of attorney;

‘Protected person’ means an individual for whom a conservator has been appointed. The term includes an individual for whom an application for the appointment of a conservator is pending;

‘Record’ means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

‘Remote computing service’ means a custodian that provides to a user computer-processing services or the storage of digital assets by means of an electronic communications system, as defined in 18 U.S.C. § 2510(14);

‘Terms of service agreement’ means an agreement that controls the relationship between a user and a custodian;

‘Trustee’ means a fiduciary with legal title to property under an agreement or declaration that creates a beneficial interest in another. The term includes a successor trustee;

‘User’ means a person that has an account with a custodian; and

‘Will’ includes a codicil, testamentary instrument that only appoints an executor, and instrument that revokes or revises a testamentary instrument.

#### **§44-5B-3. Applicability.**

(a) This article applies to:

(1) A fiduciary acting under a will or power of attorney executed before, on, or after the effective date of this article;

(2) A personal representative acting for a decedent who died before, on, or after the effective date of this article;

(3) A conservatorship proceeding commenced before, on, or after the effective date of this article; and

(4) A trustee acting under a trust created before, on, or after the effective date of this article.

(b) This article applies to a custodian if the user resides in this state or resided in this state at the time of the user’s death.

(c) This article does not apply to a digital asset of an employer used by an employee in the ordinary course of the employer's business.

**§44-5B-4. User direction for disclosure of digital assets.**

(a) A user may use an online tool to direct the custodian to disclose or not to disclose to a designated recipient some or all of the user's digital assets, including the content of electronic communications. If the online tool allows the user to modify or delete a direction at all times, a direction regarding disclosure using an online tool overrides a contrary direction by the user in a will, trust, power of attorney, or other record.

(b) If a user has not used an online tool to give direction under §44B-5B-3(a) of this code or if the custodian has not provided an online tool, the user may allow or prohibit in a will, trust, power of attorney, or other record, disclosure to a fiduciary of some or all of the user's digital assets, including the content of electronic communications sent or received by the user.

(c) A user's direction under §44-5B-4(a) or §44-5B-4(b) of this code overrides a contrary provision in a terms-of-service agreement that does not require the user to act affirmatively and distinctly from the user's assent to the terms of service.

**§44-5B-5. Terms of service agreement.**

(a) This article does not change or impair a right of a custodian or a user under a terms-of-service agreement to access and use digital assets of the user.

(b) This article does not give a fiduciary or a designated recipient any new or expanded rights other than those held by the user for whom, or for whose estate, the fiduciary or designated recipient acts or represents.

(c) A fiduciary's or a designated recipient's access to digital assets may be modified or eliminated by a user, by federal law, or by a terms-of-service agreement if the user has not provided direction under §44-5B-4 of this code.



**§44-5B-6. Procedure for disclosing digital assets.**

(a) When disclosing digital assets of a user under this article, the custodian may at its sole discretion:

(1) Grant a fiduciary or designated recipient full access to the user's account;

(2) Grant a fiduciary or designated recipient partial access to the user's account sufficient to perform the tasks with which the fiduciary or designated recipient is charged; or

(3) Provide a fiduciary or designated recipient a copy in a record of any digital asset that, on the date the custodian received the request for disclosure, the user could have accessed if the user were alive and had full capacity and access to the account.

(b) A custodian may assess a reasonable administrative charge for the cost of disclosing digital assets under this article.

(c) A custodian need not disclose under this article a digital asset deleted by a user.

(d) If a user directs or a fiduciary requests a custodian to disclose under this article some, but not all, of the user's digital assets, the custodian need not disclose the assets if segregation of the assets would impose an undue burden on the custodian. If the custodian believes the direction or request imposes an undue burden, the custodian or fiduciary may seek an order from the court to disclose:

(1) A subset limited by date of the user's digital assets;

(2) All of the user's digital assets to the fiduciary or designated recipient;

(3) None of the user's digital assets; or

(4) All of the user's digital assets to the court for review in camera.

**§44-5B-7. Disclosure of content of electronic communications of deceased user.**

If a deceased user consented or a court directs disclosure of the contents of electronic communications of the user, the custodian shall disclose to the personal representative of the estate of the user the content of an electronic communication sent or received by the user if the representative gives the custodian:

(a) A written request for disclosure in physical or electronic form;

(b) A certified copy of the death certificate of the user;

(c) A certified copy of the letter of appointment of the representative;

(d) Unless the user provided direction using an online tool, a copy of the user's will, trust, power of attorney or other record evidencing the user's consent to disclosure of the content of electronic communications; and

(e) If requested by the custodian:

(1) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(2) Evidence linking the account to the user; or

(3) A finding by the court that:

(A) The user had a specific account with the custodian, identifiable by the information specified in §44-5B-7(e)(1) of this code;

(B) Disclosure of the content of electronic communications of the user would not violate 18 U.S.C. § 2701 et seq., 47 U.S.C. § 222, or other applicable law;

(C) Unless the user provided direction using an online tool, the user consented to disclosure of the content of electronic communications; or

(D) Disclosure of the content of electronic communications of the user is reasonably necessary for administration of the estate.

**§44-5B-8. Disclosure of other digital assets of deceased user.**

Unless the user prohibited disclosure of digital assets or the court directs otherwise, a custodian shall disclose to the personal representative of the estate of a deceased user a catalogue of electronic communications sent or received by the user and digital assets, other than the content of electronic communications of the user, if the personal representative gives the custodian:

(a) A written request for disclosure in physical or electronic form;

(b) A certified copy of the death certificate of the user;

(c) A certified copy of the letter of appointment of the representative; and

(d) If requested by the custodian:

(1) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(2) Evidence linking the account to the user;

(3) An affidavit stating that disclosure of the user's digital assets is reasonably necessary for administration of the estate; or

(4) A finding by the court that:

(A) The user had a specific account with the custodian, identifiable by the information specified in §44-5B-8(d)(1) of this code; or

(B) Disclosure of the user's digital assets is reasonably necessary for administration of the estate.

**§44-5B-9. Disclosure of content of electronic communications of principal.**

To the extent a power of attorney expressly grants an agent authority over the content of electronic communications sent or received by the principal and unless directed otherwise by the principal or the court, a custodian shall disclose to the agent the content if the agent gives the custodian:

(a) A written request for disclosure in physical or electronic form;

(b) An original or copy of the power of attorney expressly granting the agent authority over the content of electronic communications of the principal;

(c) A certification by the agent, under penalty of perjury, that the power of attorney is in effect; and

(d) If requested by the custodian:

(1) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the principal's account; or

(2) Evidence linking the account to the principal.

**§44-5B-10. Disclosure of other digital assets of principal.**

Unless otherwise ordered by the court, directed by the principal, or provided by a power of attorney, a custodian shall disclose to an agent with specific authority over digital assets or general authority to act on behalf of a principal a catalogue of electronic communications sent or received by the principal and digital assets, other than the content of electronic communications, of the principal if the agent gives the custodian:

(a) A written request for disclosure in physical or electronic form;

(b) An original or a copy of the power of attorney that gives the agent specific authority over digital assets or general authority to act on behalf of the principal;

(c) A certification by the agent, under penalty of perjury, that the power of attorney is in effect; and

(d) If requested by the custodian:

(1) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the principal's account; or

(2) Evidence linking the account to the principal.

**§44-5B-11. Disclosure of digital assets held in trust when trustee is original user.**

Unless otherwise ordered by the court or provided in a trust instrument, a custodian shall disclose to a trustee that is an original user of an account any digital asset of the account held in trust, including a catalogue of electronic communications of the trustee and the content of electronic communications.

**§44-5B-12. Disclosure of contents of electronic communications held in trust when trustee not original user.**

Unless otherwise ordered by the court, directed by the user, or provided in a trust instrument, a custodian shall disclose to a trustee that is not an original user of an account the content of an electronic communication sent or received by an original or successor user and carried, maintained, processed, received, or stored by the custodian in the account of the trust if the trustee gives the custodian:

(a) A written request for disclosure in physical or electronic form;

(b) A certified copy of the trust instrument or a certification of the trust under §44D-10-1013 of this code that includes consent to disclose the content of electronic communications to the trustee;

(c) A certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust; and

(d) If requested by the custodian:

(1) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account; or

(2) Evidence linking the account to the trust.

**§44-5B-13. Disclosure of other digital assets held in trust when trustee not original user.**

Unless otherwise ordered by the court, directed by the user, or provided in a trust, a custodian shall disclose, to a trustee that is not an original user of an account, a catalogue of electronic communications sent or received by an original or successor user and stored, carried, or maintained by the custodian in an account of the trust and any digital assets, other than the content of electronic communications, in which the trust has a right or interest if the trustee gives the custodian:

(1) A written request for disclosure in physical or electronic form;

(2) A certified copy of the trust instrument or a certification of the trust under §44D-10-1013 of this code;

(3) A certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust; and

(4) If requested by the custodian:

(A) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account; or

(B) Evidence linking the account to the trust.

**§44-5B-14. Disclosure of digital assets to conservator of protected person.**

(a) After an opportunity for a hearing under §44A-1-1 et seq. of this code, the court may grant a conservator access to the digital assets of a protected person.

(b) Unless otherwise ordered by the court or directed by the user, a custodian shall disclose to a conservator the catalogue of electronic communications sent or received by a protected person and any digital assets, other than the content of electronic communications, in which the protected person has a right or interest if the conservator gives the custodian:

(1) A written request for disclosure in physical or electronic form;

(2) A certified copy of the court order that gives the conservator authority over the digital assets of the protected person; and

(3) If requested by the custodian:

(A) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the account of the protected person; or

(B) Evidence linking the account to the protected person.

(c) A conservator with general authority to manage the assets of a protected person may request a custodian of the digital assets of the protected person to suspend or terminate an account of the protected person for good cause. A request made under this section must be accompanied by a certified copy of the court order giving the conservator authority over the protected person's property.

**§44-5B-15. Fiduciary duty and authority.**

(a) The legal duties imposed on a fiduciary charged with managing tangible property apply to the management of digital assets, including:

(1) The duty of care;

(2) The duty of loyalty; and

(3) The duty of confidentiality.

(b) A fiduciary's or designated recipient's authority with respect to a digital asset of a user:

(1) Except as otherwise provided in §44-5B-4 of this code, is subject to the applicable terms of service;

(2) Is subject to other applicable law, including copyright law;

(3) In the case of a fiduciary, is limited by the scope of the fiduciary's duties; and

(4) May not be used to impersonate the user.

(c) A fiduciary with authority over the property of a decedent, protected person, principal, or settlor has the right to access any digital asset in which the decedent, protected person, principal, or settlor had a right or interest and that is not held by a custodian or subject to a terms-of-service agreement.

(d) A fiduciary acting within the scope of the fiduciary's duties is an authorized user of the property of the decedent, protected person, principal, or settlor for the purpose of applicable computer fraud and unauthorized computer access laws, including the provisions of §61-3C-1 *et seq.* of this code.

(e) A fiduciary with authority over the tangible, personal property of a decedent, protected person, principal, or settlor:

(1) Has the right to access the property and any digital asset stored in it; and

(2) Is an authorized user for the purpose of computer fraud and unauthorized computer access laws, including the provisions of §61-3C-1 *et seq.* of this code.

(f) A custodian may disclose information in an account to a fiduciary of the user when the information is required to terminate an account used to access digital assets licensed to the user.



(g) A fiduciary of a user may request a custodian to terminate the user's account. A request for termination must be in writing, in either physical or electronic form, and accompanied by:

(1) If the user is deceased, a certified copy of the death certificate of the user;

(2) A certified copy of the letter of appointment of the representative, court order, power of attorney, or trust instrument giving the fiduciary authority over the account; and

(3) If requested by the custodian:

(A) A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(B) Evidence linking the account to the user; or

(C) A finding by the court that the user had a specific account with the custodian, identifiable by the information specified in §44-5B-15(g)(1) of this code.

#### **§44-5B-16. Custodian compliance and immunity.**

(a) Not later than 60 days after receipt of the information required under §44-5B-7 through §44-5B-15 of this code, a custodian shall comply with a request under this article from a fiduciary or designated recipient to disclose digital assets or terminate an account. If the custodian fails to comply, the fiduciary or designated recipient may apply to the court for an order directing compliance.

(b) An order under §44-5B-16(a) of this code directing compliance must contain a finding that compliance is not in violation of 18 U.S.C. §2702.

(c) A custodian may notify the user that a request for disclosure or to terminate an account was made under this article.

(d) A custodian may deny a request under §44-5B-1 *et seq.* of this code from a fiduciary or designated recipient for disclosure of

digital assets or to terminate an account if the custodian is aware of any lawful access to the account following the receipt of the fiduciary's request.

(e) This article does not limit a custodian's ability to obtain or require a fiduciary or designated recipient requesting disclosure or termination under §44-5B-1 *et seq.* of this code to obtain a court order which:

(1) Specifies that an account belongs to the protected person or principal;

(2) Specifies that there is sufficient consent from the protected person or principal to support the requested disclosure; and

(3) Contains a finding required by law other than this article.

(f) A custodian and its officers, employees, and agents are immune from liability for an act or omission done in good faith in compliance with this article.

#### **§44-5B-17. Uniformity of application and construction.**

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

#### **§44-5B-18. Relation to Electronic Signatures in Global and National Commerce Act.**

This article modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U. S. C. Section 7001 *et seq.*, but does not modify, limit, or supersede Section 101(c) of that act, 15 U. S. C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U. S. C. Section 7003(b).

#### **§44-5B-19. Severability.**

If any provision of §44-5B-1 *et seq.* of this code or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this

article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.”

The bill was then ordered to third reading.

**Com. Sub. for S. B. 133**, Exempting renewal of certain contracts entered into during declared state of emergency; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 3. PURCHASING DIVISION.**

**§5A-3-3c. Exemptions from purchasing requirements for contracts entered into as part of recovery from a declared state of emergency.**

(a) The provisions of this article do not apply to contracts entered into during a state of emergency declared by the Governor pursuant to §15-5-6 of this code, so long as the contract is directly and solely related to the recovery from the declared state of emergency.

(b) The provisions of this article do not apply to the renewal of a contract entered into during a state of emergency declared pursuant to §15-5-6 of this code, if the contract is directly and solely related to the recovery from the declared state of emergency during which the contract was initially entered. For purposes of this subsection, recovery does not include permanent reconstruction after the initial state of emergency has ended.

(c) The provisions of this article do not apply to the purchase of goods or services from the federal government, or an agency thereof, if the purchase of those goods and services is directly and solely related to the recovery from a state of emergency declared pursuant to §15-5-6 of this code.

(d) To qualify for the exemption contained in this section, the Director of the Division of Homeland Security and Emergency Management must certify that the contract or purchase is directly and solely related to the recovery from a declared state of emergency and attach a copy of the proclamation issued by the Governor's office to the certification. Such certifications shall be maintained by the Division of Homeland Security and Emergency Management until the contracts or purchase agreements have been fully executed.

(e) For purposes of this section, 'directly and solely related' means that the goods or services being purchased or contracted for will be used for recovery from the state of emergency only, and will not be used for any other purpose."

The bill was then ordered to third reading.

**Com. Sub. for S. B. 272**, Relating generally to drug control; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Committee on Prevention and Treatment of Substance Abuse, was reported by the Clerk and adopted, amending the bill on page two, by striking out section six in its entirety and inserting in lieu thereof a new section six, to read as follows:

**“§16-5T-6. COMMUNITY OVERDOSE RESPONSE DEMONSTRATION PILOT PROJECT.**

(a) The Director of the Office of Drug Control Policy shall establish a Community Overdose Response Demonstration Pilot Project, to be continued for a period of four years, to develop model government programs to promote public health and general welfare through a comprehensive community-based response to drug overdoses in communities across West Virginia.

(b) The purpose of the demonstration pilot project is the development of community programs that will focus and use existing resources of government agencies to create outreach programs to educate concerned family and community members.

including first responders, to recognize an opioid overdose, and to immediately respond with life-saving measures and quick response teams comprised of law enforcement, emergency medical personnel, and a trained opiate case manager to conduct an in-home visit within one week of an overdose.

(c) The objective of the demonstration pilot project is to improve public health by addressing drug overdoses through a comprehensive community development plan. The plan should serve as a model to improve public health and education through a comprehensive community-based response to drug overdoses across the state.

(d) Communities that experience a high frequency of drug overdoses, compared with national averages as determined by the Office of Drug Control Policy, are eligible for participation in the demonstration pilot project.

(e) The demonstration pilot project shall be developed and administered by the Office of Drug Control Policy to encourage state and local agencies and community groups to work together and coordinate government and community responses to drug overdoses, and identify new and existing funds, personnel, and other existing resources available for the demonstration pilot project. Demonstration projects may include:

(1) Outreach programs to educate concerned family and community members, including first responders, to recognize an opioid overdose and to immediately respond with life-saving measures. This outreach may include basic information, training in the proper and safe administration of Naloxone to reverse drug overdoses, and the distribution of Naloxone kits; and

(2) Quick response teams comprised of law enforcement, emergency medical personnel, and a case manager trained in substance use disorder to conduct an in-home visit within one week of an overdose. The quick response teams would work cooperatively to triage and assess overdose survivors and provide linkage to treatment and services for rehabilitation with the goal of reducing repeated overdoses.

(f) The demonstration project may receive funding and other committed resources from federal, state, or local government and community groups.

(g) A community desiring to participate in the demonstration project shall submit a plan to the director that provides for the following elements:

(1) Community participation;

(2) Development of a community action plan with measurable, achievable, realistic, time-phased objectives;

(3) Implementation of the community action plan; and

(4) Evaluation of results.

(h) By majority vote, the Governor's Advisory Council on Substance Use Disorder Policy created pursuant to Executive Order 10-17 may select one or more communities from those that submit plans for participation in the demonstration pilot project.

(i) Commencing December 1, 2018, and each year thereafter, each participating community shall give a progress report to the director and commencing January 1, 2019, and each year thereafter, the director shall give a summary report of all the participating communities to the Legislative Oversight Commission on Health and Human Resources Accountability as established in §16-29E-1 *et seq.* of this code, on progress made by the pilot demonstration project, including suggested legislation, necessary changes to the demonstration pilot project and suggested expansion of the demonstration project.

(j) This section is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the state, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(k) The demonstration project terminates on July 1, 2022."

On page five, section four, line sixteen, after the word “has”, by inserting the word “designated”.

The bill was then ordered to third reading.

**S. B. 298**, Authorizing county assessors make separate entries in landbooks when real property is partly used for exempt and partly for nonexempt purposes; on second reading, coming up in regular order, was read a second time.

On motion of Delegates Rowe and Butler, the bill was amended on page one, section two, line seven, by striking out the word “exclusively” and inserting in lieu thereof the words “primarily and immediately”.

And,

On page one, section two, line ten, by striking out the word “exclusively” and inserting in lieu thereof the words “primarily and immediately”.

The bill was then ordered to third reading.

**Com. Sub. for S. B. 319**, Allowing individuals who completed home schooling be eligible for PROMISE scholarship without equivalent diploma; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Education, was reported by the Clerk and adopted, amending the bill page two, section six, after line twenty-nine, by inserting a new subdivision, designated subdivision (3), to read as follows:

“(3) Maintain a grade point average of at least 3.0 on a 4.0 grading scale in the required core and elective course work necessary to prepare students for success in post-secondary education at the associate and baccalaureate degree levels as determined by the commission, if the individual has completed not more than one semester or term at an institution of higher education, excluding credits earned in advanced placement,

international baccalaureate, dual credit and comparable courses while the student is enrolled in high school” and a semicolon.

And,

By renumbering the remaining subdivisions accordingly.

The bill was then ordered to third reading.

**S. B. 365**, Relating to Young Entrepreneur Reinvestment Act; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 412**, Relating to authority of county litter control officers; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**S. B. 427**, Modifying form of notice for certain tax delinquencies; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page one, section twenty-three, lines fourteen through twenty, by striking out subsection (e) in its entirety and inserting in lieu thereof a new subsection (e), to read as follows:

“(e) Within 10 days after the filing of the list, the Secretary of State shall give final written notice of ~~the~~ any delinquency of \$1,000 or greater by registered or certified mail to each of the delinquent taxpayers at his or her, or its, last known post office address; the Secretary of State may give final written notice of any delinquency of less than \$1,000 by first class mail to each of the delinquent taxpayers at his or her, or its, last known post office address; and upon the failure of any delinquent taxpayer to pay the taxes within 30 days from the mailing of the notice.”

The bill was then ordered to third reading.

**S. B. 441**, Relating to health care provider taxes; on second reading, coming up in regular order, was read a second time.



An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page two, section thirty-eight, lines forty through forty-five, by striking out subsection (e) in its entirety and inserting in lieu thereof a new subsection (e), to read as follows:

“(e) Any funds remaining in the Eligible Acute Care Provider Enhancement Account as of June 30, ~~2017~~ 2018, and on June 30 of each year thereafter, shall be transferred to the West Virginia Medical Services Fund. ~~This transfer shall occur after that June 30 but no later than the next ensuing~~ September 30 2017. These funds shall be used during the state fiscal year 2018 in which they were transferred at the discretion of the Bureau for Medical Services.”

The bill was then ordered to third reading.

**Com. Sub. for S. B. 456**, Physical Therapy Licensure Compact Act; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Health and Human Resources, was reported by the Clerk and adopted, amending the on page one, section two, line one, by striking out the word “Governor” and inserting in lieu thereof the words “West Virginia Board of Physical Therapy”.

The bill was then ordered to third reading.

**Com. Sub. for S. B. 493**, Relating to guaranty associations; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 499**, Requiring one year of certain approved postgraduate clinical training for persons with foreign medical degrees; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Health and Human Resources, was reported by the Clerk and adopted, amending the bill on page eight, section ten, line one hundred

eighty-five, by striking out the word “shall” and inserting in lieu thereof the word “may”.

The bill was then ordered to third reading.

**Com. Sub. for S. B. 510**, Designating hospitals for stroke treatment; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 522**, Relating generally to Administrative Procedures Act; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**S. B. 545**, Relating to driving privileges and requirements for persons under 18; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION,  
AND RENEWAL.**

**§17B-2-3a. Graduated driver’s license.**

(a) Any person under the age of 18 may not operate a motor vehicle unless he or she has obtained a graduated driver’s license in accordance with the three-level graduated driver’s license system described in the following provisions.

(b) Any person under the age of 21, regardless of class or level of licensure, who operates a motor vehicle with any measurable alcohol in his or her system is subject to ~~the provisions of~~ §17C-5-2 and §17C-5A-2 of this code. Any person under the age of 18, regardless of class or licensure level, is subject to the mandatory school attendance and satisfactory academic progress provisions of §18-8-11 of this code.

(c) *Level one instruction permit.* — An applicant who is 15 years or older meeting all other requirements prescribed in this code may be issued a level one instruction permit.

(1) *Eligibility.* — The division shall not issue a level one instruction permit unless the applicant:

(A) Presents a completed application, as prescribed by ~~the provisions of §17B-2-6 of this code,~~ and which is accompanied by a writing, duly acknowledged, consenting to the issuance of the graduated driver's license, and executed by a parent or guardian entitled to custody of the applicant;

(B) Presents a certified copy of a birth certificate issued by a state or other governmental entity responsible for vital records unexpired, or a valid passport issued by the United States government evidencing that the applicant meets the minimum age requirement and is of verifiable identity;

(C) Passes the vision and written knowledge examination and completes the driving under the influence awareness program, as prescribed in §17B-2-7 of this code;

(D) Presents a driver's eligibility certificate or otherwise shows compliance with ~~the provisions of §18-8-11 of this code;~~ and

(E) Pays a fee of \$7.50, which shall permit the applicant one attempt at the written knowledge test. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided,* That an increase in such fee may not exceed 10 percent of the total fee amount in a single year.

(2) *Terms and conditions of instruction permit.* — A level one instruction permit issued under ~~the provisions of~~ this section is valid until 30 days after the date the applicant attains the age of 18 and is not renewable. However, any permit holder who allows his or her permit to expire prior to successfully passing the road skills portion of the driver examination, and who has not committed any offense which requires the suspension, revocation, or cancellation

of the instruction permit, may reapply for a new instruction permit under ~~the provisions of~~ §17B-2-6 of this code. The division shall immediately revoke the permit upon receipt of a second conviction for a moving violation of traffic regulations and laws of the road or violation of the terms and conditions of a level one instruction permit, which convictions have become final unless a greater penalty is required by this section or any other provision of this code. Any person whose instruction permit has been revoked is disqualified from retesting for a period of 90 days. However, after the expiration of 90 days, the person may retest if otherwise eligible. In addition to all other provisions of this code for which a driver's license may be restricted, suspended, revoked, or canceled, the holder of a level one instruction permit may only operate a motor vehicle under the following conditions:

(A) Under the direct supervision of a licensed driver, 21 years of age or older, or a driver's education or driving school instructor who is acting in an official capacity as an instructor, who is fully alert and unimpaired, and the only other occupant of the front seat. The vehicle may be operated with no more than two additional passengers, unless the passengers are family members;

(B) Between the hours of 5:00 a. m. and 10:00 p. m.;

(C) All occupants must use safety belts in accordance with ~~the provisions of~~ §17C-15-49 of this code;

(D) Without any measurable blood alcohol content, in accordance with ~~the provisions of~~ §17C-5-2(h) of this code; and

(E) Maintains current school enrollment and is making satisfactory academic progress or otherwise shows compliance with ~~the provisions of~~ §18-8-11 of this code.

(F) A holder of a level one instruction permit who is under the age of 18 years ~~shall be~~ is prohibited from using a wireless communication device while operating a motor vehicle, unless the use of the wireless communication device is for contacting a 9-1-1 system. ~~A person violating the provisions of this paragraph is guilty of a misdemeanor and, upon conviction thereof, shall for the first~~

~~offense be fined \$25; for a second offense be fined \$50; and for a third or subsequent offense be fined \$75.~~

(d) *Level two intermediate driver's license.* — An applicant 16 years of age or older, meeting all other requirements of the code, may be issued a level two intermediate driver's license.

(1) *Eligibility.* — The division shall not issue a level two intermediate driver's license unless the applicant:

(A) Presents a completed application as prescribed in §17B-2-6 of this code;

(B) Has held the level one instruction permit conviction-free for the 180 days immediately preceding the date of application for a level two intermediate license;

(C) Has completed either a driver's education course approved by the state Department of Education or 50 hours of behind-the-wheel driving experience, including a minimum of 10 hours of night time driving, certified by a parent or legal guardian or other responsible adult over the age of 21 as indicated on the form prescribed by the division: *Provided*, That nothing in this paragraph shall be construed to require any school or any county board of education to provide any particular number of driver's education courses or to provide driver's education training to any student;

(D) Presents a driver's eligibility certificate or otherwise shows compliance with ~~the provisions of~~ §18-8-11 of this code;

(E) Passes the road skills examination as prescribed by §17B-2-7 of this code; and

(F) Pays a fee of \$7.50 for one attempt. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not exceed 10 percent of the total fee amount in a single year.

(2) *Terms and conditions of a level two intermediate driver's license.* — A level two intermediate driver's license issued under the provisions of this section shall expire 30 days after the applicant attains the age of 18, or until the licensee qualifies for a level three full Class E license, whichever comes first. In addition to all other provisions of this code for which a driver's license may be restricted, suspended, revoked, or canceled, the holder of a level two intermediate driver's license may only operate a motor vehicle under the following conditions:

(A) Unsupervised between the hours of 5:00 a. m. and 10:00 p. m.;

(B) Only under the direct supervision of a licensed driver, age 21 years or older, between the hours of 10:00 p. m. and 5:00 a. m. except when the licensee is going to or returning from:

(i) Lawful employment;

(ii) A school-sanctioned activity;

(iii) A religious event; or

(iv) An emergency situation that requires the licensee to operate a motor vehicle to prevent bodily injury or death of another;

(C) All occupants shall use safety belts in accordance with ~~the provisions of~~ §17C-15-49 of this code;

(D) For the first six months after issuance of a level two intermediate driver's license, the licensee may not operate a motor vehicle carrying any passengers less than 20 years old, unless these passengers are family members of the licensee; for the second six months after issuance of a level two intermediate driver's license, the licensee may not operate a motor vehicle carrying more than one passenger less than 20 years old, unless these passengers are family members of the licensee;

(E) Without any measurable blood alcohol content in accordance with ~~the provisions of~~ §17C-5-2(h) of this code;

(F) Maintains current school enrollment and is making satisfactory academic progress or otherwise shows compliance with ~~the provisions of~~ §18-8-11 of this code;

(G) A holder of a level two intermediate driver's license who is under the age of 18 years ~~shall be~~ is prohibited from using a wireless communication device while operating a motor vehicle, unless the use of the wireless communication device is for contacting a 9-1-1 system; ~~A person violating the provisions of this paragraph is guilty of a misdemeanor and, upon conviction thereof, shall for the first offense be fined \$25; for a second offense be fined \$50; and for a third or subsequent offense be fined \$75.~~

(H) Upon the first conviction for a moving traffic violation or a violation of ~~paragraph (A), (B), (C), (D) or (G), subdivision (1), subsection (d) of this section~~ §17B-2-3a(d)(2)(A), §17B-2-3a(d)(2)(B), §17B-2-3a(d)(2)(C), §17B-2-3a(d)(2)(D), or §17B-2-3a(d)(2)(G) of this code of the terms and conditions of a level two intermediate driver's license, the licensee shall enroll in an approved driver improvement program unless a greater penalty is required by this section or by any other provision of this code; and

At the discretion of the commissioner, completion of an approved driver improvement program may be used to negate the effect of a minor traffic violation as defined by the commissioner against the one year conviction-free driving criteria for early eligibility for a level three driver's license and may also negate the effect of one minor traffic violation for purposes of avoiding a second conviction under §17B-2-3a(d)(2)(I) of this code; and

(I) Upon the second conviction for a moving traffic violation or a violation of the terms and conditions of the level two intermediate driver's license, the licensee's privilege to operate a motor vehicle shall be revoked or suspended for the applicable statutory period or until the licensee's eighteenth birthday, whichever is longer unless a greater penalty is required by this section or any other provision of this code. Any person whose driver's license has been revoked as a level two intermediate driver, upon reaching the age of 18 years and if otherwise eligible may reapply for an instruction permit, then a driver's license in

accordance with ~~the provisions of~~ §17B-2-5, §17B-2-6, and §17B-2-7 of this code.

*(e) Level three, full Class E ~~license~~ driver's license. Terms and Conditions.* — The level three license is valid until 30 days after the date the licensee attains his or her twenty-first birthday. A holder of a level three, full Class E driver's license who is under the age of 18 years is prohibited from using a wireless communication device while operating a motor vehicle unless the use of the wireless communication device is for contacting a 9-1-1 system. Unless otherwise provided in this section or any other section of this code, the holder of a level three full Class E license is subject to the same terms and conditions as the holder of a regular Class E driver's license.

A level two intermediate licensee whose privilege to operate a motor vehicle has not been suspended, revoked, or otherwise canceled and who meets all other requirements of the code may be issued a level three full Class E license without further examination or road skills testing if the licensee:

(1) Has reached the age of 17 years; and

(A) Presents a completed application as prescribed by ~~the provisions of~~ §17B-2-6 of this code;

(B) Has held the level two intermediate license conviction free for the 12-month period immediately preceding the date of the application;

(C) Has completed any driver improvement program required under ~~paragraph (G), subdivision (2), subsection (d) of this section~~ §17B-2-3a(d)(2)(H) of this code; and

(D) Pays a fee of \$2.50 for each year the license is valid. An additional fee of 50 cents shall be collected to be deposited in the Combined Voter Registration and Driver's Licensing Fund established in §3-2-12 of this code;

(E) Presents a driver's eligibility certificate or otherwise shows compliance with ~~the provisions of~~ §18-8-11 of this code; or



(2) Reaches the age of 18 years; and

(A) Presents a completed application as prescribed by ~~the provisions of~~ §17B-2-6 of this code; and

(B) Pays a fee of \$5 for each year the license is valid. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U. S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: *Provided*, That an increase in such fee may not exceed 10 percent of the total fee amount in a single year. An additional fee of 50 cents shall be collected to be deposited in the Combined Voter Registration and Driver's Licensing Fund established in §3-2-12 of this code.

(f) A person violating the provisions of the terms and conditions of a level one instruction permit, ~~or~~ level two intermediate driver's license, or level three, full Class E driver's license is guilty of a misdemeanor and, upon conviction thereof, shall for the first offense be fined \$25; for a second offense be fined \$50; and for a third or subsequent offense be fined \$75."

The bill was then ordered to third reading.

At the request of Delegate Hanshaw, and by unanimous consent, **Com. Sub. for S. B. 395**, Providing for judicial review of appealed decisions of Air Quality Review Board, Environmental Quality Board and Surface Mine Board, was taken up for further consideration.

On motion of Delegate Cowles, the House of Delegates then reconsidered its vote to make the bill effective from passage.

An amendment to the title of the bill, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the title to read as follows:

**Com. Sub. for S. B. 395** - "A Bill to amend and reenact §22B-1-9 of the Code of West Virginia, 1931, as amended; to amend and reenact §22B-2-3 of said code; to amend and reenact §22B-3-3 of said code; and to amend and reenact §22B-4-3 of said code, all relating to the general provisions for judicial review of final orders

of various environmental boards; requiring petition be filed within 30 days of entry of the final order; providing that appeal does not automatically stay any final order or action approved by a board; authorizing the chief or director to employ outside legal counsel without approval of the Attorney General; providing that decisions of the Air Quality Board, Environmental Quality Board, and Surface Mine Board denying an application for a permit, or approving or modifying the terms and conditions of a permit may be directly appealed to the Supreme Court of Appeals; and providing for exceptions to this right of direct appeal.”

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 323**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Anderson, Deem and Fluharty.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 395) takes effect from its passage.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

### **First Reading**

The following bills on first reading, coming up in regular order, were each read a first time and ordered to second reading:

**Com. Sub. for S. B. 36**, Relating generally to DNA testing,

**Com. Sub. for S. B. 51**, Relating to domestic relations,

**Com. Sub. for S. B. 116**, Providing court costs collected under Second Chance Driver’s License Program are not subject to 5 percent offset,

**Com. Sub. for S. B. 261**, Transferring certain powers and programs of WV Affordable Housing Trust Fund to WV Housing Development Fund,

**S. B. 273**, Reducing use of certain prescription drugs,

**S. B. 282**, Exempting State Conservation Committee from Purchasing Division requirements for contracts related to flood recovery,

**S. B. 297**, Eliminating taxation on annuity considerations collected by life insurer,

**S. B. 299**, Relating to mandatory insurance coverage for medical foods for amino acid-based formulas,

**S. B. 347**, Relating to operation of motorboats,

**Com. Sub. for S. B. 359**, Authorizing Supreme Court establish curricula for mental hygiene commissioners and certain magistrates,

**Com. Sub. for S. B. 461**, Extending time to file petition for motor fuel excise tax refund,

**S. B. 465**, Relating to mandated reporting of child abuse and neglect,

**Com. Sub. for S. B. 475**, Industrial Hemp Development Act,

**S. B. 479**, Establishing local government monitoring by Auditor,

**Com. Sub. for S. B. 500**, Authorizing City of White Sulphur Springs to expend principal and interest from special interest-bearing fund,

**Com. Sub. for S. B. 543**, Relating to confidentiality of medical records,

**Com. Sub. for S. B. 555**, Providing immunity from civil liability for qualified directors of certain governmental and nonprofit entities,

**Com. Sub. for S. B. 574**, Relating to crime of misrepresentation of military honors,

**Com. Sub. for S. B. 575**, Approving additional beds for intermediate care facilities,

**S. B. 576**, Relating to Patient Injury Compensation Fund,

**Com. Sub. for S. B. 582**, Allowing candidate for political party executive committee serve as election official,

**S. B. 584**, Finding certain claims against state to be moral obligations of state,

**Com. Sub. for S. B. 589**, Relating to issuance of personalized plates for antique motor vehicles,

**Com. Sub. for S. B. 590**, Providing special license plate for curing childhood cancer,

**Com. Sub. for S. B. 616**, Establishing maximum gross weight for certain wood-bearing trucks,

**S. B. 626**, Relating generally to coal mining,

And,

**S. B. 631**, Relating generally to one-call system.

At 3:33 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 7:00 p.m.

\* \* \* \* \*

**Evening Session**

\* \* \* \* \*

The House of Delegates was called to order by the Honorable Tim Armstead, Speaker.

### Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 2483**, Requiring the Division of Juvenile Services to transfer to a correctional facility or regional jail any juvenile in its custody that has been transferred to adult jurisdiction of the circuit court and who reaches his or her eighteenth birthday.

On motion of Delegate Cowles, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

#### “ARTICLE 4. COURT ACTIONS.

##### **§49-4-720. Prohibition on committing juveniles to adult facilities. ~~copy provided to juvenile~~**

(a) ~~No~~ A juvenile, including one who has been transferred to criminal jurisdiction of the court, ~~shall~~ may not be detained or confined in any institution in which he or she has contact with or comes within sight or sound of any adult persons incarcerated because ~~they have~~ he or she has have been convicted of a crime or are awaiting trial on criminal charges or with the security staff (including management) or direct-care staff of a jail or locked facility for adults.

(b) ~~No~~ A child who has been convicted or is awaiting trial of an offense under the adult jurisdiction of the circuit court ~~shall~~ may not be held in custody in a an adult correctional facility of this state while under the age of 18 years. The Division of Juvenile Services ~~shall be responsible for notifying~~ notify the sentencing court and copy the county prosecuting attorney of the sentencing court within ~~forty five~~ 180 days, or as soon as practicable, ~~days of the child's~~

~~eighteenth birthday~~ that the child will be turning 18 years of age. The court shall, upon receipt of the notice, set the matter for a hearing. Within ten days of the child's eighteenth birthday, the court shall transfer the offender to Before the child reaches 18 years of age, the court shall hold a hearing and enter an order transferring the offender to an adult correctional facility, a facility for youthful offenders, if applicable; or to any other disposition the court deems considers appropriate, which does not violate the provisions of subsection (a) of this section: for adult offenders. Notwithstanding any other provision of this code to the contrary, prior to the transfer the child shall be returned to the sentencing court for the purpose of reconsideration and modification of the imposed sentence, which shall be based upon a review of all records and relevant information relating to the child's rehabilitation since his or her conviction under the adult jurisdiction of the court. *Provided, That the court may not remand a person who reached the age of 18 years to a juvenile facility or place the person with other juveniles.*

(c) The provisions of §61-11A-1 et seq. of this code, are applicable to proceedings under this section.

#### **§49-4-722. Conviction for offense while in custody.**

(a) Notwithstanding any other provision of law to the contrary, any person who is 18 years of age or older who is convicted as an adult of an offense that he or she committed while in the custody of the Division of Juvenile Services and who is therefor sentenced to a regional jail or state correctional facility for the offense may not be returned to the custody of the division upon the completion of his or her adult sentence. ~~until a hearing is held before the court which committed the person to the custody of the Division of Juvenile Services at which hearing the division may present any objections it may have to return the person to its custody. If the division does object and the court overrules the division's objections, it shall make specific written findings as to its rationale for overruling the objections.~~

(b) ~~No person who is eighteen years of age or older who is convicted as an adult of a felony crime of violence against the person while in the custody of the Division of Juvenile Services be~~

returned to the custody of the Division of Juvenile Services upon completion of his or her adult sentence. Prior to completion of the adult sentence specified in §49-4-722(a) of this code, the circuit court having jurisdiction over the underlying juvenile matter shall conduct a hearing to determine whether the person who has turned 18 years of age shall remain in the regional jail during pendency of the underlying juvenile matter or if another disposition or pretrial placement is appropriate and available: *Provided, That the court may not remand a child who reached the age of 18 years to a juvenile facility or placement during the pendency of the underlying juvenile matter.*”

And,

By amending the title of the bill to read as follows:

**Com. Sub. for H. B. 2483** - “A Bill to amend and reenact §49-4-720 and §49-4-722 of the Code of West Virginia, 1931, as amended, all relating to requiring the Division of Juvenile Services to transfer to a correctional facility or regional jail any person in its custody that has been transferred to adult jurisdiction of the circuit court and who turns 18 years of age; requiring transfer of juvenile under adult jurisdiction from a juvenile facility upon reaching 18 years of age if he or she has either been convicted or is in a pretrial status; directing the Division of Juvenile Services to notify the circuit court 180 days or as soon as practicable prior to a juvenile reaching 18 years of age; requiring the circuit court to set and conduct a hearing prior to the transfer to an adult correctional facility; making provisions of law related to victims applicable to proceedings held pursuant to the section; prohibiting persons 18 or older that commit an adult offense while under the custody of the Division of Juvenile Services from being returned to the placement in a juvenile facility; requiring the court to conduct a hearing prior to the completion of the adult sentence; and prohibiting a court from remanding a person who has reached 18 years of age and completed serving an adult sentence to a juvenile facility.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 324**), and there were—yeas 88, nays none, absent and not voting 12, with the absent and not voting being as follows:

Absent and Not Voting: Barrett, Deem, Eldridge, Ferro, Fluharty, Gearheart, Hornbuckle, Longstreth, Marcum, Maynard, Nelson and Walters.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2483) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 2693**, Relating to state ownership of wildlife.

On motion of Delegate Cowles, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 2. WILDLIFE RESOURCES.**

**§20-2-3. State ownership of wildlife.**

The ownership of and title to all ~~wild animals, wild birds, both migratory and resident, and all fish, amphibians, and all forms of aquatic life~~ wildlife in the State of West Virginia is hereby declared to be in the state, as trustee for the people. ~~No such~~ A person shall not take or hunt wildlife shall be taken or hunted in any manner, or at any time, unless the person ~~so taking or hunting the same shall consent~~ wildlife consents that the title ~~thereto shall be and remain to the wildlife is and remains~~ in the State of West Virginia for the purpose of regulating the taking, hunting, using, and disposing of



the ~~same~~ wildlife. The taking or hunting of wildlife at any time or in any manner by any person ~~shall be deemed such~~ is considered consent: *Provided*, That, all fish, frogs, and other aquatic life in privately-owned ponds are, and ~~shall~~ remain, the private property of the owner or owners of ~~such~~ the privately-owned ponds, and that ~~such~~ the fish, frogs, and other aquatic life in ~~such~~ the privately-owned ponds may be caught, taken or killed by ~~such~~ the owner or owners at any time.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 325**), and there were—yeas 91, nays 2, absent and not voting 7, with the nays and absent and not voting being as follows:

Nays: Marcum and Sobonya.

Absent and Not Voting: Deem, Eldridge, Fluharty, Gearheart, Hornbuckle, Longstreth and Walters.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2693) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 2889**, Allowing military veterans with certain military ratings to qualify for examinations required of probationary police officer.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 2995**, Permitting certain animal euthanasia technicians who have been certified by other states be certified animal euthanasia technicians in West Virginia.

On motion of Delegate Cowles, the House of Delegates refused to concur in the following amendment of the bill by the Senate and requested the Senate to recede therefrom:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 10. VETERINARIANS.**

**§30-10-12. Requirements to be a certified animal euthanasia technician.**

(a) To be eligible to be a certified animal euthanasia technician a person must:

(1) Apply at least thirty days prior to the date the next written examinations are scheduled, using a form prescribed by the board;

(2) Have a high school diploma or GED;

(3) Pay application and examination fees;

(4) Complete the certified animal euthanasia technician’s program established by the board;

(5) Pass the written and practical skills examinations;

(6) Pass the prescribed background check; and

(7) Complete all the other requirements established by the board.

(b) A certified animal euthanasia technician may practice animal euthanasia at a legally operated animal control facility.

(c) A person certified as an animal euthanasia technician by the board prior to July 1, 2010, shall for all purposes be considered

certified under this article and may renew pursuant to the provisions of this article.

(d) Notwithstanding the requirements set forth in §30-10-12(a) of this code, a person certified by another state or jurisdiction with qualifications comparable to, equivalent to, or exceeding the standards of the board may be issued a certification under this section upon the submission of a completed application and the appropriate fees as established by the board in legislative rules.”

And,

By amending the title of the bill to read as follows:

**Com. Sub. for H. B. 2995** - “A Bill to amend and reenact §30-10-12 of the Code of West Virginia, 1931, as amended, relating to qualifications for certification as an animal euthanasia technician; authorizing issuance of animal euthanasia technician certificate to certain persons certified by another state or jurisdiction; setting requirements for issuance of certificate; and authorizing fees to be prescribed by the Board of Veterinary Medicine in legislative rule.”

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4186**, Relating generally to guaranteed asset protection waivers.

On motion of Delegate Cowles, the House of Delegates refused to concur in the following amendment of the bill by the Senate and requested the Senate to recede therefrom:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“**ARTICLE 4. GENERAL PROVISIONS.**

**§33-4-22. Guaranteed Asset Protection Waivers.**

(a) Short title. – This section may be cited as the ‘Guaranteed Asset Protection Waiver Act.’

(b) Purpose. – The purpose of this section is to provide a framework within which guaranteed asset protection waivers are defined and may be offered within this state.

(c) Legislative intent. – The Legislature finds that guaranteed asset protection waivers are not insurance and are not subject to the provisions of this chapter, except as provided in this section. It is further the intent of the Legislature that all guaranteed asset protection waivers issued prior to and after the effective date of this section may not be construed as insurance and that persons marketing, administering, selling or offering to sell guaranteed asset protection waivers not be required to comply with insurance licensing requirements.

(d) Applicability. – This section does not apply to:

(1) An insurance policy offered by an insurer under the insurance laws of this state; or

(2) A debt cancellation or debt suspension contract being offered in compliance with 12 C.F.R. §37.1, et seq., 12 C.F.R. §721.1, et seq., or other federal law.

(e) Waivers not insurance; exemption from licensing requirement. – Guaranteed asset protection waivers governed by this section are not insurance and are exempt from the insurance laws of this state. Persons marketing, administering, selling or offering to sell guaranteed asset protection waivers to borrowers that comply with this section are exempt from this state’s insurance licensing requirement with regard to the marketing, selling or offering to sell guaranteed asset protection waivers.

(f) Definitions. – The following terms are defined for purposes of this section. These terms are not intended to be used or required in guaranteed asset protection waivers.

(1) ‘Administrator’ means a person, other than an insurer or creditor, who performs administrative or operational functions pursuant to guaranteed asset protection waiver programs. Administrative or operational functions may include, but are not limited to:

(A) Document development, processing, and support;

(B) Compliance Services;

(C) Waiver fee processing;

(D) Benefit determination and processing;

(E) Procurement and administration of the contractual liability or other insurance policy;

(F) Technology support; or

(G) Personnel support.

(2) ‘Borrower’ means a debtor, retail buyer, or lessee under a finance agreement.

(3) ‘Contractual liability’ means a contract or other agreement that obligates a third party to indemnify a creditor under (g)(4) of this section and is insurance under the insurance laws of this state.

(4) ‘Creditor’ means:

(A) The lender in a loan or credit transaction;

(B) The lessor in a lease transaction;

(C) A retail dealer of motor vehicles licensed under §17A-6-1 et seq. of this code, that provides credit to buyers as part of a retail sale, provided the dealer complies with the requirements of this section;

(D) The seller in a commercial retail installment transaction;  
or

(E) The assignees of any of the foregoing persons to whom the credit obligation is payable.

(5) 'Finance agreement' means a loan, lease or retail installment sales contract for the purchase or lease of a motor vehicle.

(6) 'Free look period' means the period of time from the effective date of the guaranteed asset protection waiver until the date the borrower may cancel the contract without penalty, fees or costs to the borrower. This period of time may not be less than thirty days.

(7) 'Guaranteed asset protection waiver' means a contractual agreement that is part of or a separate addendum to the finance agreement in which a creditor agrees, upon payment of a separate charge, to cancel or waive all or part of amounts due to it on a borrower's finance agreement if there is a total physical damage loss or unrecovered theft of a motor vehicle. A guaranteed asset protection waiver is not insurance due to the purchase, administration or operation of the contractual liability or other insurance policy authorized under subdivision (g)(4) of this section.

(8) 'Insurer' means an insurance company required to be licensed, registered, or otherwise authorized to do business under the insurance laws of this state.

(9) 'Motor vehicle' means a self-propelled or towed vehicle designed for personal or commercial use, including, but not limited to, an automobile, truck, motorcycle, recreational vehicle, all-terrain vehicle, snowmobile, camper, boat or personal watercraft, and the trailer used to transport a motorcycle, boat, camper or personal watercraft.

(10) 'Person' includes an individual, company, association, organization, partnership, limited liability company, business trust, corporation and every form of legal entity.

(g) Requirements for offering guaranteed asset protection waivers. —

(1) Guaranteed asset protection waivers may be offered, sold or provided to borrowers in this state in compliance with this section.

(2) Guaranteed asset protection waivers may, at the option of the creditor, be sold for a single payment or may be offered with a monthly or periodic payment option.

(3) Notwithstanding any other provision of law, any cost to the borrower for a guaranteed asset protection waiver entered into in compliance with the Truth in Lending Act, 15 U.S.C. §1601, et. seq., must be separately stated and may not be considered a finance charge or interest.

(4) A retail dealer of motor vehicles shall insure its guaranteed asset protection waiver obligations under a contractual liability or other insurance policy issued by an insurer. A creditor, other than a retail dealer of motor vehicles, may insure its guaranteed asset protection waiver obligations under a contractual liability policy or similar policy issued by an insurer. The insurance policy may be directly obtained by a creditor, a retail dealer of motor vehicles or may be procured by an administrator to cover a creditor's or retail dealer's obligations: *Provided*, That retail dealers of motor vehicles that are lessors of motor vehicles are not required to insure obligations related to guaranteed asset protection waivers on leased vehicles.

(5) The guaranteed asset protection waiver remains a part of the finance agreement upon the assignment, sale, or transfer of the finance agreement by the creditor.

(6) The extension of credit, the terms of credit or the terms of the related motor vehicle sale or lease may not be conditioned upon the purchase of a guaranteed asset protection waiver.

(7) A creditor that offers a guaranteed asset protection waiver shall report the sale of and forward funds received on all guaranteed asset protection waivers to the designated party, if any, as prescribed in any applicable administrative services

agreement, contractual liability policy, other insurance policy or other specified program document.

(8) Funds received or held by a creditor or administrator and belonging to an insurer, creditor or administrator, pursuant to the terms of a written agreement must be held by the creditor or administrator in a fiduciary capacity.

(h) Contractual liability or other insurance policies. –

(1) Contractual liability or other insurance policies insuring guaranteed asset protection waivers must state the obligation of the insurer to reimburse or pay to the creditor any sums the creditor is legally obligated to waive under the guaranteed asset protection waivers issued by the creditor and purchased or held by the borrower.

(2) Coverage under a contractual liability or other insurance policy insuring a guaranteed asset protection waiver must also cover any subsequent assignee upon the assignment, sale, or transfer of the finance agreement.

(3) Coverage under a contractual liability or other insurance policy insuring a guaranteed asset protection waiver must remain in effect unless canceled or terminated in compliance with applicable insurance laws of this state.

(4) The cancellation or termination of a contractual liability or other insurance policy may not reduce the insurer's responsibility for guaranteed asset protection waivers issued by the creditor prior to the date of cancellation or termination and for which premiums have been received by the insurer.

(i) Disclosures. –

Guaranteed asset protection waivers must disclose, as applicable, in writing and in clear, understandable language, the following:



(A) The name and address of the initial creditor and the borrower at the time of sale and the identity of any administrator if different from the creditor;

(B) The purchase price and the terms of the guaranteed asset protection waiver, including without limitation the requirements for protection, conditions or exclusions associated with the guaranteed asset protection waiver;

(C) That the borrower may cancel the guaranteed asset protection waiver within a free look period as specified in the waiver, and may receive a full refund of the purchase price, so long as no benefits have been provided under the waiver; or if benefits have been provided, the borrower may receive a full or partial refund pursuant to the terms of the guaranteed asset protection waiver;

(D) That in order to obtain guaranteed asset waiver protection benefits under its terms and conditions, the borrower must provide notice of the total physical loss or unrecovered theft of the motor vehicle to the creditor or its designated administrator and the manner in which such notice must be provided;

(E) Whether the guaranteed asset protection waiver may be canceled after the free look period and the conditions under which it may be canceled or terminated, including the procedures for requesting any refund due;

(F) That in order to receive any refund due if a borrower cancels the guaranteed asset protection waiver agreement or early termination of the finance agreement after the free look period of the guaranteed asset protection waiver, the borrower, in accordance with terms of the waiver, shall provide a written request to cancel to the creditor, administrator or other party as specified in the guaranteed asset protection waiver. If a borrower is canceling the guaranteed asset protection waiver due to early termination of the finance agreement, the borrower shall provide a written request to the creditor, administrator or other party within ninety days of the occurrence of the event terminating the finance agreement;

(G) The methodology for calculating any refund of the unearned purchase price of the guaranteed asset protection waiver due if there is cancellation of the guaranteed asset protection waiver or early termination of the finance agreement; and

(H) That neither the extension of credit, the terms of the credit, nor the terms of the related motor vehicle sale or lease, may be conditioned upon the purchase of the guaranteed asset protection waiver.

(j) Cancellation. –

(1) Guaranteed asset protection waiver agreements may be cancellable or non-cancellable after the free look period. Guaranteed asset protection waivers must provide that if a borrower cancels a guaranteed asset protection waiver within the free look period, so long as no benefits have been provided, the borrower is entitled to a full refund of the purchase price. If benefits have been provided, the borrower may receive a full or partial refund pursuant to the terms of the guaranteed asset protection waiver;

(2) If the borrower cancels the guaranteed asset protection waiver or terminates the finance agreement early but after the agreement has been in effect beyond the free look period, the borrower may receive a refund of any unearned portion of the purchase price of the guaranteed asset protection waiver unless the guaranteed asset protection waiver provides otherwise. In order to receive a refund, the borrower, in accordance with any applicable terms of the waiver, shall provide a written request to the creditor, administrator or other party. If the borrower is canceling the guaranteed asset protection waiver due to the early termination of the finance agreement, the borrower shall provide a written request within ninety days of the event terminating the finance agreement;

(3) If the cancellation of a guaranteed asset protection waiver occurs as a result of a default under the finance agreement, or the repossession of the motor vehicle associated with the finance agreement, or any other termination of the finance agreement, any

refund due may be paid directly to the creditor or administrator and applied as set forth in subdivision (4) of this subsection (i), below;

(4) A cancellation or termination refund under subdivision (1), (2) or (3) of this subsection (i) may be applied by the creditor as a reduction of the amount owed under the finance agreement, unless the borrower can show that the finance agreement has been paid in full.

(k) Commercial transaction exempted. – Subsections (g), (h) and (i) of this section do not apply to a guaranteed asset protection waiver offered in connection with a lease or retail installment sale associated with a commercial transaction.”

And,

By amending the title of the bill to read as follows:

**Com. Sub. for H. B. 4186** - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-4-22, relating generally to guaranteed asset protection waivers; providing short title, purpose, legislative intent, and applicability of section; providing that guaranteed asset protection waivers are not insurance and are exempt from the insurance laws of this state; providing further exemptions; defining certain terms; providing requirements for offering guaranteed asset protection waivers; requiring contractual liability or other insurance policies on guaranteed asset protection waivers in certain circumstances; requiring certain disclosures; providing for cancellation or non-cancellation; specifying requirements upon cancellation in certain circumstances; and exempting certain requirements in commercial transactions.”

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4207**, Authorizing an online application to receive a commission to act as a notary public, and eliminating the bond requirement.

On motion of Delegate Cowles, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, section twenty, line fifteen, by striking out the words “I have” and inserting in lieu thereof the words “he or she has”.

On page two, section twenty, line seventeen, by striking out the word “I” and inserting in lieu thereof the words “he or she”.

And,

On page two, section twenty, line seventeen, by striking out the word “my” and inserting in lieu thereof the words “his or her”.

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 326**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Deem, Fluharty, Gearheart, Hornbuckle and Longstreth.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4207) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 4238**, Authorizing counties and municipalities to establish a joint airport hazard comprehensive plan.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**H. B. 4410**, Removing the requirement that the State Auditor receive copies of the Limited Video Lottery bids.

On motion of Delegate Cowles, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page two, section one thousand one hundred seven, line thirty-two, after the word “purchasing” by striking out the comma and the words “West Virginia Department of Administration” and inserting in lieu thereof the words “of the Purchasing Division within the Department of Administration”.

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 327**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Deem, Fluharty, Gearheart, Hornbuckle and Longstreth.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4410) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**H. B. 4436**, Clarifying when a minor between the ages of 16 and 18 may be employed by or elected as a member of a volunteer fire department.

On motion of Delegate Cowles, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, section two, line one, by striking out the word “not” and inserting in lieu thereof the word “A”.

On page one, section two, line one, after the word “may”, by inserting the word “not”.

On page two, section two, line twenty-four, by striking out the word “not” and inserting in lieu thereof the word “A”.

On page two, section two, line twenty-four, after the word “may”, by inserting the word “not”.

On page two, section two, line twenty-seven, by striking out the word “not” and inserting in lieu thereof the word “A”.

On page two, section two, line twenty-seven, after the word “may”, by inserting the word “not”.

And,

On page two, section two, line thirty, after the word “requirements”, by inserting the word “of”.

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 328**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Deem, Fluharty, Gearheart and Longstreth.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4436) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

At the request of Delegate Cowles and by unanimous consent, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

### **Committee Reports**

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**S. B. 585**, Altering boundary line between Doddridge and Harrison counties,

And,

**Com. Sub. for S. B. 603**, Relating to proceedings for involuntary custody for examination,

And reports the same back, with amendment, with the recommendation that they each do pass, as amended.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**S. B. 242**, Requiring health insurance providers provide coverage for certain Lyme disease treatment,

And reports the same back with the recommendation that it do pass.

Delegate Shott, Chair of the Committee on the Judiciary submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 275**, Relating to tax on purchases of intoxicating liquors,

And reports the same back with the recommendation that it do pass, and with the recommendation that second reference of the bill to the Committee on Finance be dispensed with.

In the absence of objection, reference of the bill (Com. Sub. for S. B. 275) to the Committee on Finance was abrogated.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

**Com. Sub. for S. B. 392**, Reconfiguring membership of Emergency Medical Services Advisory Council,

**S. B. 463**, Establishing group to examine benefits and need of transferring milk rules and regulations from DHHR to Agriculture,

**Com. Sub. for S. B. 506**, Deregulating persons who perform work on heating, ventilating, and cooling systems,

And,

**Com. Sub. for S. B. 525**, Relating to certification for emergency medical training - mining,

And reports the same back, with amendment, with the recommendation that they each do pass, as amended.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

**S. B. 322**, Relating to employees of Department of Agriculture,



**S. B. 411**, Removing Commissioner of Bureau for Public Health from State Board of Sanitarians,

**S. B. 498**, Creating two-year pilot program allowing all-terrain or recreational vehicles in Cabwaylingo State Forest,

**Com. Sub. for S. B. 508**, Establishing State Trail Authority,  
And,

**Com. Sub. for S. B. 556**, Creating small business and minority populations economic and workforce development taskforce to assist Economic Development Authority,

And reports the same back with the recommendation that they each do pass.

Delegate Gearheart, Chair of the Committee on Roads and Transportation, submitted the following report, which was received:

Your Committee on Roads and Transportation has had under consideration:

**H. C. R. 11**, Charleston Police Department Captain Jerry D. Hill Memorial Bridge,

And reports back a committee substitute therefor, with a new title, as follows:

**Com. Sub. for H. C. R. 11** - "Requesting the Division of Highways to name the bridge number 20-61-13.51 (20A817), locally known as New Chesapeake Bridge, carrying WV Route 61 over Fields Creek in Kanawha County, the 'Charleston Police Capt. Jerry D. Hill Memorial Bridge'."

**H. C. R. 40**, U. S. Air Force SMSgt Billie E. "Bunky" Hodge Bridge,

And reports back a committee substitute therefor, with a new title, as follows:

**Com. Sub. for H. C. R. 40** - “Requesting the Division of Highways to name bridge number 41-1-12.89 (41A006), locally known as “Artie Bridge”, carrying County Route 1 over Clear Fork in Raleigh County, the ‘U. S. Air Force SMSgt Billie E. ‘Bunky’ Hodge Memorial Bridge’.”

**H. C. R. 54**, U. S. Army SPC 4 Thurman “Duwayne” Young Memorial Road,

And reports back a committee substitute therefor, with a new title, as follows:

**Com. Sub. for H. C. R. 54** - “Requesting the Division of Highways to name County Route 5/5, known as Jordan Creek Road, from its intersection with U.S. Route 119, to its intersection with County Route 5/3, known as Wills Creek Road, in Kanawha County, the ‘U. S. Army SPC Thurman “Duwayne” Young Memorial Road’.”

And,

**H. C. R. 85**, Requesting the legislatures and departments of transportation of Maryland, Pennsylvania, and Virginia to endorse and pursue the construction of a new four-lane, limited access highway,

And reports back a committee substitute therefor, with a new title, as follows:

**Com. Sub. for H. C. R. 85** - “Requesting the legislatures and departments of transportation of Maryland, Pennsylvania, and Virginia to endorse and pursue the construction of a new four-lane, limited access highway, extending Interstate Highway 99 from its present terminus at Bedford, Pennsylvania to Covington, Virginia.”

With the recommendation that the committee substitutes each be adopted, but that they first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolutions (Com. Sub. for H. C. R. 11, Com. Sub. for H. C. R. 40, Com. Sub. for H. C. R. 54 and Com. Sub. for H. C. R. 85) were each referred to the Committee on Rules.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**S. B. 632**, Allowing retired judicial officers recalled to service to avoid limit on temporary payments under certain circumstances,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 290**, Relating to DEP standards of water quality and effluent limitations,

And,

**Com. Sub. for S. B. 548**, Authorizing county commissions to pay election officials,

And reports the same back with the recommendation that they each do pass.

### **Messages from the Senate**

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title:

**S. C. R. 51** - “Extending the Committee of Conference relating to consideration of Engrossed Committee Substitute for House Bill 4013, *Clarifying venue in West Virginia state courts as it applies to nonresidents of the state.*”

*Resolved by the Legislature of West Virginia:*

That pursuant to Rule No. 3 of the Joint Rules of the Senate and House of Delegates, the Committee of Conference is hereby extended for a period of three days for the express purpose of consideration of matters of disagreement between the two houses as to extending the Committee of Conference relating to consideration of Engrossed Committee Substitute for House Bill 4013, *Clarifying venue in West Virginia state courts as it applies to nonresidents of the state.*

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the resolution (S. C. R. 51) to a committee was dispensed with, and it was taken up for immediate consideration.

On motion of Delegate Cowles, the resolution was amended on page one, line six, by striking out the word “three” and inserting in lieu thereof the word “one”.

The resolution, as amended, was then adopted.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

At the request of Delegate Cowles and by unanimous consent, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

### **Committee Reports**

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

**H. B. 4019**, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution,

And reports back a committee substitute therefor, with the same title, as follows:

**Com. Sub. for H. B. 4019** - "A Bill making appropriations of public money out of the Treasury in accordance with section fifty-one, article VI of the Constitution,"

With the recommendation that the committee substitute do pass.

At the respective requests of Delegate Cowles, and by unanimous consent, the bill (Com. Sub. for H. B. 4019) was taken up for immediate consideration, read a first time and ordered to second reading, with right to amend on third reading, and the rule was suspended to permit the consideration of amendments on that reading.

### **Leaves of Absence**

At the request of Delegate Cowles, and by unanimous consent, leave of absence for the day was granted Delegate Deem.

### **Miscellaneous Business**

Delegate Fast announced that he was absent on today when the vote was taken on Com. Sub. for S. B. 73, and that had he been present, he would have voted "Yea" thereon.

Delegate Pyles announced that he was absent on today when the vote was taken on Com. Sub. for S. B. 73, and that had he been present, he would have voted "Yea" thereon.

Delegate Boggs announced that he was absent on today when the vote was taken on Roll No. 312, and that had he been present, he would have voted "Yea" thereon.

Delegate Ellington noted to the Clerk that he was absent on today when the vote was taken on Roll No. 324 and had he been present, he would have voted “Yea” thereon.

Pursuant to House Rule 94b, Members filed forms with the Clerk’s Office to be removed as a cosponsor of the following bills:

- Delegate Summers for H. B. 4329
- Delegate Longstreth for H. B. 4471

Pursuant to House Rule 132, unanimous consent was requested and obtained to print the remarks of the following Members in the Appendix to the Journal:

- Delegates Barrett and Espinosa during the colloquy regarding the Conference Committee for Com. Sub. for H. B. 4145

At 7:45 p.m., the House of Delegates adjourned until 11:00 a.m., Tuesday, March 6, 2018.

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Tuesday, March 6, 2018

**FIFTY-SIXTH DAY**

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

Prayer was offered and the House was led in recitation of the Pledge of Allegiance.

The Clerk proceeded to read the Journal of Monday, March 5, 2018, being the first order of business, when the further reading thereof was dispensed with and the same approved.

**Conference Committee Report Availability**

At 11:36 a.m., the Clerk announced that the report of the Committee of Conference on **Com. Sub. for H. B. 4145**, Increasing the annual salaries of members of the West Virginia State Police, public school teachers and school service personnel, shall be available outside of the Clerk's Office.

Delegate Cowles moved that the provisions of Joint Rule 3 requiring a Conference Committee Report to lie over one day be suspended.

On this question, the yeas and nays were taken (**Roll No. 329**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, two thirds of the members present and voting having voted in the affirmative, the motion was adopted.

### Conference Committee Report

Delegate Espinosa, from the Committee of Conference on matters of disagreement between the two houses, as to

**Com. Sub. for H. B. 4145**, Increasing the annual salaries of members of the West Virginia State Police, public school teachers and school service personnel,

Submitted the following report, which was received:

Your Committee of Conference on the disagreeing votes of the two houses as to the Senate amendment to **Com. Sub. for H. B. 4145** having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That the Senate recede from its position as to their amendment to the bill.

Respectfully submitted,

Paul Espinosa, *Chair*  
Bill Anderson,  
Brent Boggs,

Ryan J. Ferns, *Chair*  
Craig Blair,  
Robert H. Plymale,

*Conferees on the part  
of the House of Delegates.*

*Conferees on the part  
of the Senate.*

On motion of Delegate Espinosa, the report of the Committee of Conference was adopted.

The bill, as amended by said report, was then put upon its passage.

Delegate Sobonya demanded the previous question. On this motion, the yeas and nays were demanded, which demand was sustained.

Having been ordered, the yeas and nays were taken (**Roll No. 330**), and there were—yeas 43, nays 56, absent and not voting 1, with the yeas and absent and not voting being as follows:



Yeas: Adkins, Ambler, Blair, Butler, Cooper, Criss, Dean, Ellington, Espinosa, Fast, Foster, Frich, Gearheart, Graves, Hanshaw, Harshbarger, Higginbotham, Hill, Hollen, Householder, Howell, Kelly, Martin, McGeehan, C. Miller, Moore, Pack, Paynter, Phillips, C. Romine, Rowan, Shott, Sobonya, Statler, Summers, Sypolt, Wagner, Walters, Ward, Westfall, White, Wilson and Zatezalo.

Absent and Not Voting: Deem.

So, a majority of the members present and voting not having voted in the affirmative, the motion was rejected.

On the passage of the bill, the yeas and nays were taken (**Roll No. 331**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4145) passed.

Delegate Cowles moved that the bill take July 1, 2018.

On this question, the yeas and nays were taken (**Roll No. 332**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4145) takes effect July 1, 2018.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

### Committee Reports

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 375**, Relating to farmers markets,

And,

**Com. Sub. for S. B. 443**, Terminating parental rights when certain conditions are met,

And reports the same back, with amendment, with the recommendation that they each do pass, as amended.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 401**, Requiring specified coverage in health benefit plans for treatment of substance abuse disorders,

**Com. Sub. for S. B. 491**, Establishing fee for expungement of certain criminal convictions,

And,

**Com. Sub. for S. B. 495**, Designating specific insurance coverages exempt from rate filing requirements,

And reports the same back, with amendment, with the recommendation that they each do pass, as amended.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

**Com. Sub. for S. B. 271**, Creating centralized Shared Services Section of Department of Administration,

And,

**Com. Sub. for S. B. 283**, Relating generally to procurement by state agencies,

And reports the same back, with amendment, with the recommendation that they each do pass, as amended.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

**Com. Sub. for S. B. 408**, Licensing of nursing homes and assisted living residences.

And,

**S. B. 612**, Relating to sale of municipal property,

And reports the same back with the recommendation that they each do pass.

Delegate Howell, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

**Com. Sub. for S. B. 313**, Waiving occupational fees and licensing requirements for certain low-income individuals, military families, and young workers,

**S. B. 468**, Changing date and recipients for submission of Auditor's annual report.

And,

**S. B. 592**, Adding examination of advanced care technician for firefighter paramedic.

And reports the same back, with amendment, with the recommendation that they each do pass, as amended.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. J. R. 3**, Judicial Budget Oversight Amendment,

And reports the same back, with amendment, with the recommendation that it be adopted, as amended.

### **Messages from the Senate**

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4142**, Providing certain employees of the Division of Corrections, Division of Juvenile Services, and West Virginia Regional Jail and Correctional Facility Authority a salary adjustment.

On motion of Delegate Cowles, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, section four-b, by striking out all of lines four through nine and inserting in lieu thereof the following:

“(b) The Legislature hereby directs that a pay equity salary adjustment and increase be provided to all employees of the Division of Corrections, Division of Juvenile Services, and the West Virginia Regional Jail and Correctional Facility Authority, regardless of where the employee reports to work. This salary adjustment shall be for a total of \$6,000 apportioned over a three-year period as follows” and a colon.

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 333**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4142) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to

**Com. Sub. for S. B. 46**, Permitting pharmacists to inform customers of lower-cost alternative drugs.

On motion of Delegate Cowles, the House of Delegates refused to recede from its amendment and requested the Senate to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Sobonya, Hollen and Byrd.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with a title amendment, and the passage, as amended, of

**Com. Sub. for S. B. 451**, Relating generally to hunting and fishing.

On motion of Delegate Cowles, the House concurred in the following Senate title amendment:

**Com. Sub. for S. B. 451** - “A Bill to amend and reenact §20-2-5 of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-7-9 of said code, all relating generally to hunting and fishing; authorizing the use of certain technologies for hunting coyote, fox, racoon, opossum, and skunk; regulating firearm use and possession in certain places; prohibiting the use of a drone or unmanned aircraft to wound, harass, or transport wildlife; allowing certain persons to carry firearms, including handguns, rifles, or shotguns, for self-defense with certain exceptions; creating a misdemeanor and providing penalties for catching, taking, killing or attempting to catch, take, or kill any fish by any means within 200 feet of agency personnel stocking fish into public waters; removing a limitation on the starting time for Sunday hunting on private lands with the landowner’s permission; requiring crossbows and bows be cased when in a motor vehicle during certain times; prohibiting nocked bows from being transported in a motor vehicle; providing that the misdemeanor offenses of hunting, trapping, or fishing on the lands of another person, entering posted lands, hunting on private land on Sunday without written permission, and destroying posted land signs will all carry penalties equivalent to the penalty for the offense of criminal trespass; providing increased penalties upon conviction of second and subsequent violations of certain natural resources laws; permitting Sunday hunting on public lands; permitting noodling, or fishing for catfish using one’s bare hands; and making technical changes.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 334**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 451) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the adoption, as amended, of

**S. C. R. 51**, Extending conference committee relating to Engrossed Committee Substitute for HB 4013.

### **Special Calendar**

#### **Third Reading**

**Com. Sub. for S. B. 7**, Relating to claims under Wage Payment and Collection Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 335**), and there were—yeas 43, nays 56, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Adkins, Ambler, Anderson, Atkinson, Blair, Capito, Cooper, Cowles, Espinosa, A. Evans, Foster, Frich, Gearheart, Graves, Hamrick, Hanshaw, Harshbarger, Higginbotham, Hill, Hollen, Householder, Howell, Kessinger, Lane, C. Miller, Moore, Nelson, Overington, Pack, Queen, C. Romine, R. Romine, Rowan, Shott, Sobonya, Statler, Sypolt, Wagner, Walters, Westfall, Wilson, Zatezalo and Mr. Speaker, Mr. Armstead.

Absent and Not Voting: Deem.

So, a majority of the members present and voting not having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 7) rejected.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

### **Reordering of Calendar**

Delegate Cowles announced that the Committee on Rules had transferred Com. Sub. for S. B. 116 and S. B. 297, on Second

Reading, Special Calendar, to the House Calendar; Com. Sub. for H. B. 4019, to the foot of the calendar; and Com. Sub. for S. B. 508, on First Reading, Special Calendar, to the House Calendar.

## Special Calendar

### Third Reading

- continued -

**S. B. 47**, Requiring Defense Department advocacy groups be notified in abuse or neglect of military person's child; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 336**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Deem and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 47) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**Com. Sub. for S. B. 102**, Creating WV Uniform Fiduciary Access to Digital Assets Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 337**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Fast.

Absent and Not Voting: Deem and Walters.



So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 102) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

**Com. Sub. for S. B. 102** - “A Bill to amend and reenact §39B-2-101 of the Code of West Virginia, 1931, as amended; to amend and reenact §39B-3-101 of said code; and to amend said code by adding thereto a new article, designated §44-5B-1, §44-5B-2, §44-5B-3, §44-5B-4, §44-5B-5, §44-5B-6, §44-5B-7, §44-5B-8, §44-5B-9, §44-5B-10, §44-5B-11, §44-5B-12, §44-5B-13, §44-5B-14, §44-5B-15, §44-5B-16, §44-5B-17, §44-5B-18, and §44-5B-19, all relating to the Uniform Power of Attorney Act and the West Virginia Uniform Fiduciary Access to Digital Assets Act; providing that an agent under power of attorney may exercise authority over the content of electronic communications sent or received by the principal; clarifying the ability of an agent under a power of attorney to take self-benefitting actions; providing code references and additional language to the statutory form for power of attorney; creating the West Virginia Uniform Fiduciary Access to Digital Assets Act; providing a short title; defining certain terms; setting forth to whom the article applies; providing for user direction for disclosure of assets with or without an online tool; addressing terms of service agreements; setting forth procedure for disclosing digital assets by custodian; allowing custodian to assess reasonable administrative charges; allowing custodian or fiduciary to seek court order when request imposes an undue burden; providing for disclosure of content of electronic communications and other digital assets of deceased users and setting forth required documentation; providing for disclosure of content of electronic communications and digital assets of a principal by custodian and setting forth required documentation; addressing disclosure of digital assets held in trust when the trustee is an original owner or user; addressing disclosure of contents of electronic communications held in trust and other digital assets when trustee is not an original owner or user and setting forth required documentation; addressing disclosure of digital assets to conservator of a protected person and setting forth required

documentation; setting forth fiduciary's duties and authority; providing for custodian's compliance and immunity; setting time frame for compliance by custodian; authorizing application for court order for noncompliance; allowing custodian to notify user, deny a request, or receive a court order; providing for uniformity of application and construction of article; addressing relation of article to Electronic Signatures in Global and National Commerce Act; and providing for severability of article."

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**Com. Sub. for S. B. 133**, Exempting renewal of certain contracts entered into during declared state of emergency; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 338**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Deem and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 133) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

**Com. Sub. for S. B. 133** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-3-3c, relating to exempting certain contracts related to recovery from a declared state of emergency from purchasing requirements; clarifying exemption from purchasing requirements for certain contracts entered into during a declared state of emergency; exempting from purchasing requirements renewals of certain contracts entered into during a declared state of emergency; clarifying that with respect to the renewal of certain contracts entered into during a declared state of emergency,

recovery does not include permanent reconstruction after the initial state of emergency has ended; exempting from purchasing requirements the purchase of goods or services from the federal government or an agency thereof if the purchase of those goods and services is directly and solely related to the recovery from a declared state of emergency; requiring the Director of the Division of Homeland Security and Emergency Management to certify eligibility for exemption; setting forth record-keeping requirements; and defining the term ‘directly and solely related’.”

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**S. B. 272**, Relating generally to drug control; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 339**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Deem, Foster and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 272) passed.

On motion of Delegate Ellington, the title of the bill was amended to read as follows:

**Com. Sub. for S. B. 272** - “A Bill to amend and reenact §16-5T-4 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §16-5T-6; to amend and reenact §16-46-4 of said code; and to amend said code by adding thereto a new section, designated §16-46-7, all relating to drug control; requiring reports to the Office of Drug Control Policy; allowing the Office of Drug Control Policy to establish a pilot program for community response to persons who have experienced a recent overdose; requiring governmental agencies to require first responders to carry Naloxone subject to certain

conditions; requiring governmental agencies to require first responders to be trained in naloxone use; providing that naloxone is subject to funding and availability; and providing for a statewide standing order for Naloxone by the state health officer.”

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**S. B. 298**, Authorizing county assessors make separate entries in landbooks when real property is partly used for exempt and partly for nonexempt purposes; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 340**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Folk and McGeehan.

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 298) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**S. B. 319**, Allowing individuals who completed home schooling be eligible for PROMISE scholarship without equivalent diploma; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 341**), and there were—yeas 93, nays 6, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Isner, Lynch, Marcum, Pushkin, Pyles and Wagner.

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 319) passed.

On motion of Delegate Espinosa, the title of the bill was amended to read as follows:

**Com. Sub. for S. B. 319** - “A Bill to amend and reenact §18C-7-6 of the Code of West Virginia, 1931, as amended, relating to allowing, in certain instances, individuals completing a secondary education program in a public, private, or home school and individuals obtaining a GED or equivalent to be eligible for the PROMISE scholarship.”

Delegate Cowles moved that the bill take effect from July 1, 2018.

On this question, the yeas and nays were taken (**Roll No. 342**), and there were—yeas 96, nays 3, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Lynch, Marcum and Pyles.

Absent and Not Voting: Deem.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 319) takes effect from July 1, 2018.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**S. B. 365**, Relating to Young Entrepreneur Reinvestment Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 343**), and there were—yeas 94, nays 5, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Barrett, Blair, Cowles, Summers and Wilson.

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 365) passed.

On motion of Delegate Hill, the title of the bill was amended to read as follows:

**S. B. 365** - "A Bill to amend and reenact §59-1-2c of the Code of West Virginia, 1931, as amended, relating to the Young Entrepreneur Reinvestment Act; eliminating sunset date for expiration of fee waivers."

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**Com. Sub. for S. B. 412**, Relating to authority of county litter control officers; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 344**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 412) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**S. B. 427**, Modifying form of notice for certain tax delinquencies; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 345**), and there were—yeas 96, nays 3, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Butler, Graves and Sponaugle.

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 427) passed.

An amendment to the title of the bill, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the title to read as follows:

**S. B. 427** - “A Bill to amend and reenact §11-6-23 of the Code of West Virginia, 1931, as amended, relating to allowing the Secretary of State to give written notice of delinquency in the payment of certain taxes to certain taxpayers by first class mail.”

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**S. B. 441**, Relating to health care provider taxes; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 346**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 441) passed.

Delegate Cowles moved that the bill take effect July 1, 2018.

On this question, the yeas and nays were taken (**Roll No. 347**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 441) takes effect July 1, 2018.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**Com. Sub. for S. B. 456**, Physical Therapy Licensure Compact Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 348**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 456) passed.

On motion of Delegate Ellington, the title of the bill was amended to read as follows:

**Com. Sub. for S. B. 456** - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §30-41-1, §30-41-2, and §30-41-3, all relating to creating the Physical Therapy Licensure Compact Act; authorizing the Board of Physical Therapy to execute the compact; setting forth purposes; setting forth the purposes for the compact; defining terms; providing participation requirements; providing licensure requirements; establishing a licensure process; establishing application process; providing for fees; providing requirements for



renewal of a license; providing for joint investigation; establishing the effect of disciplinary actions; creating the commission to administer the compact; setting forth commission composition; establishing the authority of the commission; providing immunity; establishing commission rule-making authority; establishing licensure information system; providing for compact administrators; providing for judicial review; providing for state enforcement; providing the commission may intervene in proceedings; providing for legal enforcement of compact rules and provisions; providing for termination or withdrawal of a member state; providing for compact oversight; providing dispute resolution; setting forth provisions for resolution of disputes; establishing provisions for state eligibility; setting forth the circumstances under which the compact will become effective; providing for amending the compact; setting forth procedures for states to withdraw from the compact; providing process to amend the compact; establishing provisions related to severability; and establishing an effective date.”

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

At 1:05 p.m., on motion of Delegate Cowles, the House of Delegates recessed for one hour.

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### **Afternoon Session**

\* \* \* \* \*

The House of Delegates was called to order by the Honorable Tim Armstead, Speaker.

### **Messages from the Senate**

A message from the Senate, by

The Clerk of the Senate, announced the adoption of the report of the Committee of Conference on and the passage, as amended by said report, to take effect July 1, 2018, of

**Com. Sub. for H. B. 4145**, Increasing the annual salaries of members of the West Virginia State Police, public school teachers and school service personnel.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**Com. Sub. for S. B. 110**, Requiring certain licensees notify law enforcement or EMS of life-threatening emergency on premises.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**Com. Sub. for S. B. 307**, Declaring fundraising on state highway or roadway by volunteer fire department is not obstruction or nuisance.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**S. B. 346**, Permitting full-time nonresident students purchase lifetime resident hunting, trapping and fishing licenses.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, to take effect from passage, of

**Com. Sub. for S. B. 395**, Providing for judicial review of appealed decisions of Air Quality Review Board, Environmental Quality Board and Surface Mine Board.

## Special Calendar

### Third Reading

- continued -

**Com. Sub. for S. B. 493**, Relating to guaranty associations; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 349**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Deem and Hill.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 493) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**Com. Sub. for S. B. 499**, Requiring one year of certain approved postgraduate clinical training for persons with foreign medical degrees; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 350**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Deem and Hill.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 499) passed.

On motion of Delegate Ellington, the title of the bill was amended to read as follows:

**Com. Sub. for S. B. 499** - “A Bill to amend and reenact §30-3-10 of the Code of West Virginia, 1931, as amended, relating to the licensing by the Board of Medicine; clarifying certain requirements to obtain licensure; reorganizing the minimum licensing requirements for a license; providing the completion of a certain amount of graduate clinical training.”

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**Com. Sub. for S. B. 510**, Designating hospitals for stroke treatment; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 351**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Deem and Hill.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 510) passed.

On motion of Delegate Ellington, the title of the bill was amended to read as follows:

**Com. Sub. for S. B. 510** - “A Bill to amend and reenact §16-5B-18 of the Code of West Virginia, 1931, as amended, relating to designation of hospitals for stroke treatment; adding a designation as a thrombectomy-capable stroke center; modifying the makeup of the advisory committee; providing certain functions to the advisory committee; permitting the advisory committee to make recommendations to the office of Emergency Services; staggering the terms of the advisory committee members; providing for a database; and prohibiting certain inspections of hospitals conducted by the Department of Health and Human Resources.”

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**Com. Sub. for S. B. 522**, Relating generally to Administrative Procedures Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 352**), and there were—yeas 94, nays 4, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Fleischauer, Miley, Pushkin and Rowe.

Absent and Not Voting: Deem and Hill.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 522) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**S. B. 545**, Relating to driving privileges and requirements for persons under 18; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 353**), and there were—yeas 68, nays 30, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Barrett, Butler, Byrd, Capito, Caputo, E. Evans, Fast, Fluharty, Folk, Frich, Gearheart, Hamrick, Harshbarger, Hicks, Higginbotham, Howell, Kessinger, Longstreth, Marcum, Martin, Maynard, McGeehan, Moore, Paynter, Pushkin, Robinson, Sponaugle, Summers, Upson and Wilson.

Absent and Not Voting: Deem and Hill.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 545) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

**S. B. 545** - “A Bill to amend and reenact §17B-2-3a of the Code of West Virginia, 1931, as amended, relating to driving privileges and requirements for persons under the age of 18; prohibiting a holder of a level three, full Class E license who is under the age of 18 years from using a wireless communication device while operating a motor vehicle and specifying exception; and making violations of level-three license terms and conditions subject to the penalty provision.”

Delegate Cowles moved that the bill take effect from passage.

On this question, the yeas and nays were taken (**Roll No. 354**), and there were—yeas 84, nays 14, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Barrett, Fluharty, Folk, Howell, Isner, Martin, McGeehan, Moore, Paynter, Pushkin, Robinson, Sponaule, Summers and Wilson.

Absent and Not Voting: Deem and Hill.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 545) takes effect from passage.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

At 2:53 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 6:30 p.m.

\* \* \* \* \*

### **Evening Session**

\* \* \* \* \*

The House of Delegates was called to order by the Honorable Tim Armstead, Speaker.

### **Conference Committee Report Availability**

At 7:15 p.m., the Clerk announced that the report of the Committee of Conference on **Com. Sub. for H. B. 4013**, Clarifying venue in West Virginia state courts as it applies to nonresidents of the state, shall be available in the Clerk's Office.

### **Reordering of the Calendar**

Delegate Cowles announced that the Committee on Rules had transferred Com. Sub. for S. B. 273, on Second Reading, Special Calendar, to the House Calendar; and S. B. 632, on First Reading, Special Calendar, to the House Calendar.

### **Messages from the Senate**

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to recede from its amendment and requested the House of Delegates to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses as to

**Com. Sub. for H. B. 2607**, Extending the maximum period of confinement a judge may impose for certain, first-time probationary violations.

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Trump, Weld and Woelfel.

On motion of Delegate Cowles, the House of Delegates agreed to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Foster, Sobonya and Canestraro.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to recede from its amendment and requested the House of Delegates to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses as to

**Com. Sub. for H. B. 2995**, Permitting certain animal euthanasia technicians who have been certified by other states be certified animal euthanasia technicians in West Virginia.

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Smith, Maynard and Baldwin.

On motion of Delegate Cowles, the House of Delegates agreed to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Hamrick, Sybolt and Lynch.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to recede from its amendment and requested the House of Delegates to agree to the appointment of a Committee of



Conference of three from each house on the disagreeing votes of the two houses as to

**Com. Sub. for H. B. 4186**, Relating generally to guaranteed asset protection waivers.

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Rucker, Azinger and Beach.

On motion of Delegate Cowles, the House of Delegates agreed to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Fast, Overington and Lovejoy.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

## **Special Calendar**

### **Second Reading**

- continued -

**Com. Sub. for S. B. 36**, Relating generally to DNA testing; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 51**, Relating to domestic relations; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page six, section two hundred six, line eight, after the words "have a", by inserting the word "meaningful".

On page seven, section two hundred six, after line forty, by inserting a new subsection, designated subsection (b), to read as follows:

“(b) The court shall not consider the allocation of custodial responsibility arising from temporary arrangements after separation, whether those arrangements are consensual or by court order.”

And,

By relettering the remaining subsections.

Delegate Fleischauer moved to amend the on page six, section two hundred six, line fourteen, following the semicolon, by inserting a new paragraph, designated (3), to read as follows:

“(3) The proportion of time each parent spent performing caretaking functions for the child prior to the parents’ separation, or if the parents never lived together, before the filing of the action.”

And, renumbering the subsequent paragraphs accordingly.

The question before the House being the adoption of the amendment to the amendment, the same was put and did not prevail.

The bill was then ordered to third reading.

**Com. Sub. for S. B. 261**, Transferring certain powers and programs of WV Affordable Housing Trust Fund to WV Housing Development Fund; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“CHAPTER 11. TAXATION.****ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.****§11-15-4c. Collection of fee in addition to the consumers sales tax for sales of mobile factory-built homes; deposit of additional fee in West Virginia Affordable Housing Trust Fund.**

(a) There is imposed, in addition to the sales tax imposed by the provisions of this article and §11-15A-1 *et seq.* of this code, a fee of \$20 on all sales by licensed dealers of factory-built homes as that term is defined in §37-15-2 of this code to be collected as provided in §11-15B -1 *et seq.* of this code and remitted to the Tax Commissioner to be deposited by the commissioner in the ~~West Virginia Affordable Housing Trust Fund~~ Affordable Housing Fund, as provided in ~~§31-18D-1 *et seq.*~~ §31-18-20d of this code.

(b) The moneys collected from this additional fee shall be segregated from other funds ~~in the West Virginia Affordable Housing Trust Fund~~ of the West Virginia Housing Development Fund and shall be accounted for separately. ~~Not more than ten percent of these additional~~ None of these moneys may be expended by the ~~West Virginia Affordable Housing Trust Fund~~ Housing Development Fund to defray administrative and operating costs and expenses actually incurred by the West Virginia ~~Affordable Housing Trust Fund~~ Housing Development Fund.

**ARTICLE 22. EXCISE TAX ON PRIVILEGE OF TRANSFERRING REAL PROPERTY.****§11-22-2. Rate of tax; when and by whom payable; additional county tax.**

(a) Every person who delivers, accepts or presents for recording any document, or in whose behalf any document is delivered, accepted or presented for recording, is subject to pay for, and in respect to the transaction or any part thereof, a state excise tax upon the privilege of transferring title to real estate at the rate of \$1.10 for each \$500 value or fraction thereof as represented by the document as defined in §11-22-1 of this code. The state tax is

payable at the time of delivery, acceptance or presenting for recording of the document. In addition to the state excise tax described in this subsection, there is assessed a fee of \$20 upon the privilege of transferring real estate for consideration. The clerk of the county commission shall collect the additional \$20 fee before recording a transfer of title to real estate and shall deposit the moneys from the additional fees into the ~~West Virginia Affordable Housing Trust Fund~~ Affordable Housing Fund as provided in ~~§31-18D-1 et seq.~~ §31-18-20d of this code. The moneys collected from this additional fee shall be segregated from other funds in the ~~West Virginia Affordable Housing Trust Fund~~ of the West Virginia Housing Development Fund and shall be accounted for separately. ~~Not more than ten percent of these additional~~ None of these moneys may be expended by the ~~West Virginia Affordable Housing Trust Fund~~ Housing Development Fund to defray administrative and operating costs and expenses actually incurred by the ~~West Virginia Affordable Housing Trust Fund~~ Housing Development Fund. The West Virginia Housing Development Fund as fiscal agent of the ~~West Virginia Affordable Housing Trust Fund~~ shall publish monthly on the Internet site an accounting of all revenue deposited into the fund during the month and a full disclosure of all expenditures from the fund including the group receiving funds, their location and any contractor awarded the construction contract. ~~Additionally, the West Virginia Affordable Housing Trust Fund is to provide an annual report to the Joint Committee on Government and Finance before December 1, 2007, and each year thereafter~~

(b) Effective January 1, 1968, and thereafter, there is imposed an additional county excise tax for the privilege of transferring title to real estate at the rate of 55¢ for each \$500 value or fraction thereof as represented by such document as defined in ~~section one of this article~~ §11-22-1 of this code, which county tax shall be payable at the time of delivery, acceptance or presenting for recording of such document: *Provided*, That after July 1, 1989, the county may increase said excise tax to an amount equal to the state excise tax. The additional tax hereby imposed is declared to be a county tax and to be used for county purposes: *Provided, however*, That after July 1, 2017, the county may increase the excise tax to

an amount not to exceed \$1.65 for each \$500 value, or fraction thereof, as represented by a document as defined in ~~section one of this article~~ §11-22-1 of this code: *Provided further*, That only one such state tax and one such county tax shall be paid on any one document and shall be collected in the county where the document is first admitted to record and the tax shall be paid by the grantor therein unless the grantee accepts the document without such tax having been paid, in which event such tax shall be paid by the grantee: *And provided further*, That on any transfer of real property from a trustee or a county clerk transferring real estate sold for taxes, such tax shall be paid by the grantee. The county excise tax imposed under this section may not be increased in any county unless the increase is approved by a majority vote of the members of the county commission of such county. Any county commission intending to increase the excise tax imposed in its county shall publish a notice of its intention to increase such tax not less than thirty days nor more than sixty days prior to the meeting at which such increase will be considered, such notice to be published as a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code and the publication area shall be the county in which such county commission is located.

## CHAPTER 31. CORPORATIONS.

### ARTICLE 18. WEST VIRGINIA HOUSING DEVELOPMENT FUND.

#### §31-18-3. Definitions.

As used in this article, unless the context otherwise requires:

(1) ‘Affordable Housing Fund’ means the affordable housing fund created and established by the Housing Development Fund in accordance with §31-18-20d of this code.

~~(1)~~ (2) ‘Annual sinking fund payment’ means the amount of money specified in the resolution or resolutions authorizing term bonds as payable into a sinking fund during a particular calendar year for the retirement of term bonds at maturity after such calendar year, but shall not include any amount payable by reason only of the maturity of a bond.

~~(2)~~ (3) 'Development costs' means the costs approved by the Housing Development Fund as appropriate expenditures by the Housing Development Fund or by sponsors, for land development, residential housing, or nonresidential projects within this state, including, but not limited to:

(a) Payments for options to purchase proposed sites, necessary easements and other related property rights, deposits on contracts of purchase, or, with prior approval of the Housing Development Fund, payments for the purchase of such properties;

(b) Legal and organizational expenses, including payments of attorneys' fees, utility and governmental application and filing fees and expenses, project manager and clerical staff salaries, office rent and other incidental expenses;

(c) Payment of fees and expenses for preliminary feasibility studies and costs estimates and advances for planning, engineering and architectural work;

(d) Expenses for tenant surveys and market analyses; and

(e) Necessary application, approval and other fees.

~~(3)~~ (4) 'Eligible persons and families' means:

(a) Persons and families of low and moderate income; or

(b) Persons or families of higher income to the extent the Housing Development Fund shall find and determine, by resolution, that construction of new or rehabilitated residential housing for occupancy by them will cause to be vacated existing sanitary, decent and safe residential housing available at prices or rentals which persons and families of low and moderate income can afford; or

(c) Persons or families of higher income to the extent the Housing Development Fund shall find and determine, by resolution, that construction of new or rehabilitated multifamily rental housing or new, rehabilitated or existing home ownership housing in the state for occupancy by them will further economic

growth, increase the housing stock in the state by eliminating substandard or deteriorating housing conditions, or provide additional housing opportunities in the state; or

(d) Persons who because of age or physical disability are found and determined by the Housing Development Fund, by resolution, to require residential housing of a special location or design in order to provide them with sanitary, decent and safe residential housing; or

(e) Persons and families for whom, as found and determined by the Housing Development Fund by resolution, construction of new or rehabilitated residential housing in some designated area or areas of the state is necessary for the purpose of retaining in, or attracting to, such area or areas qualified manpower resources essential to modern mining, industrial and commercial operations and development in such area or areas.

~~(4)~~ (5) 'Federally insured construction loan' means a construction loan for land development, residential housing or nonresidential projects, which are either secured or guaranteed, in whole or in part, by a federally insured mortgage or a federal mortgage, or which are insured or guaranteed, in whole or in part, by the United States or an instrumentality thereof, or a commitment by the United States or an instrumentality thereof to insure such loan.

~~(5)~~ (6) 'Federally insured mortgage' means a mortgage loan for land development, residential housing or nonresidential projects with a commitment by the United States or an instrumentality thereof to insure or guarantee such a mortgage.

~~(6)~~ (7) 'Federal mortgage' means a mortgage loan for land development, residential housing or nonresidential projects made by the United States or an instrumentality thereof, or a commitment by the United States or an instrumentality thereof to make such a mortgage loan.

~~(7)~~ (8) 'Housing development fund' means the West Virginia Housing Development Fund heretofore created and established by §31-18-4 of this code.

~~(8)~~ (9) 'Land development' means the process of acquiring land for residential housing construction or nonresidential projects or of making, installing or constructing improvements, including waterlines and water supply installations, sewer lines and sewage disposal installations, steam, gas, telephone and telecommunications and electric lines and installations, roads, railroad spurs, docking and shipping facilities, streets, curbs, gutters, sidewalks, drainage and flood control facilities, whether on or off the site, which the Housing Development Fund deems necessary or desirable to prepare such land for construction within this state.

~~(9)~~ (10) 'Land development fund' means the land development fund which may be created and established by the Housing Development Fund in accordance with §31-18-20a of this code.

~~(10)~~ (11) 'Minimum bond insurance requirement' means, as of any particular date of computation, an amount of money equal to the greatest of the respective amounts, for the then current or any future calendar year, of annual debt service of the Housing Development Fund on all outstanding mortgage finance bonds, such annual debt service for any calendar year being the amount of money equal to the aggregate of: (a) All interest payable during such calendar year on such mortgage finance bonds on said date of computation; plus (b) the principal amount of such mortgage finance bonds outstanding which matures during such calendar year, other than mortgage finance bonds for which annual sinking fund payments have been or are to be made in accordance with the resolution authorizing such bonds; plus (c) the amount of all annual sinking fund payments payable during such calendar year with respect to any such mortgage finance bonds, all calculated on the assumption that bonds will after said date of computation cease to be outstanding by reason, but only by reason, of the payment of bonds when due, and the payment when due and application in accordance with the resolution authorizing such bonds of all such sinking fund payments payable at or after said date of computation.



~~(11)~~ (12) ‘Mortgage finance bonds’ means bonds issued or to be issued by the Housing Development Fund and secured by a pledge of amounts payable from the mortgage finance bond insurance fund in the manner and to the extent provided in §31-18-20b of this code.

~~(12)~~ (13) ‘Mortgage finance bond insurance fund’ means the special trust fund created and established in the State Treasury in accordance with §31-18-20b of this code.

~~(13)~~ (14) ‘Nonresidential project’ means a project in the state, whether or not directly related to the providing of residential housing, determined by the Housing Development Fund as likely to foster and enhance economic growth and development in the area of the state in which such project is developed, for retail, commercial, industrial, community improvement or preservation or other proper purpose, including tourism and recreational housing, land, air or water transportation facilities, facilities for vocational or other training or to provide medical care and other special needs of persons residing in the state, sports complexes and cultural, artistic and other exhibition centers, industrial or commercial projects and facilities, mail order, wholesale and retail sales facilities and other real or personal properties including facilities which are owned or leased by this state, any county or municipality or other public body within the state, and includes, without limitation, the process of acquiring, holding, operating, planning, financing, demolition, construction, renovation, leasing or otherwise disposing of such project or any part thereof or interest therein. Any such project may include appurtenant machinery and equipment.

~~(14)~~ (15) ‘Operating loan fund’ means the operating loan fund which may be created and established by the Housing Development Fund in accordance with §31-18-19 of this code.

~~(15)~~ (16) ‘Persons and families of low and moderate income’ means persons and families, irrespective of race, creed, national origin or sex, determined by the Housing Development Fund to require such assistance as is made available by this article on account of personal or family income not sufficient to afford

sanitary, decent and safe housing, and to be eligible or potentially eligible to occupy residential housing constructed and financed, wholly or in part, with federally insured construction loans, federally insured mortgages, federal mortgages or with other public or private assistance, or with uninsured construction loans, or uninsured mortgage loans, and in making such determination the fund shall take into account the following: (a) The amount of the total income of such persons and families available for housing needs; (b) the size of the family; (c) the cost and condition of housing facilities available; (d) the eligibility of such persons and families for federal housing assistance of any type predicated upon low or moderate income basis; and (e) the ability of such persons and families to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing sanitary, decent and safe housing: *Provided*, That to the extent found and determined by the Housing Development Fund, by resolution, to be necessary or appropriate for the purposes of eliminating undesirable social conditions and permanently eliminating slum conditions, the income limitation requirements of this article may be waived as to any persons or families who are eligible to occupy residential housing constructed in whole, or in part, with federally insured construction loans, federally insured mortgages or federal mortgages under housing assistance or mortgage insurance programs of the United States, or an instrumentality thereof, predicated upon any low or moderate income basis.

~~(16)~~ (17) 'Residential housing' means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for residential housing for occupancy by eligible persons and families, including, but not limited to, facilities for temporary housing and emergency housing, nursing homes and intermediate care facilities, and such other nonhousing facilities as may be incidental or appurtenant thereto.

~~(17)~~ (18) 'Special bond insurance commitment fee' means a fee in the amount of one per centum of the total principal amount of each loan which is to be temporarily or permanently financed

from the proceeds of mortgage finance bonds, other than a federally insured construction loan, a federally insured mortgage or a federal mortgage, or an amount equal to an equivalent discount on each loan purchased or invested in by the Housing Development Fund from the proceeds of mortgage finance bonds, other than a federally insured construction loan, a federally insured mortgage or a federal mortgage, and which may be payable from the proceeds of such bonds or any other source available to the Housing Development Fund for such use: *Provided*, That if the period of time between the first disbursement of proceeds of such loan and the date upon which it is specified that the first repayment of principal of such a loan shall be payable exceeds twelve months, an additional amount computed on the basis of one twelfth of one per centum per month on the total principal amount of such loan over the number of months of such period of time in excess of twelve months shall be included in such fee.

~~(18)~~ (19) 'Special bond insurance premium' means: (i) A fee at the rate of one half of one percent per annum on the outstanding principal balance which the Housing Development Fund shall charge the borrower of a mortgage loan, or of a loan secured by a mortgage, financed from the proceeds of mortgage finance bonds, other than a federally insured construction loan, a federally insured mortgage or a federal mortgage, which shall accrue from a date which is one month prior to the date on which the first installment payment of principal of such a loan is payable and which shall be payable thereafter in monthly installments on the same day of each successive month that installment payments of principal of such a loan are payable; and (ii) with respect to any loan, other than a federally insured construction loan, a federally insured mortgage or a federal mortgage, purchased, or invested in with such proceeds, an equivalent amount which the Housing Development Fund shall set aside from payments it receives on such loan or from any other source available to the Housing Development Fund for such use.

~~(19)~~ (20) 'State sinking fund commission' means the commission known as such and continued in existence pursuant to §13-3-1 *et seq.* of this code and any body, board, person or

commission which shall, by law, hereafter succeed to the powers and duties of such commission.

~~(20)~~ (21) ‘Temporary housing’ means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for temporary residential housing, including, but not limited to, shelters for homeless people, housing for victims of floods and other disasters, shelters for abused or battered persons and their children, housing for families with hospitalized family members, housing for students and student families, and housing for the handicapped and such other nonhousing facilities as may be incidental or appurtenant thereto.

~~(21)~~ (22) ‘Uninsured construction loans’ means a construction loan for land development, residential housing or nonresidential projects which is not secured by either a federally insured mortgage or a federal mortgage, and which is not insured by the United States or an instrumentality thereof, and as to which there is no commitment by the United States or an instrumentality thereof to provide insurance.

~~(22)~~ (23) ‘Uninsured mortgage’ and ‘uninsured mortgage loan’ means mortgage loans for land development, residential housing or nonresidential projects which are not insured or guaranteed by the United States or an instrumentality thereof, and as to which there is no commitment by the United States or an instrumentality thereof to provide insurance.

### **§31-18-6. Corporate powers.**

The Housing Development Fund is hereby granted, has and may exercise all powers necessary or appropriate to carry out and effectuate its corporate purpose, including, but not limited to, the following:

(1) To make or participate in the making of federally insured construction loans to sponsors of land development, residential housing or nonresidential projects. Such loans shall be made only

upon determination by the Housing Development Fund that construction loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(2) To make temporary loans, with or without interest, but with such security for repayment as the Housing Development Fund determines reasonably necessary and practicable, from the operating loan fund, if created, established, organized and operated in accordance with the provisions of §31-18-19 of this code, to defray development costs to sponsors of land development, residential housing or nonresidential projects which are eligible or potentially eligible for federally insured construction loans, federally insured mortgages, federal mortgages or uninsured construction loans or uninsured mortgage loans;

(3) To make or participate in the making of long-term federally insured mortgage loans to sponsors of land development, residential housing or nonresidential projects. Such loans shall be made only upon determination by the Housing Development Fund that long-term mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(4) To establish residential housing and nonresidential and land development projects for counties declared to be in a disaster area by the Federal Emergency Management Agency or other agency or instrumentality of the United States or this state;

(5) To accept appropriations, gifts, grants, bequests and devises and to utilize or dispose of the same to carry out its corporate purpose;

(6) To make and execute contracts, releases, compromises, compositions and other instruments necessary or convenient for the exercise of its powers, or to carry out its corporate purpose;

(7) To collect reasonable fees and charges in connection with making and servicing loans, notes, bonds, obligations, commitments and other evidences of indebtedness, and in

connection with providing technical, consultative and project assistance services;

(8) To invest any funds not required for immediate disbursement in any of the following securities:

(i) Direct obligations of or obligations guaranteed by the United States of America or for the payment of the principal and interest on which the full faith and credit of the United States of America is pledged;

(ii) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Banks for cooperatives; federal intermediate credit banks; federal home loan bank system; export-import bank of the United States; federal land banks; Tennessee valley authority; United States postal service; inter-American development bank; international bank for reconstruction and development; small business administration; Washington metropolitan area transit authority; general services administration; federal financing bank; federal home loan mortgage corporation; student loan marketing association; farmer's home administration; the federal national mortgage association or the government national mortgage association; or any bond, debenture, note, participation certificate or other similar obligation to the extent such obligations are guaranteed by the government national mortgage association or federal national mortgage association or are issued by any other federal agency and backed by the full faith and credit of the United States of America;

(iii) Public housing bonds issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States of America; or temporary notes, preliminary loan notes, or project notes issued by public agencies or municipalities, in each case, fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America;

(iv) Certificates of deposit, time deposits, investment agreements, repurchase agreements or similar banking arrangements with a member bank or banks of the federal reserve system or a bank the deposits of which are insured by the federal deposit insurance corporation, or its successor, or a savings and loan association or savings bank the deposits of which are insured by the federal savings and loan insurance corporation, or its successor, or government bond dealers reporting to, trading with and recognized as primary dealers by a federal reserve bank: *Provided*, That such investments shall only be made to the extent insured by the federal deposit insurance corporation or the federal savings and loan insurance corporation or to the extent that the principal amount thereof shall be fully collateralized by obligations which are authorized investments for the Housing Development Fund pursuant to this section;

(v) Direct obligations of or obligations guaranteed by the State of West Virginia;

(vi) Direct and general obligations of any other state, municipality or other political subdivision within the territorial United States: *Provided*, That at the time of their purchase, such obligations are rated in either of the two highest rating categories by a nationally recognized bond-rating agency;

(vii) Any bond, note, debenture or annuity issued by any corporation organized and operating within the United States: *Provided*, That such corporation shall have a minimum net worth of \$15 million and its securities or its parent corporation's securities are listed on one or more of the national stock exchanges: *Provided, however*, That: (1) Such corporation has earned a profit in eight of the preceding ten fiscal years as reflected in its statements; and (2) such corporation has not defaulted in the payment of principal or interest on any of its outstanding funded indebtedness during its preceding ten fiscal years; and (3) the bonds, notes or debentures of such corporation to be purchased are rated 'AA' or the equivalent thereof or better than 'AA' or the equivalent thereof by at least two or more nationally recognized rating services such as Standard and Poor's, Dunn & Bradstreet, Best's or Moody's;

(viii) If entered into solely for the purpose of reducing investment, interest rate, liquidity or other market risks in relation to obligations issued or to be issued or owned or to be owned by the Housing Development Fund, options, futures contracts (including index futures but exclusive of commodities futures, options or other contracts), standby purchase agreements or similar hedging arrangements listed by a nationally recognized securities exchange or a corporation described in paragraph (vii) ~~above~~;

(ix) Certificates, shares or other interests in mutual funds, unit trusts or other entities registered under section eight of the United States Investment Company Act of 1940, but only to the extent that the terms on which the underlying investments are to be made prevent any more than a minor portion of the pool which is being invested in to consist of obligations other than investments permitted pursuant to this section; and

(x) To the extent not inconsistent with the express provisions of this section, obligations of the West Virginia State Board of Investments or any other obligation authorized as an investment for the West Virginia State Board of Investments under §12-6-1 *et seq.* of this code or for a public housing authority under §16-15-1 *et seq.* of this code;

(9) To sue and be sued;

(10) To have a seal and alter the same at will;

(11) To make, and from time to time, amend and repeal bylaws and rules and regulations not inconsistent with the provisions of this article;

(12) To appoint such officers, employees and consultants as it deems advisable and to fix their compensation and prescribe their duties;

(13) To acquire, hold and dispose of real and personal property for its corporate purposes;



(14) To enter into agreements or other transactions with any federal or state agency, any person and any domestic or foreign partnership, corporation, association or organization;

(15) To acquire real property, or an interest therein, in its own name, by purchase or foreclosure, where such acquisition is necessary or appropriate to protect any loan in which the Housing Development Fund has an interest and to sell, transfer and convey any such property to a buyer and, in the event of such sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, to lease such property to a tenant;

(16) To purchase or sell, at public or private sale, any mortgage or other negotiable instrument or obligation securing a construction, rehabilitation, improvement, land development, mortgage or temporary loan;

(17) To procure insurance against any loss in connection with its property in such amounts, and from such insurers, as may be necessary or desirable;

(18) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purpose, to the modification of the rate of interest, time of payment or any installment of principal or interest, or any other terms, of mortgage loan, mortgage loan commitment, construction loan, rehabilitation loan, improvement loan, temporary loan, contract or agreement of any kind to which the Housing Development Fund is a party;

(19) To make and publish rules and regulations respecting its federally insured mortgage lending, uninsured mortgage lending, construction lending, rehabilitation lending, improvement lending and lending to defray development costs and any such other rules and regulations as are necessary to effectuate its corporate purpose;

(20) To borrow money to carry out and effectuate its corporate purpose and to issue its bonds or notes as evidence of any such borrowing in such principal amounts and upon such terms as shall be necessary to provide sufficient funds for achieving its corporate purpose, except that no notes shall be issued to mature more than

ten years from date of issuance and no bonds shall be issued to mature more than fifty years from date of issuance;

(21) To issue renewal notes, to issue bonds to pay notes and, whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured except that no such renewal notes shall be issued to mature more than ten years from date of issuance of the notes renewed and no such refunding bonds shall be issued to mature more than fifty years from the date of issuance;

(22) To apply the proceeds from the sale of renewal notes or refunding bonds to the purchase, redemption or payment of the notes or bonds to be refunded;

(23) To make grants and provide technical services to assist in the purchase or other acquisition, planning, processing, design, construction, or rehabilitation, improvement or operation of residential housing, nonresidential projects or land development: *Provided*, That no such grant or other financial assistance shall be provided except upon a finding by the Housing Development Fund that such assistance and the manner in which it will be provided will preserve and promote residential housing in this state or the interests of this state in maintaining or increasing employment or the tax base;

(24) To provide project assistance services for residential housing, nonresidential projects and land development, including, but not limited to, management, training and social and other services;

(25) To promote research and development in scientific methods of constructing low cost land development, residential housing or nonresidential projects of high durability including grants, loans or equity contributions for research and development purposes: *Provided*, That no such grant or other financial assistance shall be provided except upon a finding by the Housing Development Fund that such assistance and the manner in which it will be provided will preserve and promote residential housing in

this state or the interests of this state in maintaining and increasing employment and the tax base;

(26) With the proceeds from the issuance of notes or bonds of the Housing Development Fund, including, but not limited to, mortgage finance bonds, or with other funds available to the Housing Development Fund for such purpose, to participate in the making of or to make loans to mortgagees approved by the Housing Development Fund and take such collateral security therefor as is approved by the Housing Development Fund and to invest in, purchase, acquire, sell or participate in the sale of, or take assignments of, notes and mortgages, evidencing loans for the construction, rehabilitation, improvement, purchase or refinancing of land development, residential housing or nonresidential projects in this state: *Provided*, That the Housing Development Fund shall obtain such written assurances as shall be satisfactory to it that the proceeds of such loans, investments or purchases will be used, as nearly as practicable, for the making of or investment in long-term federally insured mortgage loans or federally insured construction loans, uninsured mortgage loans or uninsured construction loans, for land development, residential housing or nonresidential projects or that other moneys in an amount approximately equal to such proceeds shall be committed and used for such purpose;

(27) To make or participate in the making of uninsured construction loans for land development, residential housing or nonresidential projects. Such loans shall be made only upon determination by the Housing Development Fund that construction loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(28) To make or participate in the making of long-term uninsured mortgage loans for land development, residential housing or nonresidential projects. Such loans shall be made only upon determination by the Housing Development Fund that long-term mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(29) To obtain options to acquire real property, or any interest therein, in its own name, by purchase, or lease or otherwise, which is found by the Housing Development Fund to be suitable, or potentially suitable, as a site, or as part of a site, for land development or the construction of residential housing or nonresidential projects; to hold such real property or to acquire by purchase or otherwise and to transfer by sale or otherwise any ownership or equity interests in any other legal entity which holds such real property; to finance the performance of land development, residential housing or nonresidential projects on or in connection with any such real property or to perform land development, residential housing or nonresidential projects on or in connection with any such real property; to own, operate and sponsor or participate in the sponsorship of land development, residential housing or nonresidential projects; or to sell, transfer and convey, lease or otherwise dispose of such real property, or lots, tracts or parcels of such real property, for such prices, upon such terms, conditions and limitations, and at such time or times as the Housing Development Fund shall determine;

(30) To make loans, with or without interest, but with such security for repayment as the Housing Development Fund determines reasonably necessary and practicable from the land development fund, if created, established, organized and operated in accordance with the provisions of §31-18-20a of this code, to sponsors of land development, to defray development costs and other costs of land development;

(31) To exercise all of the rights, powers and authorities of a public housing authority as set forth and provided in §16-15-1 *et seq.* of this code, in any area or areas of the state which the Housing Development Fund shall determine by resolution to be necessary or appropriate;

(32) To provide assistance to urban renewal projects in accordance with the provisions of §16-18-28 of this code and in so doing to exercise all of the rights, powers and authorities granted in this article or in said article, in and for any communities of the state which the Housing Development Fund shall determine by resolution to be necessary or appropriate;

(33) To make or participate in the making of loans for the purpose of rehabilitating or improving existing residential and temporary housing or nonresidential projects, or to owners of existing residential or temporary housing for occupancy by eligible persons and families for the purpose of rehabilitating or improving such residential or temporary housing or nonresidential projects and, in connection therewith, to refinance existing loans involving the same property. Such loans shall be made only upon determination by the Housing Development Fund that rehabilitation or improvement loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(34) Whenever the Housing Development Fund deems it necessary in order to exercise any of its powers set forth in subdivision (29) of this section, and upon being unable to agree with the owner or owners of real property or interest therein sought to be acquired by the fund upon a price for acquisition of private property not being used or operated by the owner in the production of agricultural products, to exercise the powers of eminent domain in the acquisition of such real property or interest therein in the manner provided under §54-1-1 *et seq.* of this code, and the purposes set forth in said subdivision are hereby declared to be public purposes for which private property may be taken. For the purposes of this section, the determination of 'use or operation by the owner in the production of agricultural products' means that the principal use of such real estate is for the production of food and fiber by agricultural production other than forestry, and the fund shall not initiate or exercise any powers of eminent domain without first receiving an opinion in writing from both the Governor and the commissioner of agriculture of this state that at the time the fund had first attempted to acquire such real estate or interest therein, such real estate or interest therein was not in fact being used or operated by the owner in the production of agricultural products;

(35) To acquire, by purchase or otherwise, and to hold, transfer, sell, assign, pool or syndicate, or participate in the syndication of, any loans, notes, mortgages, securities or debt instruments collateralized by mortgages or interests in mortgages or other

instruments evidencing loans or equity interests in or for the construction, rehabilitation, improvement, renovation, purchase or refinancing of land development, residential housing and nonresidential projects in this state; ~~and~~

(36) To form one or more nonprofit corporations, whose board of directors shall be the same as the board of directors of the Housing Development Fund, which shall be authorized and empowered to carry out any or all of the corporate powers or purposes of the Housing Development Fund, including, without limitation, acquiring limited or general partnership interests and other forms of equity ownership;

(37) To receive and compile data into an electronic database and make available the raw mortgage foreclosure data that is required to be reported to county clerks by trustees pursuant to the provisions of §38-1-8a of this code, including all data that has been received by the banking commissioner pursuant to §31A-2-4c(a) of this code, as of the effective date ~~of the effective date~~ of the amendments made to said section during the regular session of the 2010 Legislature. This information shall be periodically forwarded by county clerks to the Housing Development Fund, in accordance with the provisions of §44-13-4a of this code; and

(38) Provide funding to increase the capacity of nonprofit community housing organizations to serve their communities.

#### **§31-18-20d. Affordable Housing Fund.**

(a) There is hereby created and established a special fund to be designated as the 'Affordable Housing Fund' into which the Housing Development Fund shall deposit the funds received pursuant to §11-15-4c and §11-22-2 of this code. Such funds shall be governed, administered and accounted for by the Housing Development Fund as a special purpose account separate and distinct from any other moneys, fund or funds owned or managed by the Housing Development Fund. Additionally, the Housing Development Fund shall deposit an additional amount at least equal to the funds received pursuant to §31-18-29 of this code. The moneys deposited in such fund may be invested and reinvested by

the Housing Development Fund as authorized under §31-18-6(8) of this code.

(b) The Housing Development Fund shall use the moneys from the Affordable Housing Fund to make, or participate in the making of, loans or grants for eligible activities that shall include, but not be limited to:

(1) Providing funds for new construction, rehabilitation, repair or acquisition of housing to assist low or moderate income citizens including land and land improvements;

(2) Providing matching funds for federal housing moneys requiring a local or state match;

(3) Providing funds for administrative costs for housing assistance programs or nonprofit organizations eligible for funding pursuant to subsection (c) of this section if the grants or loans provided will substantially increase the recipient's access to housing funds or increase its capacity to supply affordable housing;

(4) Providing loan guarantees and other financial mechanisms to facilitate the provision of housing products or services;

(5) Providing funds for down payments, closing costs, foreclosure prevention, home ownership counseling and security bonds which facilitate the construction, rehabilitation, repair or acquisition of housing by low to moderate income citizens;

(6) Providing risk underwriting products not provided by private sector entities to facilitate broader accessibility of citizens to other federal or state housing funds or loan programs. The products shall be established using professional risk underwriting standards and separate corporate vehicles may be created and capitalized by the Housing Development Fund to provide the products; and

(7) Providing start-up funds for initial operational expenses of local government programs to reduce substandard housing or inappropriate land use patterns.

(c) Organizations eligible for funding from the Affordable Housing Fund include: (1) Local governments; (2) local government housing authorities; (3) nonprofit organizations recognized as exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, as amended, codified in 26 U.S.C. § 501(c)(3), and which are organized and operated exclusively for charitable purposes within the meaning of that section, and in accordance with those purposes provide assistance to low or moderate income citizens of this state; and (4) regional or statewide housing assistance organizations that have been recognized as exempt under Section 501(c)(3) of the Internal Revenue Code, as amended, and which provide assistance to low and moderate income or low income citizens of this state.

**§31-18-22. Termination or dissolution.**

Upon the termination or dissolution, all rights and properties of the Housing Development Fund, including the Operating Loan Fund, the Land Development Fund, ~~and~~ the Mortgage Finance Bond Insurance Fund, and the Affordable Housing Fund, shall pass to and be vested in the State of West Virginia, subject to the rights of bondholders, lienholders and other creditors.

**§31-18-24. Annual audit; reports to Joint Committee on Government and Finance; information to joint committee or legislative Auditor.**

The Housing Development Fund shall cause an annual audit to be made by an independent certified public accountant of its books, accounts and records, with respect to its receipts, disbursements, contracts, mortgages, leases, assignments, loans and all other matters relating to its financial operations, including those of the operating loan fund, the land development fund, and the mortgage finance bond insurance fund. The person performing such audit shall furnish copies of the audit report to the commissioner of finance and administration, where they shall be placed on file and made available for inspection by the general public. The person performing such audit shall also furnish copies of the audit report to the Speaker of the House of Delegates, the President of the Senate and the majority and minority leaders of both houses.



In addition to the foregoing annual audit report, the Housing Development Fund shall also render every six months to the Joint Committee on Government and Finance a report setting forth in detail a complete analysis of the activities, indebtedness, receipts and financial affairs of such fund and the operating loan fund, the land development fund, affordable housing fund and the mortgage finance bond insurance fund. Upon demand, the Housing Development Fund shall also submit to the Joint Committee on Government and Finance or the Legislative Auditor any other information requested by such committee or the Legislative Auditor.

**§31-18-29. Dissolution of West Virginia Affordable Housing Trust Fund.**

Upon termination of the West Virginia Affordable Housing Trust Fund, the Housing Development Fund shall provide for the payment of all debts, obligations, or expenses of the Affordable Housing Trust Fund, and all assets remaining in the Affordable Housing Trust Fund shall be transferred to the West Virginia Housing Development Fund.

**ARTICLE 18D. WEST VIRGINIA AFFORDABLE HOUSING TRUST FUND.**

**§31-18D-1. Short title.**

[Repealed.]

**§31-18D-2. Legislative finding and purpose.**

[Repealed.]

**§31-18D-3. Definitions.**

[Repealed.]

**§31-18D-4. Affordable housing trust fund.**

[Repealed.]

**§31-18D-5. Housing Trust Fund Board of Directors.**

[Repealed.]

**§31-18D-6. Powers and responsibilities of the board.**

[Repealed.]

**§31-18D-7. Eligible activities; eligible organizations.**

[Repealed.]

**§31-18D-8. Corporate powers.**

[Repealed.]

**§31-18D-9. Applications and selection criteria.**

[Repealed.]

**§31-18D-10. Documentary materials concerning financial or personal information; confidentiality.**

[Repealed.]

**§31-18D-11. Conflicts.**

[Repealed.]

**§31-18D-12. Tax exemption.**

[Repealed.]

**§31-18D-13. Annual report.**

[Repealed.]

**§31-18D-14. Exemption from certain requirements; audit**

[Repealed.]

**§31-18D-15. Dissolution or liquidation of trust fund.**

[Repealed.]”

The bill was then ordered to third reading.

**S. B. 282**, Exempting State Conservation Committee from Purchasing Division requirements for contracts related to flood recovery; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 3. PURCHASING DIVISION.****§5A-3-3. Powers and duties of Director of Purchasing.**

The director, under the direction and supervision of the secretary, is the executive officer of the Purchasing Division and has the power and duty to:

(1) Direct the activities and employees of the Purchasing Division;

(2) Ensure that the purchase of or contract for commodities and services are based, whenever possible, on competitive bid;

(3) Purchase or contract for, in the name of the state, the commodities, services, and printing required by the spending units of the state government;

(4) Apply and enforce standard specifications established in accordance with §5A-3-5 of this code as hereinafter provided;

(5) Transfer to or between spending units or sell commodities that are surplus, obsolete, or unused as hereinafter provided;

(6) Have charge of central storerooms for the supply of spending units as the director considers advisable;

(7) Establish and maintain a laboratory for the testing of commodities and make use of existing facilities in state institutions for that purpose as hereinafter provided as the director considers advisable;

(8) Suspend the right and privilege of a vendor to bid on state purchases when the director has evidence that the vendor has violated any of the provisions of the purchasing law or the rules and regulations of the director;

(9) Examine the provisions and terms of every contract entered into for and on behalf of the State of West Virginia that impose any obligation upon the state to pay any sums of money for commodities or services and approve the contract as to such provisions and terms; and the duty of examination and approval herein set forth does not supersede the responsibility and duty of the Attorney General to approve the contracts as to form: *Provided*, That the provisions of this subdivision do not apply in any respect whatever to construction or repair contracts entered into by the Division of Highways of the Department of Transportation or to construction or reclamation contracts entered into by the Department of Environmental Protection: *Provided, however*, That the provisions of this subdivision do not apply in any respect whatsoever to contracts entered into by the University of West Virginia Board of Trustees or by the board of directors of the state college system, except to the extent that such boards request the facilities and services of the director under the provisions of this subdivision: *Provided further*, That the provisions of this subdivision do not apply to the West Virginia State Police and the West Virginia Office of Laboratory Services: *And provided further*, That the provisions of this subdivision do not apply to joint funding agreements with the United States Geological Survey;

(10) Assure that the specifications and descriptions in all solicitations are prepared so as to provide all potential suppliers-vendors who can meet the requirements of the state an opportunity to bid and to assure that the specifications and descriptions do not favor a particular brand or vendor. If the director determines that any such specifications or descriptions as written favor a particular

brand or vendor or if it is decided, either before or after the bids are opened, that a commodity or service having different specifications or quality or in different quantity can be bought, the director may rewrite the solicitation and the matter shall be rebid; and

(11) Issue a notice to cease and desist to a spending unit when the director has credible evidence that a spending unit has violated competitive bidding or other requirements established by this article and the rules promulgated hereunder. Failure to abide by the notice may result in penalties set forth in §5A-3-17 of this code.”

The bill was then ordered to third reading.

**S. B. 299**, Relating to mandatory insurance coverage for medical foods for amino acid-based formulas; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“CHAPTER 5. GENERAL POWERS AND AUTHORITY OF  
THE GOVERNOR, SECRETARY OF STATE, AND  
ATTORNEY GENERAL; BOARD OF PUBLIC WORKS;  
MISCELLANEOUS AGENCIES, COMMISSIONS, OFFICES,  
PROGRAMS, ETC.**

**ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES  
INSURANCE ACT.**

**§5-16-7. Authorization to establish group hospital and surgical insurance plan, group major medical insurance plan, group prescription drug plan, and group life and accidental death insurance plan; rules for administration of plans; mandated benefits; what plans may provide; optional plans; separate rating for claims experience purposes.**

(a) The agency shall establish a group hospital and surgical insurance plan or plans, a group prescription drug insurance plan or plans, a group major medical insurance plan or plans and a group

life and accidental death insurance plan or plans for those employees herein made eligible and establish and promulgate rules for the administration of these plans subject to the limitations contained in this article. These plans shall include:

(1) Coverages and benefits for x-ray and laboratory services in connection with mammograms when medically appropriate and consistent with current guidelines from the United States Preventive Services Task Force; pap smears, either conventional or liquid-based cytology, whichever is medically appropriate and consistent with the current guidelines from either the United States Preventive Services Task Force or The American College of Obstetricians and Gynecologists; and a test for the human papilloma virus (HPV) when medically appropriate and consistent with current guidelines from either the United States Preventive Services Task Force or The American College of Obstetricians and Gynecologists, when performed for cancer screening or diagnostic services on a woman age 18 or over;

(2) Annual checkups for prostate cancer in men age 50 and over;

(3) Annual screening for kidney disease as determined to be medically necessary by a physician using any combination of blood pressure testing, urine albumin or urine protein testing, and serum creatinine testing as recommended by the National Kidney Foundation;

(4) For plans that include maternity benefits, coverage for inpatient care in a duly licensed healthcare facility for a mother and her newly born infant for the length of time which the attending physician considers medically necessary for the mother or her newly born child. No plan may deny payment for a mother or her newborn child prior to 48 hours following a vaginal delivery or prior to 96 hours following a caesarean section delivery if the attending physician considers discharge medically inappropriate;

(5) For plans which provide coverages for post-delivery care to a mother and her newly born child in the home, coverage for inpatient care following childbirth as provided in subdivision (4)

of this subsection if inpatient care is determined to be medically necessary by the attending physician. These plans may include, among other things, medicines, medical equipment, prosthetic appliances, and any other inpatient and outpatient services and expenses considered appropriate and desirable by the agency; and

(6) Coverage for treatment of serious mental illness:

(A) The coverage does not include custodial care, residential care, or schooling. For purposes of this section, 'serious mental illness' means an illness included in the American Psychiatric Association's diagnostic and statistical manual of mental disorders, as periodically revised, under the diagnostic categories or subclassifications of: (i) Schizophrenia and other psychotic disorders; (ii) bipolar disorders; (iii) depressive disorders; (iv) substance-related disorders with the exception of caffeine-related disorders and nicotine-related disorders; (v) anxiety disorders; and (vi) anorexia and bulimia. With regard to a covered individual who has not yet attained the age of 19 years, 'serious mental illness' also includes attention deficit hyperactivity disorder, separation anxiety disorder, and conduct disorder.

(B) Notwithstanding any other provision in this section to the contrary, if the agency demonstrates that its total costs for the treatment of mental illness for any plan exceeds two percent of the total costs for such plan in any experience period, then the agency may apply whatever additional cost-containment measures may be necessary in order to maintain costs below two percent of the total costs for the plan for the next experience period. These measures may include, but are not limited to, limitations on inpatient and outpatient benefits.

(C) The agency shall not discriminate between medical-surgical benefits and mental health benefits in the administration of its plan. With regard to both medical-surgical and mental health benefits, it may make determinations of medical necessity and appropriateness and it may use recognized healthcare quality and cost management tools including, but not limited to, limitations on inpatient and outpatient benefits, utilization review, implementation of cost-containment measures, preauthorization

for certain treatments, setting coverage levels, setting maximum number of visits within certain time periods, using capitated benefit arrangements, using fee-for-service arrangements, using third-party administrators, using provider networks, and using patient cost sharing in the form of copayments, deductibles, and coinsurance.

(7) Coverage for general anesthesia for dental procedures and associated outpatient hospital or ambulatory facility charges provided by appropriately licensed healthcare individuals in conjunction with dental care if the covered person is:

(A) Seven years of age or younger or is developmentally disabled and is an individual for whom a successful result cannot be expected from dental care provided under local anesthesia because of a physical, intellectual, or other medically compromising condition of the individual and for whom a superior result can be expected from dental care provided under general anesthesia.

(B) A child who is 12 years of age or younger with documented phobias or with documented mental illness and with dental needs of such magnitude that treatment should not be delayed or deferred and for whom lack of treatment can be expected to result in infection, loss of teeth, or other increased oral or dental morbidity and for whom a successful result cannot be expected from dental care provided under local anesthesia because of such condition and for whom a superior result can be expected from dental care provided under general anesthesia.

(8) (A) Any plan issued or renewed on or after January 1, 2012, shall include coverage for diagnosis, evaluation, and treatment of autism spectrum disorder in individuals ages 18 months to 18 years. To be eligible for coverage and benefits under this subdivision, the individual must be diagnosed with autism spectrum disorder at age eight or younger. Such plan shall provide coverage for treatments that are medically necessary and ordered or prescribed by a licensed physician or licensed psychologist and in accordance with a treatment plan developed from a



comprehensive evaluation by a certified behavior analyst for an individual diagnosed with autism spectrum disorder.

(B) The coverage shall include, but not be limited to, applied behavior analysis which shall be provided or supervised by a certified behavior analyst. The annual maximum benefit for applied behavior analysis required by this subdivision shall be in an amount not to exceed \$30,000 per individual for three consecutive years from the date treatment commences. At the conclusion of the third year, coverage for applied behavior analysis required by this subdivision shall be in an amount not to exceed \$2,000 per month, until the individual reaches 18 years of age, as long as the treatment is medically necessary and in accordance with a treatment plan developed by a certified behavior analyst pursuant to a comprehensive evaluation or reevaluation of the individual. This subdivision does not limit, replace or affect any obligation to provide services to an individual under the Individuals with Disabilities Education Act, 20 U. S. C. §1400 *et seq.*, as amended from time to time or other publicly funded programs. Nothing in this subdivision requires reimbursement for services provided by public school personnel.

(C) The certified behavior analyst shall file progress reports with the agency semiannually. In order for treatment to continue, the agency must receive objective evidence or a clinically supportable statement of expectation that:

(i) The individual's condition is improving in response to treatment;

(ii) A maximum improvement is yet to be attained; and

(iii) There is an expectation that the anticipated improvement is attainable in a reasonable and generally predictable period of time.

(D) On or before January 1 each year, the agency shall file an annual report with the Joint Committee on Government and Finance describing its implementation of the coverage provided pursuant to this subdivision. The report shall include, but not be

limited to, the number of individuals in the plan utilizing the coverage required by this subdivision, the fiscal and administrative impact of the implementation and any recommendations the agency may have as to changes in law or policy related to the coverage provided under this subdivision. In addition, the agency shall provide such other information as required by the Joint Committee on Government and Finance as it may request.

(E) For purposes of this subdivision, the term:

(i) ‘Applied behavior analysis’ means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences in order to produce socially significant improvement in human behavior and includes the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

(ii) ‘Autism spectrum disorder’ means any pervasive developmental disorder including autistic disorder, Asperger’s Syndrome, Rett Syndrome, childhood disintegrative disorder, or Pervasive Development Disorder as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.

(iii) ‘Certified behavior analyst’ means an individual who is certified by the Behavior Analyst Certification Board or certified by a similar nationally recognized organization.

(iv) ‘Objective evidence’ means standardized patient assessment instruments, outcome measurements tools, or measurable assessments of functional outcome. Use of objective measures at the beginning of treatment, during, and after treatment is recommended to quantify progress and support justifications for continued treatment. The tools are not required but their use will enhance the justification for continued treatment.

(F) To the extent that the application of this subdivision for autism spectrum disorder causes an increase of at least one percent of actual total costs of coverage for the plan year, the agency may apply additional cost containment measures.

(G) To the extent that the provisions of this subdivision require benefits that exceed the essential health benefits specified under section 1302(b) of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended, the specific benefits that exceed the specified essential health benefits shall not be required of insurance plans offered by the Public Employees Insurance Agency.

(9) For plans that include maternity benefits, coverage for the same maternity benefits for all individuals participating in or receiving coverage under plans that are issued or renewed on or after January 1, 2014: *Provided*, That to the extent that the provisions of this subdivision require benefits that exceed the essential health benefits specified under section 1302(b) of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended, the specific benefits that exceed the specified essential health benefits shall not be required of a health benefit plan when the plan is offered in this state.

(10) (A) A policy, plan, or contract that is issued or renewed on or after January 1, 2019, and that is subject to this section, shall provide coverage, through the age of 20, for amino acid-based formula for the treatment of severe protein-allergic conditions or impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder by a physician licensed to practice in this state pursuant to either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code:

(i) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food proteins;

(ii) Severe food protein-induced enterocolitis syndrome;

(iii) Eosinophilic disorders as evidenced by the results of a biopsy; and

(iv) Impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length and motility of the gastrointestinal tract (short bowel).

(B) The coverage required by paragraph (A) of this subdivision shall include medical foods for home use for which a physician has issued a prescription and has declared them to be medically necessary, regardless of methodology of delivery.

(C) For purposes of this subdivision, ‘medically necessary foods’ or ‘medical foods’ shall mean prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That these foods are specifically designated and manufactured for the treatment of severe allergic conditions or short bowel.

(D) The provisions of this subdivision shall not apply to persons with an intolerance for lactose or soy.

(b) The agency shall, with full authorization, make available to each eligible employee, at full cost to the employee, the opportunity to purchase optional group life and accidental death insurance as established under the rules of the agency. In addition, each employee is entitled to have his or her spouse and dependents, as defined by the rules of the agency, included in the optional coverage, at full cost to the employee, for each eligible dependent.

(c) The finance board may cause to be separately rated for claims experience purposes:

(1) All employees of the State of West Virginia;

(2) All teaching and professional employees of state public institutions of higher education and county boards of education;

(3) All nonteaching employees of the Higher Education Policy Commission, West Virginia Council for Community and Technical College Education and county boards of education; or

(4) Any other categorization which would ensure the stability of the overall program.

(d) The agency shall maintain the medical and prescription drug coverage for Medicare- eligible retirees by providing coverage through one of the existing plans or by enrolling the Medicare-eligible retired employees into a Medicare-specific plan, including, but not limited to, the Medicare/Advantage Prescription Drug Plan. If a Medicare-specific plan is no longer available or advantageous for the agency and the retirees, the retirees remain eligible for coverage through the agency.

**§5-16-9. Authorization to execute contracts for group hospital and surgical insurance, group major medical insurance, group prescription drug insurance, group life and accidental death insurance, and other accidental death insurance; mandated benefits; limitations; awarding of contracts; reinsurance; certificates for covered employees; discontinuance of contracts.**

(a) The director is hereby given exclusive authorization to execute such contract or contracts as are necessary to carry out the provisions of this article and to provide the plan or plans of group hospital and surgical insurance coverage, group major medical insurance coverage, group prescription drug insurance coverage, and group life and accidental death insurance coverage selected in accordance with the provisions of this article, such contract or contracts to be executed with one or more agencies, corporations, insurance companies or service organizations licensed to sell group hospital and surgical insurance, group major medical insurance, group prescription drug insurance and group life and accidental death insurance in this state.

(b) The group hospital or surgical insurance coverage and group major medical insurance coverage herein provided shall include coverages and benefits for x-ray and laboratory services in connection with mammogram and pap smears when performed for cancer screening or diagnostic services and annual checkups for prostate cancer in men age 50 and over. Such benefits shall include, but not be limited to, the following:

(1) Mammograms when medically appropriate and consistent with the current guidelines from the United States Preventive Services Task Force;

(2) A pap smear, either conventional or liquid-based cytology, whichever is medically appropriate and consistent with the current guidelines from the United States Preventive Services Task Force or The American College of Obstetricians and Gynecologists, for women age 18 and over;

(3) A test for the human papilloma virus (HPV) for women age 18 or over, when medically appropriate and consistent with the current guidelines from either the United States Preventive Services Task Force or The American College of Obstetricians and Gynecologists for women age 18 and over;

(4) A checkup for prostate cancer annually for men age 50 or over; and

(5) Annual screening for kidney disease as determined to be medically necessary by a physician using any combination of blood pressure testing, urine albumin or urine protein testing, and serum creatinine testing as recommended by the National Kidney Foundation.

(6) Coverage for general anesthesia for dental procedures and associated outpatient hospital or ambulatory facility charges provided by appropriately licensed healthcare individuals in conjunction with dental care if the covered person is:

(A) Seven years of age or younger or is developmentally disabled and is either an individual for whom a successful result cannot be expected from dental care provided under local anesthesia because of a physical, intellectual, or other medically compromising condition of the individual and for whom a superior result can be expected from dental care provided under general anesthesia; or

(B) A child who is 12 years of age or younger with documented phobias, or with documented mental illness, and with dental needs of such magnitude that treatment should not be delayed or deferred

and for whom lack of treatment can be expected to result in infection, loss of teeth or other increased oral or dental morbidity and for whom a successful result cannot be expected from dental care provided under local anesthesia because of such condition and for whom a superior result can be expected from dental care provided under general anesthesia.

(7) (A) A policy, plan, or contract that is issued or renewed on or after January 1, 2019, and that is subject to this section, shall provide coverage, through the age of 20, for amino acid-based formula for the treatment of severe protein-allergic conditions or impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder by a physician licensed to practice in this state pursuant to either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code:

(i) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food proteins;

(ii) Severe food protein-induced enterocolitis syndrome;

(iii) Eosinophilic disorders as evidenced by the results of a biopsy; and

(iv) Impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length and motility of the gastrointestinal tract (short bowel).

(B) The coverage required by paragraph (A) of this subdivision shall include medical foods for home use for which a physician has issued a prescription and has declared them to be medically necessary, regardless of methodology of delivery.

(C) For purposes of this subdivision, ‘medically necessary foods’ or ‘medical foods’ shall mean prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That these foods are specifically designated and manufactured for the treatment of severe allergic conditions or short bowel.

(D) The provisions of this subdivision shall not apply to persons with an intolerance for lactose or soy.

(c) The group life and accidental death insurance herein provided shall be in the amount of \$10,000 for every employee. The amount of the group life and accidental death insurance to which an employee would otherwise be entitled shall be reduced to \$5,000 upon such employee attaining age sixty-five.

(d) All of the insurance coverage to be provided for under this article may be included in one or more similar contracts issued by the same or different carriers.

(e) The provisions of §5A-3-1 *et seq.* of this code, relating to the Division of Purchasing of the Department of Finance and Administration, shall not apply to any contracts for any insurance coverage or professional services authorized to be executed under the provisions of this article. Before entering into any contract for any insurance coverage, as authorized in this article, the director shall invite competent bids from all qualified and licensed insurance companies or carriers, who may wish to offer plans for the insurance coverage desired: *Provided*, That the director shall negotiate and contract directly with healthcare providers and other entities, organizations and vendors in order to secure competitive premiums, prices and other financial advantages. The director shall deal directly with insurers or healthcare providers and other entities, organizations and vendors in presenting specifications and receiving quotations for bid purposes. No commission or finder's fee, or any combination thereof, shall be paid to any individual or agent; but this shall not preclude an underwriting insurance company or companies, at their own expense, from appointing a licensed resident agent, within this state, to service the companies' contracts awarded under the provisions of this article. Commissions reasonably related to actual service rendered for the agent or agents may be paid by the underwriting company or companies: *Provided, however*, That in no event shall payment be made to any agent or agents when no actual services are rendered or performed. The director shall award the contract or contracts on a competitive basis. In awarding the contract or contracts the director shall take into account the experience of the offering



agency, corporation, insurance company, or service organization in the group hospital and surgical insurance field, group major medical insurance field, group prescription drug field, and group life and accidental death insurance field, and its facilities for the handling of claims. In evaluating these factors, the director may employ the services of impartial, professional insurance analysts or actuaries or both. Any contract executed by the director with a selected carrier shall be a contract to govern all eligible employees subject to the provisions of this article. Nothing contained in this article shall prohibit any insurance carrier from soliciting employees covered hereunder to purchase additional hospital and surgical, major medical or life and accidental death insurance coverage.

(f) The director may authorize the carrier with whom a primary contract is executed to reinsure portions of the contract with other carriers which elect to be a reinsurer and who are legally qualified to enter into a reinsurance agreement under the laws of this state.

(g) Each employee who is covered under any contract or contracts shall receive a statement of benefits to which the employee, his or her spouse and his or her dependents are entitled under the contract, setting forth the information as to whom the benefits are payable, to whom claims shall be submitted and a summary of the provisions of the contract or contracts as they affect the employee, his or her spouse and his or her dependents.

(h) The director may at the end of any contract period discontinue any contract or contracts it has executed with any carrier and replace the same with a contract or contracts with any other carrier or carriers meeting the requirements of this article.

(i) The director shall provide by contract or contracts entered into under the provisions of this article the cost for coverage of children's immunization services from birth through age sixteen years to provide immunization against the following illnesses: Diphtheria, polio, mumps, measles, rubella, tetanus, hepatitis-b, hemophilia influenzae-b, and whooping cough. Additional immunizations may be required by the Commissioner of the Bureau for Public Health for public health purposes. Any contract

entered into to cover these services shall require that all costs associated with immunization, including the cost of the vaccine, if incurred by the healthcare provider, and all costs of vaccine administration be exempt from any deductible, per visit charge and/or copayment provisions which may be in force in these policies or contracts. This section does not require that other healthcare services provided at the time of immunization be exempt from any deductible and/or copayment provisions.

## CHAPTER 33. INSURANCE.

### ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.

#### **§33-15-4p. Coverage for amino acid-based formulas.**

(a) A policy, plan, or contract that is issued or renewed on or after January 1, 2019, and that is subject to this article shall provide coverage, through the age of 20, for amino acid-based formula for the treatment of severe protein-allergic conditions or impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder by a physician licensed to practice in this state pursuant to either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code:

(1) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food proteins;

(2) Severe food protein-induced enterocolitis syndrome;

(3) Eosinophilic disorders as evidenced by the results of a biopsy; and

(4) Impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length and motility of the gastrointestinal tract (short bowel).

(b) The coverage required by subsection (a) of this section shall include medical foods for home use for which a physician has issued a prescription and has declared them to be medically necessary, regardless of methodology of delivery.

(c) For purposes of this section, ‘medically necessary foods’ or ‘medical foods’ shall mean prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That these foods are specifically designated and manufactured for the treatment of severe allergic conditions or short bowel.

(d) The provisions of this section shall not apply to persons with an intolerance for lactose or soy.

## **ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.**

### **§33-16-3bb. Coverage for amino acid-based formulas.**

(a) A policy, plan, or contract that is issued or renewed on or after January 1, 2019, and that is subject to this article shall provide coverage, through the age of 20, for amino acid-based formula for the treatment of severe protein-allergic conditions or impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder by a physician licensed to practice in this state pursuant to either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code:

(1) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food proteins;

(2) Severe food protein-induced enterocolitis syndrome;

(3) Eosinophilic disorders as evidenced by the results of a biopsy; and

(4) Impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length and motility of the gastrointestinal tract (short bowel).

(b) The coverage required by subsection (a) of this section shall include medical foods for home use for which a physician has issued a prescription and has declared them to be medically necessary, regardless of methodology of delivery.

(c) For purposes of this section, ‘medically necessary foods’ or ‘medical foods’ shall mean prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That these foods are specifically designated and manufactured for the treatment of severe allergic conditions or short bowel.

(d) The provisions of this section shall not apply to persons with an intolerance for lactose or soy.

## **ARTICLE 24. HOSPITAL MEDICAL AND DENTAL CORPORATIONS.**

### **§33-24-7q. Coverage for amino acid-based formulas.**

(a) A policy, plan, or contract that is issued or renewed on or after January 1, 2019, and that is subject to this article shall provide coverage, through the age of 20, for amino acid-based formula for the treatment of severe protein-allergic conditions or impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder by a physician licensed to practice in this state pursuant to either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code:

(1) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food proteins;

(2) Severe food protein-induced enterocolitis syndrome;

(3) Eosinophilic disorders as evidenced by the results of a biopsy; and

(4) Impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length and motility of the gastrointestinal tract (short bowel).

(b) The coverage required by subsection (a) of this section shall include medical foods for home use for which a physician has issued a prescription and has declared them to be medically necessary, regardless of methodology of delivery.

(c) For purposes of this section, ‘medically necessary foods’ or ‘medical foods’ shall mean prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That these foods are specifically designated and manufactured for the treatment of severe allergic conditions or short bowel.

(d) The provisions of this section shall not apply to persons with an intolerance for lactose or soy.

## **ARTICLE 25. HEALTHCARE CORPORATION.**

### **§33-25-8n. Coverage for amino acid-based formulas.**

(a) A policy, plan, or contract that is issued or renewed on or after January 1, 2019, and that is subject to this article shall provide coverage, through the age of 20, for amino acid-based formula for the treatment of severe protein-allergic conditions or impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder by a physician licensed to practice in this state pursuant to either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code:

(1) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food proteins;

(2) Severe food protein-induced enterocolitis syndrome;

(3) Eosinophilic disorders as evidenced by the results of a biopsy; and

(4) Impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length and motility of the gastrointestinal tract (short bowel).

(b) The coverage required by subsection (a) of this section shall include medical foods for home use for which a physician has issued a prescription and has declared them to be medically necessary, regardless of methodology of delivery.

(c) For purposes of this section, ‘medically necessary foods’ or ‘medical foods’ shall mean prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That these foods are specifically designated and manufactured for the treatment of severe allergic conditions or short bowel.

(d) The provisions of this section shall not apply to persons with an intolerance for lactose or soy.

**ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.**

**§33-25A-8p. Coverage for amino acid-based formulas.**

(a) A policy, plan, or contract that is issued or renewed on or after January 1, 2019, and that is subject to this article shall provide coverage, through the age of 20, for amino acid-based formula for the treatment of severe protein-allergic conditions or impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder by a physician licensed to practice in this state pursuant to either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code:

(1) Immunoglobulin E and Nonimmunoglobulin E-medicated allergies to multiple food proteins;

(2) Severe food protein-induced enterocolitis syndrome;

(3) Eosinophilic disorders as evidenced by the results of a biopsy; and

(4) Impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length and motility of the gastrointestinal tract (short bowel).

(b) The coverage required by subsection (a) of this section shall include medical foods for home use for which a physician has issued a prescription and has declared them to be medically necessary, regardless of methodology of delivery.

(c) For purposes of this section, ‘medically necessary foods’ or ‘medical foods’ shall mean prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That these foods are specifically designated and manufactured for the treatment of severe allergic conditions or short bowel.

(d) The provisions of this section shall not apply persons with an intolerance for lactose or soy.”

The bill was then ordered to third reading.

**Com. Sub. for S. B. 347**, Relating to operation of motorboats; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Hanshaw, the bill was amended on page two, section eleven, line twenty-three, by striking out the word “principle” and inserting in lieu thereof the word “principal”.

On page two, section twelve, line one, by striking out the word “principle” and inserting in lieu thereof the word “principal”.

On page four, section twelve, line forty-seven, by striking out the word “principle” and inserting in lieu thereof the word “principal”.

And,

On page ten, section fourteen, line 5, by striking out the word “principle” and inserting in lieu thereof the word “principal”.

The bill was then ordered to third reading.

**Com. Sub. for S. B. 359**, Authorizing Supreme Court establish curricula for mental hygiene commissioners and certain magistrates; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 461**, Extending time to file petition for motor fuel excise tax refund; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on pages one through five, by striking out section nine in its entirety.

On page six, section thirty-one, lines nine and ten, by striking out “§11-14C-9(c)” and inserting in lieu thereof “§11-14C-9(c)(15)”.

On page seven, section thirty-one, line thirty-eight, by striking out “§11-14C-9(c) or §11-14C-9(d)” and inserting in lieu thereof “§11-14C-9(c)(15)”.

On page seven, section thirty-one, line forty-two, after “14C-9(c)(6) of this code”, by striking out the comma and inserting in lieu thereof the word “and”.

On page seven, section thirty-one, line forty-four, after the words “June 30”, by striking out the period and inserting in lieu thereof a colon and the following proviso: “Provided further, That a petition for refund under §11-14C-9(d)(10) of this code shall be filed with the commissioner on or before the last day of January, April, July and October for purchases of motor fuel during the immediately preceding calendar quarter.”

And,

On page seven, section thirty-one, line forty-seven, by striking out “§33-10-14” and inserting in lieu thereof “§11-10-14”.

The bill was then ordered to third reading.

**Com. Sub. for S. B. 465**, Relating to mandated reporting of child abuse and neglect; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 475**, Industrial Hemp Development Act; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page one, by striking out



everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 12E. INDUSTRIAL HEMP DEVELOPMENT ACT.**

**§19-12E-10. Industrial hemp research and development grant fund — fees.**

(a) There is hereby created in the State Treasury the Industrial Hemp Research and Development Grant Fund, referred to in this section as the ‘hemp fund’, that shall be exclusively administered by the Commissioner of Agriculture for the purpose of funding this grant program. The fund consists of fees collected by the commissioner pursuant to subsection (b) of this section and any general fund moneys appropriated to the fund by the Legislature. The moneys in the fund are subject to annual appropriation by the Legislature to the Department of Agriculture for the direct costs associated with implementing this section.

(b) The commissioner shall collect from persons applying for a registration pursuant to this section. The commissioner shall set a fee schedule based on the size and use of the land area on which the person will conduct industrial hemp operations and shall set the fee at a level sufficient to generate the amount of moneys necessary to cover the department’s direct costs in implementing this section. The commissioner shall transmit the fees collected pursuant to this section to the State Treasurer for deposit in the fund.

(c) The department shall administer an Industrial Hemp Research and Development Program to private companies and state institutions of higher education to conduct research and development of industrial hemp for commercial purposes. The objectives of the research may include growing industrial hemp to provide breeding strains to aid West Virginia’s hemp program and to create West Virginia stains of industrial hemp.

(d) There is hereby created in the State Treasury the Industrial Hemp Research Fund consisting of:

(1) Fees collected by the commissioner pursuant to §19-12E-8 of this code;

(2) Any moneys from foundations, private individuals, or any other funding sources that can be used to expand the scope or time frame of any hemp research authorized pursuant to this article.

## **ARTICLE 16. WEST VIRGINIA SEED LAW.**

### **§19-16-3a. Industrial hemp seed certification program; requirements; fees; rulemaking.**

(a) The commissioner may create and administer an industrial hemp seed certification program to obtain and develop varieties of seeds which meet the purposes and provisions of §19-12E-1 *et seq.* of this code. The program shall be consistent with this article and applicable federal law. This program may include West Virginia landrace cannabis seed varieties. For the purposes of this article, ‘West Virginia landrace cannabis seed’ means seed from the plant *cannabis sativa* that possesses characteristics of a unique and specialized cannabis seed variety that is present in West Virginia or has been recognized as produced in West Virginia.

(b) Persons or entities, licensed pursuant to §19-12E-1 *et seq.* of this code, may obtain a license for the development of industrial hemp varieties for certification. The commissioner may assess a fee, consistent with the provisions of §19-12E-7 of this code, to operate and administer the seed certification program. The fees shall be deposited in the Agricultural Fees Fund established by §19-1-4c of this code.

(c) The commissioner may promulgate emergency rules and shall propose rules for legislative approval pursuant to §29A-3-1 *et seq.* of this code for the purpose of implementing the provisions of this section.”

Whereupon,

Delegate Hanshaw asked and obtained unanimous consent that the amendment be withdrawn.

The bill was then ordered to third reading.

**S. B. 479**, Establishing local government monitoring by Auditor; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 500**, Authorizing City of White Sulphur Springs to expend principal and interest from special interest-bearing fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 543**, Relating to confidentiality of medical records; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 555**, Providing immunity from civil liability for qualified directors of certain governmental and nonprofit entities; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 574**, Relating to crime of misrepresentation of military honors; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 575**, Approving additional beds for intermediate care facilities; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page five, section nine, lines nine through thirteen, by striking out subdivision (3) in its entirety and inserting in lieu thereof the new subdivision (3), to read as follows:

“(3) Add beds in an intermediate care facility for individuals with an intellectual disability, except that prohibition does not apply to an intermediate care facility for individuals with intellectual disabilities beds approved under the Kanawha County circuit court order of August 3, 1989, civil action number MISC-81-585 issued in the case of E.H. v. Matin, 168 W.V. 248, 284 S.E.

2d 232 (1981) including the 24 beds provided in §16-2D-8(b)(24) of this code; and”.

The bill was then ordered to third reading.

**S. B. 576**, Relating to Patient Injury Compensation Fund; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page four, section one-a, line seventy, preceding the word “his”, by striking out the word “of” and inserting in lieu thereof the word “or”.

On page five, section eleven, line fifteen, by striking out the words “on and”.

On page five, section eleven, line sixteen, after “\$280”, by striking out the semicolon and inserting in lieu thereof a comma and the words “of which \$10 shall be deposited in the Courthouse Facilities Improvement Fund created by §29-26-6 of this code” and a semicolon.

On page nine, section twenty-eight-a, line thirty-three, by striking out “§11-1-11(a)(3)” and inserting in lieu thereof “§59-1-11(a)(4)”.

On page nine, section twenty-eight-a, line thirty-four, by striking out “§11-1-11(a)(4)” and inserting in lieu thereof “§59-1-11(a)(5)”.

And,

On page ten, section twenty-eight-a, line forty-six, after “§29-12D-1”, by inserting the words “et seq.”

The bill was then ordered to third reading.

**Com. Sub. for S. B. 582**, Allowing candidate for political party executive committee serve as election official; on second reading, coming up in regular order, was read a second time.

Delegate Hanshaw moved to amend the bill on page one, section twenty-eight, line eleven, immediately following the word “committee”, by inserting the following words “or delegate to the national convention of a political party”.

And,

On page one, section twenty-eight, line twelve, by deleting subsection (4) in its entirety and inserting in lieu thereof the following:

“(4) May not be the parent, child, sibling, or spouse of a candidate on the ballot for any office, other than for district, county, or state political party executive committee or delegate to the national convention of a political party, or an official write-in candidate for any office, other than for district, county, or state political party executive committee or delegate to the national convention of a political party, in the precinct where the official serves” and a semicolon.

### **Speaker Pro Tempore Overington in the Chair**

Mr. Speaker, Mr. Armstead, arose from his seat and requested to be excused from voting on the amendment and passage of Com. Sub. for S. B. 582 under the provisions of House Rule 49.

The Speaker Pro Tempore replied that any impact on Mr. Armstead would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse him from voting.

### **Mr. Speaker, Mr. Armstead, in the Chair**

Delegate Marcum requested to be excused from voting on the amendment and passage of Com. Sub. for S. B. 582 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The Speaker informed members that if any others had similar Rule 49 requests, any impact on them would be as a member of a class of persons possibly to be affected by the passage of the bill, and they would not be excused from voting. He further stated that any such members wishing to have this noted in the Journal should inform the Clerk, which was done by Delegates Hamrick, Howell, Moye, Overington and Storch.

The amendment was subsequently adopted.

The bill was then ordered to third reading.

**S. B. 584**, Finding certain claims against state to be moral obligations of state; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page ten, subsection (f), subdivision (206), by striking out “Mazaska” and inserting in lieu thereof “Mazeska”.

On page ten, subsection (f), subdivision (210), after “Kenneth”, by inserting “McGee and”.

On page thirteen, subsection (f), subdivision (274), by striking out “\$115.00” and inserting in lieu thereof “\$442.98”.

On page fifteen, subsection (f), subdivision (335), by striking out “\$220.69” and inserting in lieu thereof “\$239.76”.

And,

On page seventeen, after subsection (k), by inserting a new subsection, designated subsection (l), to read as follows:

*“(l) Claim against the Public Service Commission of West Virginia:*

(TO BE PAID FROM SPECIAL REVENUE FUND)

- (1) Pullman Power,  
 LLC.....\$204,176.95”

The bill was then ordered to third reading.

**Com. Sub. for S. B. 589**, Relating to issuance of personalized plates for antique motor vehicles; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 590**, Providing special license plate for curing childhood cancer; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 616**, Establishing maximum gross weight for certain wood-bearing trucks; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page three, section eleven, line fifty-eight, after the word “The”, by inserting the word “maximum”.

The bill was then ordered to third reading.

**S. B. 626**, Relating generally to coal mining; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 3. SURFACE COAL MINING AND RECLAMATION ACT.**

**§22-3-9. Permit application requirements and contents.**

(a) The surface mining permit application shall contain:

(1) The names and addresses of: (A) The permit applicant; (B) the owner of record of the property, surface, and mineral to be mined; (C) the holders of record of any leasehold interest in the property; (D) any purchaser of record of the property under a real estate contract; (E) the operator, if different from the applicant; and (F) if any of these are business entities other than a single

proprietor, the names and addresses of the principals, officers, and resident agent;

(2) The names and addresses of the owners of record of all surface and subsurface areas contiguous to any part of the proposed permit area: *Provided*, That all residents living on property contiguous to the proposed permit area shall be notified by the applicant, by registered or certified mail, of such application on or before the first day of publication of the notice provided for in §22-3-9(a)(6) of this code;

(3) A statement of any current surface mining permits held by the applicant in the state and the permit number and each pending application;

(4) If the applicant is a partnership, corporation, association, or other business entity, the following where applicable: The names and addresses of every officer, partner, resident agent, director or person performing a function similar to a director, together with the names and addresses of any person owning of record 10 percent or more of any class of voting stock of the applicant; and a list of all names under which the applicant, officer, director, partner, or principal shareholder previously operated a surface mining operation in the United States within the five-year period preceding the date of submission of the application;

(5) A statement of whether the applicant, or any officer, partner, director, principal shareholder of the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant, has ever been an officer, partner, director, or principal shareholder in a company which has ever held a federal or state mining permit which in the five-year period prior to the date of submission of the application has been permanently suspended or revoked or has had a mining bond or similar security deposited in lieu of bond forfeited and, if so, a brief explanation of the facts involved;

(6) A copy of the applicant's advertisement to be published in a newspaper of general circulation in the locality of the proposed permit area at least once a week for four successive weeks on a



form and in a manner prescribed by the secretary, which manner may be electronic. The advertisement shall contain, in abbreviated form, the information required by this section including the ownership and map of the tract location and boundaries of the proposed site so that the proposed operation is readily locatable by local residents, the location of the office of the ~~division~~ department where the application is available for public inspection, and stating that written protests will be accepted by the ~~director~~ secretary until a certain date which is at least 30 days after the last publication of the applicant's advertisement;

(7) A description of the type and method of surface mining operation that exists or is proposed, the engineering techniques used or proposed, and the equipment used or proposed to be used;

(8) The anticipated starting and termination dates of each phase of the surface mining operation and the number of acres of land to be affected;

(9) A description of the legal documents upon which the applicant's legal right to enter and conduct surface mining operations on the proposed permit area is based and whether that right is the subject of pending court litigation: *Provided*, That nothing in this article may be construed as vesting in the ~~director~~ secretary the jurisdiction to adjudicate property-rights disputes;

(10) The name of the watershed and location of the surface stream or tributary into which surface and pit drainage will be discharged;

(11) A determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and groundwater systems, including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the ~~director~~ secretary of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area, and particularly upon water availability: *Provided*, That this determination is not required until

~~such~~ the time as hydrologic information on the general area prior to mining is made available from an appropriate federal or state agency or, if existing and in the possession of the applicant, from the applicant: *Provided, however,* That the permit application shall not be approved until the information is available and is incorporated into the application;

(12) Accurate maps to an appropriate scale clearly showing: (A) The land to be affected as of the date of application; (B) the area of land within the permit area upon which the applicant has the legal right to enter and conduct surface mining operations; and (C) all types of information set forth on enlarged topographical maps of the United States geological survey of a scale of 1:24,000 or larger, including all man-made features and significant known archaeological sites existing on the date of application. In addition to other things specified by the ~~director~~ secretary, the map shall show the boundary lines and names of present owners of record of all surface areas abutting the proposed permit area and the location of all structures within 1,000 feet of the proposed permit area;

(13) Cross-section maps or plans of the proposed affected area, including the actual area to be mined, prepared by, or under the direction of, and certified by a person approved by the ~~director~~ secretary, showing pertinent elevation and location of test borings or core samplings, where required by the ~~director~~ secretary, and depicting the following information: (A) The nature and depth of the various strata or overburden; (B) the location of subsurface water, if encountered, and its quality; (C) the nature and thickness of any coal or rider seams above the seam to be mined; (D) the nature of the stratum immediately beneath the coal seam to be mined; (E) all mineral crop lines and the strike and dip of the coal to be mined, within the area of land to be affected; (F) existing or previous surface mining limits; (G) the location and extent of known workings of any underground mines, including mine openings to the surface; (H) the location of any significant aquifers; (I) the estimated elevation of the water table; (J) the location of spoil, waste, or refuse areas and topsoil preservation areas; (K) the location of all impoundments for waste or erosion control; (L) any settling or water treatment facility or drainage system; (M) constructed or natural drainways and the location of any discharges

to any surface body of water on the area of land to be affected or adjacent thereto; and (N) adequate profiles at appropriate cross sections of the anticipated final surface configuration that will be achieved pursuant to the operator's proposed reclamation plan;

(14) A statement of the result of test borings or core samples from the permit area, including: (A) Logs of the drill holes; (B) the thickness of the coal seam to be mined and analysis of the chemical and physical properties of the coal; (C) the sulfur content of any coal seam; (D) chemical analysis of potentially acid or toxic forming sections of the overburden; and (E) chemical analysis of the stratum lying immediately underneath the coal to be mined: *Provided*, That the provisions of this subdivision may be waived by the ~~director~~ secretary with respect to the specific application by a written determination that such requirements are unnecessary;

(15) For those lands in the permit application which a reconnaissance inspection suggests may be prime farmlands, a soil survey shall be made or obtained according to standards established by the ~~secretary~~ Commissioner of Agriculture in order to confirm the exact location of ~~such~~ the prime farmlands;

(16) A reclamation plan as presented in §22-3-10 of this code;

(17) Information pertaining to coal seams, test borings, core samplings, or soil samples as required by this section shall be made available to any person with an interest who is or may be adversely affected: *Provided*, That information which pertains only to the analysis of the chemical and physical properties of the coal, except information regarding mineral or elemental content which is potentially toxic to the environment, shall be kept confidential and not made a matter of public record;

(18) When requested by the ~~director~~ secretary, the climatological factors that are peculiar to the locality of the land to be affected, including the average seasonal precipitation, the average direction and velocity of prevailing winds, and the seasonal temperature ranges; and

(19) Other information that may be required by rules reasonably necessary to effectuate the purposes of this article.

(b) If the ~~director~~ secretary finds that the probable total annual production at all locations of any coal surface mining operator will not exceed 300,000 tons, the determination of probable hydrologic consequences including the engineering analyses and designs necessary as required by this article or rules promulgated thereunder; the development of cross-section maps and plans as required by this article or rules promulgated thereunder; the geologic drilling and statement of results of test borings and core samplings as required by this article or rules promulgated thereunder; preblast surveys required by this article or rules promulgated thereunder; the collection of site-specific resource information and production of protection and enhancement plans for fish and wildlife habitats and other environmental values required by this article or rules promulgated thereunder; and the collection of archaeological and historical information required by this article and rules promulgated thereunder and any other archaeological and historical information required by the federal Department of the Interior and the preparation of plans that may be necessitated thereby shall, upon the written request of the operator, be performed by a qualified public or private laboratory designated by the ~~director~~ secretary and a reasonable cost of the preparation of ~~such~~ the determination and statement shall be assumed by the ~~division~~ department from funds provided by the United States Department of the Interior pursuant to the federal Surface Mining Control and Reclamation Act of 1977, as amended.

(c) Before the first publication of the applicant's advertisement as provided in this section, each applicant for a surface mining permit shall file, except for that information pertaining to the coal seam itself, a copy of the application for public inspection in the nearest office of the ~~division~~ department as specified in the applicant's advertisement.

(d) Each applicant for a permit shall be required to submit to the ~~director~~ secretary as a part of the permit application a certificate issued by an insurance company authorized to do business in this state covering the surface mining operation for which the permit is

sought, or evidence that the applicant has satisfied state self-insurance requirements. The policy shall provide for personal injury and property damage protection in an amount adequate to compensate any persons damaged as a result of surface coal mining and reclamation operations, including use of explosives, and entitled to compensation under the applicable provisions of state law. The policy shall be maintained in full force and effect during the terms of the permit or any renewal, including the length of all reclamation operations.

(e) Each applicant for a surface mining permit shall submit to the ~~director~~ secretary as part of the permit application a blasting plan where explosives are to be used, which shall outline the procedures and standards by which the operator will meet the provisions of the blasting performance standards.

(f) The applicant shall file, as part of the permit application, a schedule listing all notices of violation, bond forfeitures, permit revocations, cessation orders, or permanent suspension orders resulting from a violation of the federal Surface Mining Control and Reclamation Act of 1977, as amended, this article or any law or regulation of the United States or any department or agency of any state pertaining to air or environmental protection received by the applicant in connection with any surface mining operation during the three-year period prior to the date of application, and indicating the final resolution of any notice of violation, forfeiture, revocation, cessation, or permanent suspension.

(g) Within five working days of receipt of an application for a permit, the ~~director~~ secretary shall notify the operator in writing, stating whether the application is administratively complete and whether the operator's advertisement may be published. If the application is not administratively complete, the ~~director~~ secretary shall state in writing why the application is not administratively complete.

**§22-3-20. Public notice; written objections; public hearings; informal conferences.**

(a) At the time of submission of an application for a surface mining permit or a significant revision of an existing permit pursuant to the provisions of this article, the applicant shall submit to the department a copy of the required advertisement for public notice on a form and in a manner prescribed by the secretary, which manner may be electronic. At the time of submission, the applicant shall place the advertisement in a local newspaper of general circulation in the county of the proposed surface-mining operation at least once a week for four consecutive weeks. The secretary shall notify various appropriate federal and state agencies as well as local governmental bodies, planning agencies, and sewage and water treatment authorities or water companies in the locality in which the proposed surface mining operation will take place, notifying them of the operator's intention to mine on a particularly described tract of land and indicating the application number and where a copy of the proposed mining and reclamation plan may be inspected. These local bodies, agencies, authorities, or companies may submit written comments within a reasonable period established by the secretary on the mining application with respect to the effect of the proposed operation on the environment which is within their area of responsibility. ~~Such~~ The comments shall be immediately transmitted by the secretary to the applicant and to the appropriate office of the department. The secretary shall provide the name and address of each applicant to the Commissioner of the Division of Labor who shall, within 15 days from receipt, notify the secretary as to the applicant's compliance, if necessary, pursuant to §21-5-14 of this code.

(b) Any person having an interest which is or may be adversely affected, or the officer or head of any federal, state, or local governmental agency, has the right to file written objections to the proposed initial or revised permit application for a surface mining operation with the secretary within 30 days after the last publication of the advertisement required in §22-3-20(a) of this code. ~~Such~~ The objections shall be immediately transmitted to the applicant by the secretary and shall be made available to the public. If written objections are filed and an informal conference requested within 30 days of the last publication of the above notice, the secretary shall then hold a conference in the locality of the

proposed mining within a reasonable time after the close of the public comment period. Those requesting the conference shall be notified and the date, time, and location of the informal conference shall also be advertised by the secretary in a newspaper of general circulation in the locality on a form and in a manner prescribed by the secretary, which manner may be electronic, at least two weeks prior to the scheduled conference date. The secretary may arrange with the applicant, upon request by any party to the conference proceeding, access to the proposed mining area for the purpose of gathering information relevant to the proceeding. An electronic or stenographic record shall be made of the conference proceeding unless waived by all parties. The record shall be maintained and shall be accessible to the parties at their respective expense until final release of the applicant's bond or other security posted in lieu thereof. The secretary's authorized agent shall preside over the conference. In the event all parties requesting the informal conference stipulate agreement prior to the conference and withdraw their request, a conference need not be held.

## **ARTICLE 11. WATER POLLUTION CONTROL ACT.**

### **§22-11-7a. Certification agreements; required provisions; ~~effective date.~~**

(a) Any applicant for the water quality certification that seeks certification of activities covered by the United States Army Corps of Engineers permits issued in accordance with 33 U.S.C. §1344 and 33 C.F.R. Parts 323 or 330 ~~for use at or in conjunction with a surface coal mining operation as defined in section three, article three of this chapter, certification may be issued subject to the following conditions:~~ may be issued a certification in accordance with the legislative rules entitled Rules for Individual State Certification of Activities Requiring a Federal Permit, 47 C.S.R. 5A.

~~(1) If the applicant's surface coal mining operation will not impact waters of the state designated as national resource waters and streams where trout naturally reproduce and will not impact wetlands of the state in a manner inconsistent with all applicable state or federal standards as the case may be, as required by the~~

~~federal Clean Water Act, and if the watershed above the toe of the farthest downstream permanent structure authorized pursuant to the United States Army Corps of Engineers permits issued in accordance with 33 U.S.C. §1344 and 33 C.F.R. Parts 323 or 330 is less than two hundred fifty acres, then the director may issue a water quality certification pursuant to the requirements of this section. If the watershed above the toe of the farthest downstream permanent structure impacted is equal to or greater than two hundred fifty acres, the director shall require that mitigation be undertaken. Additionally, the director may require mitigation for temporary impacts to waters of the state as specified in subdivision (2) of this subsection.~~

~~(2) If the watershed above the toe of the farthest downstream permanent structure authorized pursuant to the United States Army Corps of Engineers permits issued in accordance with 33 U.S.C. §1344 and 33 C.F.R. Parts 323 or 330 is greater than or equal to two hundred fifty acres and all other necessary requirements are met consistent with this section, the director shall further condition a water quality certification on a requirement that the applicant mitigate the expected water quality impacts under the following conditions:~~

~~(A) The water quality certification may require mitigation at a ratio appropriate to the type of waters impacted, consistent with state or federal standards as required by the federal Clean Water Act, for the types and locations of waters impacted;~~

~~(B) The Director may accept mitigation on the permitted area, mitigation off the permitted area, mitigation banking of waters of the state, or any combination thereof, or any other mitigation measure acceptable to the Director; and~~

~~(C) The Director shall provide credit for any mitigation that is a required component of the permit issued by the United States Army Corps of Engineers pursuant to 33 U.S.C. §1344 to the extent that it satisfies required mitigation pursuant to this section.~~

~~(D) Upon completion of the work required by an agreement to conduct operations authorized by this subsection the surface coal~~



~~mining operation shall obtain a certification from a registered professional engineer that all mitigation work specified in the agreement has been completed in accordance with the conditions of the water quality certification. The director shall promptly review the certification and provide to the surface coal mining operation with notice that all mitigation work has been successfully completed, or that further mitigation work is necessary to meet the conditions imposed by the water quality certification. The mitigation amount may not exceed \$200,000 per acre of stream disturbed above the toe of the farthest downstream permanent structure. Those moneys shall be deposited in the stream restoration fund under the jurisdiction of the Division of Environmental Protection and any expenditures from this fund after June 30, 1998, shall not be authorized from collections but shall only be authorized by appropriation by the Legislature. Additionally, the expenditures are only authorized in those counties where the activity leading to the mitigation occurred or in those counties adjacent to the counties where the activity leading to the mitigation occurred. The Director shall by December 31, of each year provide a report to the Joint Committee on Government and Finance on receipts and expenditures from the stream restoration fund, the number of acreage reclaimed by the Division through the use of these funds and the effectiveness of achieving stream restoration through the payment of the mitigation amounts into the fund in lieu of reclamation by the certificate holder.~~

~~(3) The Director shall confer with representatives of the surface coal mining industry and representatives of environmental organizations with an interest in water quality in developing a manual of approval options for mitigation on permitted areas, mitigation off permitted areas and mitigation involving banking of waters of the state.~~

~~(4) (1) The proposed surface coal mining operation activity shall comply with all applicable state and federal laws, rules, and regulations.~~

~~(5) (2) The director secretary shall propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code, for the~~

purpose of implementing the provisions of this section which rules shall include, but not be limited to, the following:

(A) Establishing all necessary operational and performance requirements for ~~an operator~~ a person undertaking activities covered by this section;

(B) Modifying the provisions of this section, when necessary and appropriate to bring the provisions of this section into compliance with state or federal law or regulation; and

(C) Establishing the specific operational requirements for ~~mining operations~~ the activity consistent with this section appropriate to protect the waters of this state during and following ~~mining operations~~ the activity.

(b) The Joint Committee on Government and Finance may undertake or facilitate a study of the impact of mountaintop mining and valley fills upon the State of West Virginia.

(1) To facilitate the study, the Joint Committee on Government and Finance is further authorized to coordinate with and seek funding from appropriate federal agencies to facilitate the study including, but not limited to: The federal Environmental Protection Agency, Army Corps of Engineers, Office of Surface Mining Reclamation and Enforcement, and ~~the~~ Fish and Wildlife Service.

(2) In order to facilitate the research, the Joint Committee on Government and Finance shall appoint a council to coordinate and direct the research. The composition of the council shall be determined by the joint committee, but shall include representatives from the various interested parties as determined solely by the joint committee.

## **CHAPTER 22A. MINERS' HEALTH, SAFETY, AND TRAINING.**

### **ARTICLE 1. OFFICE OF MINERS' HEALTH, SAFETY, AND TRAINING; ADMINISTRATION; ENFORCEMENT.**

#### **§22A-1-36. Mandatory safety programs; penalties.**

(a) The director, in consultation with the state Board of Coal Mine Health and Safety, shall promulgate rules in accordance with §29A-1-1 *et seq.* of this code, detailing the requirements for mine safety programs to be established by coal operators, as provided in §22A-1-36(b) of this code. The rules may require different types of safety programs to be developed, depending upon the output of the particular mine, the number of employees of the particular mine, the location of the particular mine, the physical features of the particular mine, or any other factor deemed relevant by the director.

(b) Within six months of the date when the rules required in §22A-1-36(a) of this code become final, each operator shall develop and submit to the director a comprehensive mine safety program for each mine, in accordance with such rules. Each employee of the mine shall be afforded an opportunity to review and submit comments to the director regarding the modification or revision of such program, prior to submission of such program to the director. Upon submission of such program the director has ~~ninety~~ 90 days to approve, reject, or modify such program. If the program is rejected, the director shall give the operator a reasonable time to correct and resubmit such program. ~~Each program which is approved shall be reviewed, at least annually, by the director.~~ An up-to-date copy of each program shall be placed on file in the office and further copies shall be made available to the miners of each mine and their representatives. Each operator shall undertake all efforts necessary to assure total compliance with the appropriate safety program at each mine and shall fully implement all portions of such program. Once approved, a comprehensive mine safety program shall not be subject to annual review by the director: *Provided*, That a program may be subject to annual review by the director after a fatality or serious accident involving bodily harm has occurred, or, if the operator has shown a pattern of mine safety violations as defined by §22A-1-15(2) of this code, such a finding shall also warrant annual review by the director. The director shall promulgate emergency rules in order to comply with this subsection.

(c) Any person violating any provision of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not

less than \$100 nor more than \$1,000, or imprisoned in the county jail for not more than six months, or both fined and imprisoned.

**§22A-1-42. Surface ground control plan; automated external defibrillator.**

(a) The MSHA-approved surface ground control plan shall serve as the state-approved plan, and the operator, upon approval by MSHA, shall provide a copy of the MSHA-approved surface ground control plan to the director.

(b) Automated external defibrillators (AEDs) shall be required on all surface mining operations. The director shall promulgate emergency rules in order to comply with this section of code, giving special consideration to the climate sensitive nature of AEDs.

**ARTICLE 2. UNDERGROUND MINES.**

**VENTILATION**

**§22A-2-2. Submittal of detailed ventilation plan to director.**

(a) A mine operator shall submit a detailed ventilation plan and any addenda to the director for review and comment. The mine operator shall review the plan with the director and address concerns to the extent practicable. The operator shall deliver to the miners' representative employed by the operator at the mine, if any, a copy of the operator's proposed annual ventilation plan at least 10 days prior to the date of submission. The miners' representative, if any, shall be afforded the opportunity to submit written comments to the operator prior to such submission; in addition, the miners' representative, if any, may submit written comments to the director. The director shall submit any concern that is not addressed to the United States Department of Labor - Mine Safety and Health Administration (MSHA) through comments to the plan. The mine operator shall provide a copy of the plan to the director 10 days prior to the submittal of the plan to MSHA. The MSHA-approved plan shall serve as the state-approved plan: *Provided*, That the MSHA-approved plan shall comply with all provisions of state mining law as set forth in state code or code of state rules.

(b) The operator shall give the director a copy of the MSHA-approved plan and any addenda as soon as the operator receives the approval.

(c) In the event of an unforeseen situation requiring immediate action on a plan revision, the operator shall submit the proposed revision to the director and the miners' representative, if any, employed by the operator at the mine when the proposed revision is submitted to MSHA. The director shall work with the operator to review and comment on the proposed plan revision to MSHA as quickly as possible.

(d) Upon approval by MSHA, the plan is enforceable by the director. The approved plan and all revisions and addenda thereto shall be posted on the mine bulletin board and made available for inspection by the miners at that mine for the period of time that they are in effect.

### **§22A-2-3. Fans.**

(a) The ventilation of mines, the systems for which extend for more than 200 feet underground, and which are opened after the effective date of this article, shall be produced by a mechanically operated fan or mechanically operated fans. Ventilation by means of a furnace is prohibited in any mine. The fan or fans shall be kept in continuous operation, unless written permission to do otherwise be granted by the director. In case of interruption to a ventilating fan or its machinery whereby the ventilation of the mine is interrupted, immediate action shall be taken by the mine operator or the operator's management personnel, in all mines, to cut off the power and withdraw the men from the face regions or other areas of the mine affected. If ventilation is restored in 15 minutes, the face regions and other places in the affected areas where gas (methane) is likely to accumulate, shall be reexamined by a certified person; and if found free of explosive gas, power may be restored and work resumed. If ventilation is not restored in 15 minutes, all underground employees shall be removed from the mine, all power shall be cut off in a timely manner, and the underground employees shall not return until ventilation is restored and the mine examined by certified persons, mine examiners, or

other persons holding a certificate to make preshift examination. If ventilation is restored to the mine before miners reach the surface, the miners may return to underground working areas only after an examination of the areas is made by a certified person and the areas are determined to be safe.

(b) All main fans installed after the effective date of this article shall be located on the surface in fireproof housings offset not less than 15 feet from the nearest side of the mine opening, equipped with fireproof air ducts, provided with explosion doors or a weak wall, and operated from an independent power circuit. In lieu of the requirements for the location of fans and pressure-relief facilities, a fan may be directly in front of, or over a mine opening: *Provided*, That such opening is not in direct line with possible forces coming out of the mine if an explosion occurs: *Provided, however*, That there is another opening having a weak wall stopping or explosion doors that would be in direct line with forces coming out of the mine. All main fans shall be provided with pressure-recording gauges or water gauges. A daily inspection shall be made of all main fans and machinery connected therewith by a certified electrician and a record kept of the same in a book prescribed for this purpose or by adequate facilities provided to permanently record the performance of the main fans and to give warning of an interruption to a fan.

(c) Auxiliary fans and tubing shall be permitted to be used in lieu of or in conjunction with line brattice to provide adequate ventilation to the working faces: *Provided*, That auxiliary fans be so located and operated to avoid recirculation of air at any time. Auxiliary fans shall be approved and maintained as permissible.

(d) If the auxiliary fan is stopped or fails, the electrical equipment in the place shall be stopped and the power disconnected at the power source until ventilation in the working place is restored. During such stoppage, the ventilation shall be, by means of the primary air current conducted into the place, in a manner to prevent accumulation of methane.

(e) In places where auxiliary fans and tubing are used, the ventilation between shifts, weekends, and idle shifts shall be

provided to face areas with line brattice or the equivalent to prevent accumulation of methane.

(f) The director may require that when continuous mine equipment is being used, all face ventilating systems using auxiliary fans and tubing shall be provided with machine-mounted diffuser fans, and such fans shall be continuously operated during mining operations.

(g) In the event of a fire or explosion in any coal mine, the ventilating fan or fans shall not intentionally be started, stopped, speed increased or decreased or the direction of the air current changed without the approval of the general mine foreman, and, if he or she is not immediately available, a representative of the Office of Miners' Health, Safety, and Training. A duly authorized representative of the employees should be consulted if practical under the circumstances.

(h) The MSHA-approved plan relating to fans shall serve as the state-approved plan: *Provided*, That the MSHA-approved plan shall comply with all provisions of state mining law as set forth in state code or code of state rules.

#### **§22A-2-4. Ventilation of mines in general.**

(a) The operator or mine foreman of every coal mine, whether worked by shaft, slope, or drift, shall provide and hereafter maintain for every such mine adequate ventilation. In all mines the quantity of air passing through the last open crosscut between the intake and return in any pair or set of entries shall be not less than 9,000 cubic feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. All working faces in a working section between the intake and return airway entries shall be ventilated with a minimum quantity of 3,000 cubic feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. The quantity of air reaching the last crosscut in pillar sections may be less than 9,000 cubic feet of air per minute if at least 9,000 cubic feet of air per minute is being delivered to the intake of the pillar line. The air current shall under

any conditions have a sufficient volume and velocity to reduce and carry away smoke from blasting and any flammable or harmful gases. The operator shall provide to the safety committee access to anonometers and smoke tubes while performing their duties. All active underground working places in a mine shall be ventilated by a current of air containing not less than 19 and five-tenths percent of oxygen, not more than five-tenths percent of carbon dioxide, and no harmful quantities of other noxious or poisonous gases.

(b) Airflow shall be maintained in all intake and return air courses of a mine and, where multiple fans are used, neutral areas created by pressure equalization between main fans shall not be permitted. Production activities in working faces shall cease while tubing, line brattice or other ventilation devices are being installed inby the machine operator.

(c) Properly installed and adequately maintained line brattice or other approved devices shall be continuously used from the last open crosscut of an entry or room of each working section to provide adequate ventilation to the working faces for the miners and to remove flammable, explosive and noxious gases, dust, and explosive fumes. When damaged by falls or otherwise, such line brattice or other devices shall be repaired immediately.

(d) Brattice cloth used underground shall be of flame-resistant material. The space between the line brattice or other approved device and the rib shall be large enough to permit the flow of a sufficient volume and velocity of air to keep the working face clear of flammable, explosive and noxious gases, dust, and explosive fumes.

(e) Each working unit newly developed in virgin coal hereafter, shall be ventilated by a separate split of air: *Provided*, That in areas already under development and in areas where physical conditions prevent compliance with this provision, the director may grant temporary relief from compliance until such time as physical conditions make compliance possible. The quantity of air reaching the last crosscut shall not be less than 9,000 cubic feet of air per minute and shall under any condition have sufficient volume and



velocity to reduce and carry away smoke and flammable or harmful gases from each working face in the section.

(f) As working places advance, crosscuts for air shall be made not more than 105 feet apart. Where necessary to render harmless and carry away noxious or flammable gases, line brattice or other approved methods of ventilation shall be used so as to properly ventilate the face. All crosscuts between the main intake and return airways not required for passage of air and equipment shall be closed with stoppings substantially built with incombustible or fire-resistant material so as to keep working places well ventilated. In mines where it becomes necessary to provide larger pillars for adequate roof support, working places shall not be driven more than 200 feet without providing a connection that will allow the free flow of air currents. In such cases, a minimum of 12,000 cubic feet of air a minute shall be delivered to the last open crosscut and as much more as is necessary to dilute and render harmless and carry away flammable and noxious gases.

(g) In special instances for the construction of sidetracks, haulageways, airways, or openings in shaft bottom or slope bottom layouts where the size and strength of pillars is important, the director may issue a permit approving greater distances. The permit shall specify the conditions under which such places may be driven.

(h) In all mines a system of bleeder openings on air courses, designed to provide positive movement of air through and/or around abandoned or caved areas, sufficient to prevent dangerous accumulation of gas in such areas, and to minimize the effect of variations in atmospheric pressure shall be made a part of pillar recovery plans projected after July 1, 1971.

(i) If a bleeder return is closed as a result of roof falls or water during pillar recovery operations, pillar operations may continue without reopening the bleeder return if at least 20,000 cubic feet of air per minute is delivered to the intake of the pillar line.

(j) No operator or mine foreman shall permit any person to work where he or she is unable to maintain the quantity and quality

of the air current as heretofore required: *Provided*, That such provisions shall not prohibit the employment of men to make place of employment safe.

(k) The ventilation of any mine shall be so arranged by means of air locks, overcasts or undercasts, that the use of doors on passageways where men or equipment travel may be kept to a minimum. Where doors are used in a mine, they shall be erected in pairs so as to provide a ventilated air lock unless the doors are operated mechanically.

(l) A crosscut shall be provided at or near the face of each entry or room before such places are abandoned.

(m) Overcasts or undercasts shall be constructed of incombustible material and maintained in good condition.

(n) After January 1, 1987, all run through check curtains shall be substantially constructed of translucent material, except that where belting material has to be used because of high velocity, there shall be a window of translucent material at least 30 inches square or one-half the height of the coal seam, whichever is less.

(o) The MSHA-approved plan shall serve as the state-approved plan: *Provided*, That the MSHA-approved plan shall comply with all provisions of state mining law as set forth in state code or code of state rules.

#### **§22A-2-4a. Use of belt air.**

(a) *Definitions.* — For purposes of this section, ‘belt air’ means the use of a belt conveyor entry as an intake air course to ventilate the working sections of a mine or areas where mechanized mining equipment is being installed or removed.

(b) Upon the effective date of the enactment of this section, belt air may not be used to ventilate the working sections of a mine or areas where mechanized mining equipment is being installed or removed: *Provided*, That if an alternative method of ventilation will at all times guarantee no less than the same measure of protection afforded the miners of an underground mine by the

foregoing or if the application of the foregoing to an underground mine will result in a diminution of safety to the miners in the mine, the director may approve the interim use of belt air pursuant to the following: The MSHA-approved plan for use of belt air shall serve as the state-approved plan: *Provided*, That the MSHA-approved plan shall contain all provisions of state mining law as set forth in state code or code of state rules.

~~(1) For those operators using belt air pursuant to a ventilation plan approved by the director in accordance with the provisions of section two of this article prior to the effective date of the enactment of this section, the director shall cause an inspection to be made of the mine ventilation system and ventilation equipment. The director may allow the continued use of belt air in that mine if he or she determines that: (i) The use meets the minimum requirements of 30 CFR 75.350(b); and (ii) the use, as set forth in the ventilation plan and as inspected, will at all times guarantee no less than the same measure of protection afforded the miners of the mine if belt air were not used, or that the prohibition of the use of belt air in the mine will result in a diminution of safety to the miners in the mine.~~

~~(2) For those operators submitting on or after the effective date of the enactment of this section, a ventilation plan proposing the use of belt air to the director pursuant to section two of this article, the director shall immediately upon receipt of the plan give notice of the plan to the representative of the miners in that mine and cause any investigation to be made that the director considers appropriate: *Provided*, That the investigation shall include a review of any comments on the plan submitted by the representative of miners in the mine. Upon receiving the report of the investigation, the director shall make findings of fact and issue a written decision, incorporating in the decision his or her findings and an order approving or denying the use of belt air pursuant to the terms of the ventilation plan. To approve the use of belt air pursuant to a ventilation plan, the director shall, at a minimum, determine that: (i) The operator's proposed use of belt air meets the minimum requirements of 30 CFR 75.350(b); and (ii) approval of the proposed use of belt air will at all times guarantee no less than the same measure of protection afforded the miners of the mine if belt~~

air were not used, or that the prohibition of the use of belt air in the mine will result in a diminution of safety to the miners in the mine.

~~(3) The interim use of belt air shall be accurately reflected in operator's plan of ventilation, as approved by the director in accordance with the provisions of section two of this article.~~

~~(c) Upon completion of the independent scientific and engineering review concerning the use of belt air and the composition and fire retardant properties of belt materials in underground coal mining by the technical study panel created pursuant to the provisions of 30 U. S. C. §963 and the Secretary of the United States Department of Labor's corresponding report to Congress pursuant to the review, the Board of Coal Mine Health and Safety shall, within thirty days of the Secretary of Labor's report to Congress, provide the Governor with its recommendations, if any, for the enactment, repeal or amendment of any statute or rule which would enhance the safe ventilation of underground mines and the health and safety of miners: *Provided*, That at least sixty days after the Secretary of Labor's report to Congress, the Board of Coal Mine Health, Safety and Training shall promulgate emergency rules regulating the use of belt air in light of that report: *Provided, however*, That the provisions of subsections (a) and (b) of this section shall expire and no longer have any force and effect upon the filing of such emergency rules.~~

#### **§22A-2-5. Unused and abandoned parts of mine.**

(a) In any mine, all workings which are abandoned after July 1, 1971, shall be sealed or ventilated. If the workings are sealed, the sealing shall be done with incombustible material in a manner prescribed by the director and one or more of the seals of every sealed area shall be fitted with a pipe and cap or valve to permit the sampling of gases and measuring of hydrostatic pressure behind the seals. For the purpose of this section, working within a panel shall not be considered to be abandoned until the panel is abandoned.

(b) Air that has passed through an abandoned area or an area which is inaccessible or unsafe for inspection shall not be used to ventilate any working place in any working mine, unless

permission is granted by the director with unanimous agreement of the technical and mine safety review committee. Air that has been used to ventilate seals shall not be used to ventilate any working place in any working mine. Air which has been used to ventilate an area from which the pillars have been removed shall not be used to ventilate any working place in a mine, except that the air, if it does not contain 0.25 volume percent or more of methane, may be used to ventilate enough advancing working places immediately adjacent to the line of retreat to maintain an orderly sequence of pillar recovery on a set of entries. Before sealed areas, temporary or permanent, are reopened, the director shall be notified.

(c) On or after the effective date of the amendment and reenactment of this section during the 2007 regular session of the Legislature, a professional engineer registered with the Board of Registration for Professional Engineers pursuant to §30-13-1 *et seq.* of this code shall certify the design of all new seals as meeting the criteria established by the director. Every seal design shall have the professional engineer's certificate and signature, in addition to his or her seal, in the following form:

‘I the undersigned, do hereby certify that this seal design is, to the best of my knowledge, in accordance with all applicable requirements under state and federal law, rules and regulations.

\_\_\_\_\_ P.E.’

(d) On or after the effective date of the amendment and reenactment of this section during the 2007 regular session of the Legislature, the director shall approve the construction of all new seals in accordance with rules authorized in this section. The construction shall also be:

(1) Certified by the mine foreman-fire boss of the mine as being in accordance with the design certified by a professional engineer pursuant to §22A-2-5(c) of this code; and

(2) (A) Constructed of solid concrete blocks and in accordance with the other provisions of 30 CFR 75.335(a)(1); or

(B) Constructed in a manner that the director has approved as having the capability to withstand pressure equal to or greater than a seal constructed in accordance with the provisions of 30 CFR 75.335(a)(1).

(e) On or after the effective date of the amendment and reenactment of this section during the 2007 regular session of the Legislature, the operator shall inspect the physical condition of all seals and measure the atmosphere behind all seals in accordance with protocols developed by the Board of Coal Mine Health and Safety, pursuant to rules authorized in this section and consistent with a mine-specific atmospheric measurement plan submitted to and approved by the director. The atmospheric measurements shall include, but not be limited to, the methane and oxygen concentrations and the barometric pressure. The atmospheric measurements also shall be recorded with ink or indelible pencil in a book kept for that purpose on the surface at a location designated by the operator. The protocols shall specify appropriate methods for inspecting the physical condition of seals, measuring the mine atmosphere in sealed workings, and inerting the mine atmosphere behind the seals, where appropriate.

(f) (1) In all mines containing workings sealed using seals constructed in accordance with the provisions of 30 CFR 75.335(a)(2) which are constructed: (A) Of cementitious foam blocks; or (B) with methods or materials that the Board of Coal Mine Health and Safety determines do not provide an adequate level of protection to miners, the operator shall, pursuant to a plan submitted to and approved by the director, remediate the seals by either enhancing the seals or constructing new seals in place of or immediately outby the seals. After being remediated, all seals must have the capability to withstand pressure equal to or greater than a seal constructed in accordance with the provisions of 30 CFR 75.335(a)(1). The design, development, submission and implementation of the remediation plan is the responsibility of the operator of each mine. Pursuant to rules authorized in this section, the Board of Coal Mine Health and Safety shall specify appropriate methods of enhancing the seals.

(2) Notwithstanding any provision of this code to the contrary, if the director determines that any seal described in §22A-2-5(f)(1) of this code is incapable of being remediated in a safe and effective manner, the mine foreman-fire boss shall, at least once every 24 hours, inspect the physical condition of the seal and measure the atmosphere behind the seal. The daily inspections and measurements shall otherwise be performed in accordance with the protocols and atmospheric measurement plan established pursuant to §22A-2-5(e) of this code.

(g) Upon the effective date of the amendment and reenactment of this section during the 2007 regular session of the Legislature, second mining of lower coal on retreat, also known as bottom mining, shall not be permitted in workings that will be sealed unless an operator has first submitted and received approval by the director of a remediation plan that sets forth measures that will be taken to mitigate the effects of remnant ramps and other conditions created by bottom mining on retreat which can increase the force of explosions originating in and emanating out of workings that have been bottom mined. The director shall require that certification in a manner similar to that set forth in §22A-2-5(c) of this code shall be obtained by the operator from a professional engineer and the mine foreman-fire boss for the plan design and plan implementation, respectively.

(h) No later than 60 days after the effective date of the amendment and reenactment of this section during the 2007 regular session of the Legislature, the Board of Coal Mine Health and Safety shall develop and promulgate rules pursuant to the provisions of §22A-6-4 of this code to implement and enforce the provisions of this section.

(i) Upon the issuance of mandatory health and safety standards relating to the sealing of abandoned areas in underground coal mines by the Secretary of the United States Department of Labor pursuant to 30 U. S. C. §811, as amended by section 10 of the federal Mine Improvement and New Emergency Response Act of 2006, the director, working in consultation with the Board of Coal Mine Health and Safety, shall, within 30 days, provide the Governor with his or her recommendations, if any, for the

enactment, repeal, or amendment of any statute or rules which would enhance the safe sealing of abandoned mine workings and the health and safety of miners.

(j) The MSHA-approved plan for seals shall serve as the state-approved plan: *Provided*, That the MSHA-approved plan shall comply with all provisions of state mining law as set forth in this code or code of state rules.

## ROOF – FACE – RIBS

### **§22A-2-25. Roof control programs and plans; refusal to work under unsupported roof.**

(a) Each operator shall undertake to carry out on a continuing basis a program to improve the roof control system of each coal mine and the means and measures to accomplish such system. The roof and ribs of all active underground roadways, travelways, and working places shall be supported or otherwise controlled adequately to protect persons from falls of the roof or ribs. A roof control plan and revisions thereof suitable to the roof conditions and mining systems of each coal mine and approved by the director shall be adopted and set out in printed form before new operations. The safety committee of the miners of each mine where such committee exists shall be afforded the opportunity to review and submit comments and recommendations to the director and operator concerning the development, modification, or revision of such roof control plans. The plan shall show the type of support and spacing approved by the director. Such plan shall be reviewed periodically, at least every six months by the director, taking into consideration any falls of roof or rib or inadequacy of support of roof or ribs. A copy of the plan shall be furnished to the director or his or her authorized representative and shall be available to the miners and their representatives. The MSHA-approved roof control plan shall serve as the state-approved plan: *Provided*, That the MSHA-approved plan shall comply with all provisions of state mining law as set forth in this code or code of state rules.

(b) The operator, in accordance with the approved plan, shall provide at or near each working face and at such other locations in



the coal mine, as the director may prescribe, an ample supply of suitable materials of proper size with which to secure the roof thereof of all working places in a safe manner. Safety posts, jacks, or other approved devices shall be used to protect the workmen when roof material is being taken down, crossbars are being installed, roof bolt holes are being drilled, roof bolts are being installed, and in such other circumstances as may be appropriate. Loose roof and overhanging or loose faces and ribs shall be taken down or supported. When overhangs or brows occur along rib lines they shall be promptly removed. All sections shall be maintained as near as possible on center. Except in the case of recovery work, supports knocked out shall be replaced promptly. Apprentice miners shall not be permitted to set temporary supports on a working section without the direct immediate supervision of a certified miner.

(c) The operator of a mine has primary responsibility to prevent injuries and deaths resulting from working under unsupported roof. Every operator shall require that no person may proceed beyond the last permanent support unless adequate temporary support is provided or temporary support is not required under an approved roof control plan and absence of such support will not pose a hazard to the miners.

(d) The immediate supervisor of any area in which unsupported roof is located shall not direct or knowingly permit any person to proceed beyond the last permanent support unless adequate temporary support is provided or temporary support is not required under an approved roof control plan and absence of such support will not pose a hazard to the miners.

(e) No miner shall proceed beyond the last permanent support in violation of a direct or standing order of an operator, a foreman or an assistant foreman, unless adequate temporary—support is provided or temporary support is not required under an approved roof control plan and absence of such support will not pose a hazard to the miner.

(f) The immediate supervisor of each miner who will be engaged in any activity involving the securing of roof or rib during

a shift shall, at the onset of any such shift, orally review those parts of the roof control plan relevant to the type of mining and roof control to be pursued by such miner.

(g) Any action taken against a miner due, in whole or in part, to his or her refusal to work under unsupported roof, where such work would constitute a violation of this section, is prohibited as an act of discrimination pursuant to §22A-1-22 of this code. Upon a finding of discrimination by the appeals board pursuant to §22A-1-22(b) of this code, the miner shall be awarded by the appeals board all reliefs available pursuant to §22A-1-22(b) and §22A-1-22(c) of this code.

### **§22A-2-26. Roof support; specific requirements.**

(a) *Generally.* — The method of mining followed in any coal mine ~~shall~~ may not expose the miner to unusual dangers from roof falls, and the MSHA-approved plan shall serve as the state-approved plan: Provided, That the MSHA-approved plan shall comply with all provisions of state mining law as set forth in this code or code of state rules.

(b) *Roadways, intersections, and arches.* — The width of roadways shall not exceed 16 feet unless additional support is added cross sectional. During the development of intersections, the roof between the tangents of the arches in the entry or room shall be supported with artificial roof supports prior to the development of such intersections. All areas where the arch is broken shall be considered as having unsupported roof and such roof should have artificial roof supports installed prior to any other work being performed in the area.

(c) *Examinations and corrections.* — Where miners are exposed to danger from falls of-roof, face and ribs, the operator shall examine and test the roof, face and ribs before any work or machine is started, and as frequently thereafter as may be necessary to insure safety. When dangerous conditions are found, they shall be corrected immediately. A probe or probes for methane detectors shall be provided on each working section other than longwall

sections and sections mined solely with continuous miners with integral roof bolters.

(d) *Roof bolt recovery.* — Roof bolts shall not be recovered where complete extraction of pillars is attempted, where adjacent to clay veins or at the locations of other irregularities, whether natural or otherwise, that induce abnormal hazards. Where roof bolt recovery is permitted, it shall be conducted only in accordance with methods prescribed in the approved roof control plan, and shall be conducted by experienced miners and only where adequate temporary support is provided.

## TRANSPORTATION

### **§22A-2-37. Haulage roads and equipment; shelter holes; prohibited practices; signals; inspection.**

(a) Use of haulage roads and equipment along with signals and inspection shall meet standards established by the U. S. Mine Safety and Health Administration. The roadbed, rails, joints, switches, frogs, and other elements of all haulage roads shall be constructed, installed, and maintained in a manner consistent with speed and type of haulage operations being conducted to ensure safe operation. Where transportation of personnel is exclusively by rail, track shall be maintained to within 1,500 feet of the nearest working face, except that when any section is fully developed and being prepared for retreating, then the track shall be maintained to within 1,500 feet of that retreat mining section if a rubber tired vehicle is readily available: *Provided*, That in any case where such track is maintained to within a distance of more than 500 feet and not more than 1,500 feet of the nearest working face, a self-propelled, rubber-tired vehicle capable of transporting an injured worker shall be readily available.

(b) Track switches, except room and entry development switches, shall be provided with properly installed throws, bridle bars and guard rails; switch throws and stands, where possible, shall be placed on the clearance side.

(c) Haulage roads on entries shall have a continuous, unobstructed clearance of at least 24 inches from the farthest projection of any moving equipment on the clearance side.

(d) On haulage roads where trolley lines are used, the clearance shall be on the side opposite the trolley lines.

(e) On the trolley wire or 'tight' side, there shall be at least 12 inches of clearance from the farthest projection of any moving equipment.

(f) Warning lights or reflective signs or tapes shall be installed along haulage roads at locations of abrupt or sudden changes in the overhead clearance.

(g) The clearance space on all haulage roads shall be kept free of loose rock, coal, supplies, or other material: *Provided*, That not more than 24 inches need be kept free of such obstructions.

(h) Ample clearance shall be provided at all points where supplies are loaded or unloaded along haulage roads or conveyors which in no event shall be less than 24 inches.

(i) Shelter holes shall be provided along haulage entries. Such shelter holes shall be spaced not more than 105 feet apart, except when variances are authorized by the director with unanimous agreement of the Mine Safety and Technical Review Committee. Shelter holes shall be on the side of the entry opposite the trolley wire except that shelter holes may be on the trolley wire and feeder wire side if the trolley wire and feeder wire are guarded in a manner approved by the director. The MSHA-approved plan shall serve as the state-approved plan governing the use of shelters: *Provided*, That the MSHA-approved plan shall comply with all other provisions of state mining law as set forth in state code or code of state rules.

(j) Shelter holes shall be at least five feet in depth, not more than four feet in width and as high as the traveling space, unless the director with unanimous agreement of the Mine Safety and Technical Review Committee grants a waiver. Room necks and

crosscuts may be used as shelter-holes even though their width exceeds four feet.

(k) Shelter holes shall be kept clear of refuse and other obstructions.

(l) Shelter holes shall be provided at switch throws and manually operated permanent doors.

(m) No steam locomotive shall be used in mines where miners are actually employed in the extraction of coal, but this shall not prevent operation of a steam locomotive through any tunnel haulway or part of a mine that is not in actual operation and producing coal.

(n) Underground equipment powered by internal combustion engines using petroleum products, alcohol, or any other compound shall not be used in a coal mine, unless the equipment is diesel-powered equipment approved, operated and maintained as provided in §22A-2-1 *et seq.* of this code.

(o) Locomotives, personnel carriers, mine cars, supply cars, shuttle cars, and all other haulage equipment shall be maintained in a safe operating condition. Each locomotive, personnel carrier, barrier tractor, and other related equipment shall be equipped with a suitable lifting jack and handle. An audible warning device and headlights shall be provided on each locomotive and each shuttle car. All other mobile equipment, using the face areas of the mine, shall be provided with a conspicuous light or other approved device so as to reduce the possibility of collision.

(p) No persons other than those necessary to operate a trip or car shall ride on any loaded car or on the outside of any car. Where pusher locomotives are not used, the locomotive operator shall have an assistant to assist him or her in his or her duties.

(q) The pushing of trips, except for switching purposes, is prohibited on main haulage roads: *Provided*, That nothing herein shall prohibit the use of a pusher locomotive to assist the locomotive pulling a trip. Motormen and trip riders shall use care in handling locomotives and cars. It shall be their duty to see that

there is a conspicuous light on the front and rear of each trip or train of cars when in motion: *Provided, however,* That trip lights need not be used on cars being shifted to and from loading machines, or on cars being handled at loading heads during gathering operations at working faces. No person, other than the motorman and brakeman, should ride on a locomotive unless authorized by the mine foreman, and then only when safe riding facilities are provided. An empty car or cars shall be used to provide a safe distance between the locomotive and the material car when rail, pipe, or long timbers are being hauled. A safe clearance shall be maintained between the end car or trips placed on side tracks and moving traffic. On haulage roads the clearance point shall be marked with an approved device.

(r) No motorman, trip rider, or brakeman shall get on or off cars, trips, or locomotives while they are in motion, except that a trip rider or brakeman may get on or off the rear end of a slowly moving trip or the stirrup of a slowly moving locomotive to throw a switch, align a derail, or open or close a door.

(s) Flying or running switches and riding on the front bumper of a car or locomotive are prohibited. Back poling shall be prohibited except with precaution to the nearest turning point (not over 80 feet), or when going up extremely steep grades and then only at slow speed. The operator of a shuttle car shall face in the direction of travel except during the loading operation when he or she shall face the loading machine.

(t) (1) A system of signals, methods, or devices shall be used to provide protection for trips, locomotives, and other equipment coming out onto tracks used by other equipment.

(2) In any coal mine where more than 350 tons of coal are produced on any shift in each 24-hour period, a dispatcher shall be on duty when there are movements of track equipment underground, including time when there is no production of coal. Such traffic shall move only at the direction of the dispatcher.

(3) The dispatcher's only duty shall be to direct traffic: *Provided,* That the dispatcher's duties may also include those of

the responsible person required by §22A-2-42 of this code: *Provided, however,* That the dispatcher may perform other duties which do not interfere with his or her dispatching responsibilities and do not require him or her to leave the dispatcher's station except as approved by the Mine Safety and Technical Review Committee.

(4) Any dispatcher's station shall be on the surface.

(5) All self-propelled track equipment shall be equipped with two-way communications.

(u) Motormen shall inspect locomotives, and report any mechanical defects found to the proper supervisor before a locomotive is put in operation.

(v) A locomotive following another trip shall maintain a distance of at least 300 feet from the rear end of the trip ahead, unless such locomotive is coupled to the trip ahead.

(w) Positive stop blocks or derails shall be installed on all tracks near the top and at landings of shafts, slopes, and surface inclines. Positive-acting stop blocks or derails shall be used where necessary to protect persons from danger of runaway haulage equipment.

(x) Shuttle cars shall not be altered by the addition of sideboards so as to inhibit the view of the operator: *Provided,* That the addition of or use of sideboards on shuttle cars shall be permitted if the shuttle car is equipped with cameras: *Provided, however,* That shuttle cars with sideboards as manufactured by an equipment manufacturer shall be permitted to be used without the use of cameras if permitted by the director.

(y) Mining equipment shall not be parked within 15 feet of a check curtain or fly curtain.

(z) All self-propelled track haulage equipment shall be equipped with an emergency stop switch, self-centering valves, or other devices designed to de-energize the traction motor circuit in the event of an emergency. All track-mounted trolley equipment

shall be equipped with trolley pole swing limiters or other means approved by the Mine Safety and Technical Review Committee to restrict movement of the trolley pole when it is disengaged from the trolley wire. Battery powered mobile equipment shall have the operating controls clearly marked to distinguish the forward and reverse positions.

**§22A-2-55. Protective equipment and clothing.**

(a) Welders and helpers shall use proper shields or goggles to protect their eyes. All employees shall have approved goggles or shields and use the same where there is a hazard from flying particles or other eye hazards.

(b) Employees engaged in haulage operations and all other persons employed around moving equipment on the surface and underground shall wear snug-fitting clothing.

(c) Protective gloves shall be worn when material which may injure hands is handled, but gloves with gauntleted cuffs shall not be worn around moving equipment.

(d) Safety hats and safety-toed shoes shall be worn by all persons while in or around a mine: *Provided*, That metatarsal guards are not required to be worn by persons when working in those areas of underground mine workings which average less than 48 inches in height as measured from the floor to the roof of the underground mine workings.

(e) Approved eye protection shall be worn by all persons while being transported in open-type man trips.

(f) (1) A self-contained self-rescue device approved by the director shall be worn by each person underground or kept within his or her immediate reach and the device shall be provided by the operator. The self-contained self-rescue device shall be adequate to protect a miner for one hour or longer. Each operator shall train each miner in the use of the device and refresher training courses for all underground employees shall be held once each quarter. Quarters shall be based on a calendar year.



(2) In addition to the requirements of §22A-2-55(f)(1) of this code, the operator shall also provide caches of additional self-contained self-rescue devices throughout the mine in accordance with a plan approved by the director. Each additional self-contained self-rescue device shall be adequate to protect a miner for one hour or longer. The total number of additional self-contained self-rescue devices, the total number of storage caches and the placement of each cache throughout the mine shall be established by rule pursuant to §22A-2-55(i) of this code. A luminescent sign with the words ‘SELF-CONTAINED SELF-RESCUER’ or ‘SELF-CONTAINED SELF-RESCUERS’ shall be conspicuously posted at each cache and luminescent direction signs shall be posted leading to each cache. Lifeline cords or other similar device, with reflective material at 25-foot intervals, shall be attached to each cache from the last open crosscut to the surface. The operator shall conduct weekly inspections of each cache and each lifeline cord or other similar device to ensure operability.

(3) Any person ~~that~~ who, without the authorization of the operator or the director, knowingly removes or attempts to remove any self-contained self-rescue device or lifeline cord from the mine or mine site with the intent to permanently deprive the operator of the device or lifeline cord or knowingly tampers with or attempts to tamper with the device or lifeline cord ~~shall be~~ is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor more than 10 years, or fined not less than \$10,000 nor more than \$100,000, or both imprisoned and fined.

(g) The MSHA-approved emergency response plan (ERP) shall serve as the state-approved plan governing the storage of self-contained self-rescuers (SCSR). At a minimum, three one-hour SCSRs shall be available for everyone reasonably likely to be on the working section at any given time. The director may issue a special assessment pursuant to §22A-1-21 of this code for failure to comply with this subsection.

~~(g)~~(h)(1) A wireless emergency communication device approved by the director and provided by the operator shall be worn by each person underground: *Provided*, That if a miner’s

wireless emergency communications device shall malfunction or cease to operate then such miner shall be assigned to be in sight or sound of a certified miner until such time an operating device shall be delivered. The wireless emergency communication device shall, at a minimum, be capable of receiving emergency communications from the surface at any location throughout the mine. Each operator shall train each miner in the use of the device and provide refresher training courses for all underground employees during each calendar year. The operator shall install in or around the mine any and all equipment necessary to transmit emergency communications from the surface to each wireless emergency communication device at any location throughout the mine.

(2) Any person ~~that~~ who, without the authorization of the operator or the director, knowingly removes or attempts to remove any wireless emergency communication device or related equipment from the mine or mine site with the intent to permanently deprive the operator of the device or equipment or knowingly tampers with or attempts to tamper with the device or equipment ~~shall be~~ is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor more than 10 years, or fined not less than \$10,000 nor more than \$100,000, or both imprisoned and fined.

~~(h)~~(i)(1) A wireless tracking device approved by the director and provided by the operator shall be worn by each person underground. In the event of an accident or other emergency, the tracking device shall, at a minimum, be capable of providing real-time monitoring of the physical location of each person underground: *Provided*, That no person shall discharge or discriminate against any miner based on information gathered by a wireless tracking device during nonemergency monitoring. Each operator shall train each miner in the use of the device and provide refresher training courses for all underground employees during each calendar year. The operator shall install in or around the mine all equipment necessary to provide real-time emergency monitoring of the physical location of each person underground.

(2) The MSHA-approved ERP shall serve as the state-approved plan: *Provided*, That the MSHA-approved plan shall comply with

all other provisions of state mining law as set forth in state code or the code of state rules.

(3) ~~(2)~~ Any person ~~that~~ who, without the authorization of the operator or the director, knowingly removes or attempts to remove any wireless tracking device or related equipment, approved by the director, from a mine or mine site with the intent to permanently deprive the operator of the device or equipment or knowingly tampers with or attempts to tamper with the device or equipment ~~shall be~~ is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor more than 10 years, or fined not less than \$10,000 nor more than \$100,000, or both imprisoned and fined.

~~(i)~~(j) The director ~~may~~ shall promulgate emergency and legislative rules to implement and enforce this section pursuant to the provisions of §29A-3-1 *et seq.* of this code.

## **ARTICLE 2A. USE OF DIESEL-POWERED EQUIPMENT IN UNDERGROUND COAL MINES.**

### **PART X. EXISTING RULES TO BE REVISED.**

#### **§22A-2A-1001. Existing state rules to be revised.**

Unless otherwise revised, ~~By~~ by August 31, ~~2017~~ 2018, the director shall revise state rules promulgated pursuant to the authority of this chapter as follows:

(1) To reflect the abolishment of the West Virginia Diesel Equipment Commission and transfer of duties and responsibilities to the director, pursuant to §22A-2A-301 of this code;

(2) To reflect that a mine operator shall be permitted to replace a filter or catalyst of the same make and model without contacting the Office of Miners' Health, Safety, and Training;

(3) To reflect that ASE certified diesel mechanics shall make repairs and adjustments to diesel fuel injection systems, engine timing, or exhaust emissions control and conditioning systems;

(4) To permit a mine operator to dispose of used intake air filters, exhaust diesel particulate matter filters, and engine oil filters in their original containers or other suitable enclosed containers and to remove them from the underground mine to the surface no less than once in a 24-hour period;

(5) To require that records of emissions tests, 200-hour maintenance tests, and repairs shall be countersigned once each week by the certified mine electrician or mine foreman, that scheduled maintenance and an independent analysis of engine oil occur at 200 hours of engine operation, and that diagnostic testing of engine operation occur at 200 hours;

(6) To remove the requirement that a portable carbon monoxide (CO) sampling device be installed into the untreated exhaust gas coupling provided in the operator's cab;

(7) To modify the time and duration for which the CO sampler must be started to measure and record CO levels from every minute for five minutes to every 30 seconds for 90 seconds;

(8) To modify the alternative condition by which equipment fails under 196 C. S. R. §1-21, to omit the reference to the average CO reading for untreated exhaust gas is greater than twice the baseline; ~~and~~

(9) To remove the requirement for eight hours of annual diesel equipment operator refresher training separate from that required by MSHA regulations; and

(10) To permit the use of diesel generators in underground mines so long as the generator is vented directly to the return and at least one person is present within sight and sound of the generator: *Provided*, That all current state rules and statutes relating to the use of diesel-powered equipment and electricity generation remain in force.”

The bill was then ordered to third reading.

**S. B. 631**, Relating generally to one-call system; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**First Reading**

**S. B. 242**, Requiring health insurance providers provide coverage for certain Lyme disease treatment,

**Com. Sub. for S. B. 275**, Relating to tax on purchases of intoxicating liquors,

**Com. Sub. for S. B. 290**, Relating to DEP standards of water quality and effluent limitations,

**S. B. 322**, Relating to employees of Department of Agriculture,

**Com. Sub. for S. B. 392**, Reconfiguring membership of Emergency Medical Services Advisory Council,

**S. B. 411**, Removing Commissioner of Bureau for Public Health from State Board of Sanitarians,

**S. B. 463**, Establishing group to examine benefits and need of transferring milk rules and regulations from DHHR to Agriculture,

**S. B. 498**, Creating two-year pilot program allowing all-terrain or recreational vehicles in Cabwaylingo State Forest,

**Com. Sub. for S. B. 506**, Deregulating persons who perform work on heating, ventilating, and cooling systems,

**S. B. 525**, Relating to certification for emergency medical training - mining,

**Com. Sub. for S. B. 548**, Authorizing county commissions to pay election officials,

**Com. Sub. for S. B. 556**, Creating small business and minority populations economic and workforce development taskforce to assist Economic Development Authority,

**S. B. 585**, Altering boundary line between Doddridge and Harrison counties,

And,

**Com. Sub. for S. B. 603**, Relating to proceedings for involuntary custody for examination.

### **Second Reading**

- continued -

**Com. Sub. for H. B. 4019**, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution; on second reading, coming up in regular order, with the right to amend on third reading, was read a second time and advanced to third reading.

At the request of Delegate Cowles and by unanimous consent, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

### **Committee Reports**

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**S. B. 551**, Relating to failure of employers to make contributions on behalf of employees to retirement plan administered by CPRB,

And reports the same back with the recommendation that it do pass.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 82**, Including rebuttable presumptions in certain cases for firefighters with regard to workers' compensation,

And reports the same back with the recommendation that it do pass.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 230**, Authorizing Department of Commerce promulgate legislative rules,

And reports the same back with amendment, with the recommendation that it do pass, as amended.

Mr. Speaker, Mr. Armstead, Chair of the Committee on Rules submitted the following report, which was received:

Your Committee on Rules has had under consideration:

**H. C. R. 76**, U. S. Marine Corps LCpl Michael Linn Cooper Memorial Bridge,

And reports back a committee substitute therefor, with the same title, as follows:

**Com. Sub. for H. C. R. 76**, U. S. Marine Corps LCpl Michael Linn Cooper Memorial Bridge,

With the recommendation that the committee substitute be adopted.

Mr. Speaker, Mr. Armstead, Chair of the Committee on Rules submitted the following report, which was received:

Your Committee on Rules has had under consideration:

**Com. Sub. for H. C. R. 11**, Charleston Police Department Captain Jerry D. Hill Memorial Bridge,

**H. C. R. 21**, U. S. Marine Corps PFC Randall Carl Phelps Memorial Bridge,

**H. C. R. 39**, Requesting the Joint Committee on Government and Finance to study sustainability of the state's higher education system,

**Com. Sub. for H. C. R. 40**, U. S. Air Force SMSgt Billie E. 'Bunky' Hodge Bridge,

**H. C. R. 44**, U. S. Army PFC Clayton Collins Memorial Bridge,

**Com. Sub. for H. C. R. 53**, Pastor Robert L. 'Bob' Barker Memorial Bridge,

**Com. Sub. for H. C. R. 54**, U. S. Army SPC 4 Thurman 'Duwayne' Young Memorial Road,

**H. C. R. 56**, Requesting the Joint Committee on Government and Finance study the Public Employees Insurance Agency and potential alternative methods to control healthcare costs,

**Com. Sub. for H. C. R. 67**, U. S. Army CPL Wilson B. Lambert, Jr. Memorial Road,

**H. C. R. 71**, U. S. Army CPL Lee Roy Young Memorial Bridge,

**Com. Sub. for H. C. R. 85**, Requesting the legislatures and departments of transportation of Maryland, Pennsylvania, and Virginia to endorse and pursue the construction of a new four-lane, limited access highway, extending Interstate Highway 99 from its present terminus at Bedford, Pennsylvania, to Covington, Virginia,

**H. C. R. 93**, Requesting the Joint Committee on Government and Finance study exempting state employees from the payment of state income tax,

**H. C. R. 94**, Requesting the Joint Committee on Government and Finance to conduct a study comparing West Virginia's asbestos rules with those in other states,



**H. C. R. 99**, Requesting the Joint Committee on Government and Finance to study the feasibility and propriety of requiring liability insurance or other means of security on certain motorboats and personal watercraft in this state,

**H. C. R. 100**, Morgantown High School Veterans Bridge,

**H. C. R. 101**, Requesting the Governor's Task Force on Public Employee Insurance Agency Stability to review means and methods of including medical facilities,

And,

**H. C. R. 102**, U. S. Army PFC Earl Russell Cobb, SPC4 Carl Bradford Goodson, and SSGT George T. Saunders, Jr., Memorial Bridge,

And reports the same back with the recommendation that they each be adopted.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 521**, Requiring chief executive of municipal law-enforcement agency be certified law-enforcement officer,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 10**, Relating generally to PSC jurisdiction,

And reports the same back, with amendment, with the recommendation that they each do pass, as amended.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

**Com. Sub. for S. B. 469**, Converting Addiction Treatment Pilot Program to permanent program,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

**Com. Sub. for S. B. 472**, Providing funds to DHHR for local boards of health employee pay raises,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 472) was referred to the Committee on Finance.

Delegate Ellington, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

**S. B. 407**, Licensing and approval of child care programs,

And reports the same back with the recommendation that it do pass.

Delegate Hanshaw, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 6<sup>th</sup> day of March, 2018, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

**H. B. 4145**, Increasing the annual salaries of members of the West Virginia State Police, public school teachers and school service personnel,

**Com. Sub. for H. B. 2654**, Expanding county commissions' ability to dispose of county or district property,

**Com. Sub. for H. B. 2889**, Allowing military veterans with certain military ratings to qualify for examinations required of probationary police officer,

And,

**Com. Sub. for H. B. 4268**, Co-tenancy Modernization and Majority Protection Act.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 434**, Specifying documents not subject to discovery in certain proceedings,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

On motion for leave, a bill was introduced (Originating in the Committee on Finance, with the recommendation that it do pass), which was read by its title, as follows:

**By Delegates Nelson, Anderson, C. Miller, Boggs, Walters, Westfall, Ellington, Ambler, Longstreth, Hartman and Gearheart:**

**H. B. 4630** - "A Bill to amend the Code of West Virginia, 1931, as amended, and to amend and reenact §5-5-4 of said code, all relating to a 2019 across-the-board salary adjustment for employees of the Department of Health and Human Resources.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**S. B. 630**, Relating to changes in distribution of certain racetrack video lottery net terminal income and excess lottery fund,

And reports the same back, with amendment, with the recommendation that it do pass, as amended, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (S. B. 630) was referred to the Committee on Finance.

Delegate Shott, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 244**, Specifying conditions for unlawful possession of firearm at school-sponsored activities,

**Com. Sub. for S. B. 445**, Allowing DOH acquire real or personal property for utility accommodation,

And,

**Com. Sub. for S. B. 446**, Creating Agritourism Responsibility Act,

And reports the same back, with amendment, with the recommendation that they each do pass, as amended.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

**S. B. 425**, Removing sunset dates which members of policemen's or firemen's pension fund elect to participate in deferred retirement option plan,

And,

**Com. Sub. for S. B. 442**, Establishing universal forms and deadlines when submitting prior authorization electronically,

And reports the same back, with the recommendation that they each do pass.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

**S. B. 141**, Expanding county assessment and collection of head tax on breeding cows,

**Com. Sub. for S. B. 288**, Regulating cremation, embalming and directing of funeral service,

**S. B. 339**, Relating to WV Retirement Health Benefit Trust Fund within PEIA,

**S. B. 355**, Dissolving IS&C Division under Office of Technology,

**Com. Sub. for S. B. 438**, Relating to debt service on bonds secured by State Excess Lottery Revenue Fund,

**Com. Sub. for S. B. 501**, Relating to accrued benefit of retirees in Deputy Sheriff Retirement System,

And,

**Com. Sub. for S. B. 625**, Creating WV Volunteer Fire and Rescue Act of 2018,

And reports the same back, with amendment, with the recommendation that they each do pass, as amended.

### **Leaves of Absence**

At the request of Delegate Cowles, and by unanimous consent, leave of absence for the day was granted Delegate Deem.

### **Miscellaneous Business**

Pursuant to House Rule 132, unanimous consent was requested and obtained to print the remarks of Delegate Fast agreeing with Delegate Fleischauer in the Appendix to the Journal.

Pursuant to House Rule 94b, Members filed forms with the Clerk's Office to be added as a cosponsor of the following resolutions:

- Delegate Overington for H. C. R. 85
- Delegate Frich for H. C. R. 100

At 8:27, the House of Delegates adjourned until 11:00 a.m., Wednesday, March 7, 2018.

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Wednesday, March 7, 2018

**FIFTY-SEVENTH DAY**

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

Prayer was offered and the House was led in recitation of the Pledge of Allegiance.

The Clerk proceeded to read the Journal of Tuesday, March 6, 2018, being the first order of business, when the further reading thereof was dispensed with and the same approved.

**Reordering of the Calendar**

Delegate Cowles announced that the Committee on Rules had transferred Com. Sub. for S. B. 261 and Com. Sub. for H. B. 4019 on Third Reading, Special Calendar, to the House Calendar; Com. Sub. for S. B. 273 and S. B. 385 on Second Reading, House Calendar, to the Special Calendar; and Com. Sub. for S. B. 491 on First Reading, Special Calendar, to the House Calendar.

**Messages from the Executive**

Mr. Speaker, Mr. Armstead, presented a communication from His Excellency, the Governor, advising that on March 6, 2018, he approved **Com. Sub. for H. B. 4145**, **Com. Sub. for S. B. 71** and **Com. Sub. for S. B. 237**.

The following communications were laid before the House of Delegates and reported by the Clerk:

State of West Virginia  
Jim Justice  
Governor of West Virginia

March 5, 2018

**EXECUTIVE MESSAGE NO. 3**  
**2018 REGULAR SESSION**

The Honorable Tim Armstead  
Speaker, West Virginia House of Delegates  
State Capitol, Rm 228M  
Charleston, West Virginia 25305

Dear Mr. Speaker:

In accordance with the provisions of section 11, article 7 of the Constitution of the State of West Virginia, and section 16, article 1, chapter 5 of the Code of West Virginia, I hereby report that I granted no pardons or reprieves, nor commuted punishment to any person, nor remitted any fines or penalties, during the period of January 13, 2017 through March 5, 2018.

Very truly yours,

Jim Justice,  
*Governor.*

State of West Virginia  
Jim Justice  
Governor of West Virginia

March 5, 2018

**EXECUTIVE MESSAGES NO. 4**  
**2018 REGULAR SESSION**

The Honorable Tim Armstead  
Speaker, West Virginia House of Delegates  
State Capitol, Rm 228M  
Charleston, West Virginia 25305

Dear Mr. Speaker:

Pursuant to the provisions of section twenty, article one, chapter five of the Code of West Virginia, I hereby certify that the following annual reports have been received in the Office of the Governor:



Accountancy, West Virginia Board of; Annual Report for preceding fiscal periods ending June 30, 2017 and June 30, 2016

Administration, West Virginia Department of; Public Records Management and Preservation Act Annual Report

Aeronautics Commission- WV Department of Transportation, West Virginia; 2017 Annual Report

Agriculture, West Virginia Department of; 2017 Annual Report

Alcohol Beverage Control Administration, West Virginia; Annual Report FY 2017

Architects, West Virginia Board of; Annual Report FY 2016 and FY 2017

Attorney General's Office, West Virginia; 2017 Annual Report on the Activities of the Consumer Protection and Antitrust Division

Barbers and Cosmetologists, Board of; 2017 Annual Report

Barbers and Cosmetologists, Board of; 2017 Annual Report

Charles Stewart Mott Foundation; 2017 Annual Report

Chiropractic Examiners, West Virginia Board of; Biennium Covering Activities during the period of July 1, 2015 – June 30, 2017

Commercial Motor Vehicle Weight and Safety Enforcement Advisory Committee; 2017 Annual Report

Contractors Association of West Virginia; 2017 Annual Report

Corrections, West Virginia Division of; Annual Report: FY 2017

Counseling, West Board of; 2015-2017 Annual Report

Dentistry, West Virginia Board of; Annual Report

Early Care and Education Child Care Provider, West Virginia Department of Health and Human Resources; SFY 2017 Early Care and Education Child Care Provider Annual Report

Energy, West Virginia Office of; Annual Report

Environmental Protection, West Virginia Department of; Quarterly Report

Environmental Protection, West Virginia Department of; Quarterly Report

Environmental Protection, West Virginia Department of; Quarterly Report

Environmental Protection, West Virginia Department of; Quarterly Report

Family Protection Services Board; FY 2016

Financial Institutions, West Virginia Division of; 116th Annual Report of Financial Institutions

Fire Commission, West Virginia State; Annual Report 2017

Forestry, West Virginia Division of; 2017 Logging Sediment and Control Act Annual Report

Funeral Service Examiners, State of West Virginia Board of; Governor's Report July 1, 2015-June 30, 2017

Health and Human Resources Bureau for Public Health, West Virginia Department of; 2017 Report to the Governor WV Public Water System Capacity Development Program September 30, 2017

Huntington Museum of Art; FY 2015 & 2016 Annual Report

Independent Living Council, West Virginia State; FY 2016-October 1, 2017

Insurance Commissioner, State of West Virginia Offices of the; 2017 Annual Malpractice Report

Insurance Commissioner, West Virginia Offices of the; Annual Report on the activities of the Office of the consumer advocate at the WV Insurance Commission

Insurance Commissioner, West Virginia Offices of the; Annual Report 2016

Interstate Commission for Adult Offender Supervision- WV Division of Corrections; FY 2017 Annual Report

Interstate Mining Compact Commission; IMCC 2016 Annual Report

James "Tiger" Morton Catastrophic Illness Commission; 2017 Annual Report

Justice and Community Services, West Virginia Division of; 1. Justice Reinvestment Initiative 2. Community Corrections Subcommittee 3. Sexual Assault Forensic Examination Commission 4. Law Enforcement Professional Standard Subcommittee 5. Juvenile Justice Subcommittee

Juvenile Services, West Virginia Division of; Annual Report 2017

Legislative Claims Commission; West Virginia; Report of Legislative Claims Commission for December 2017

Legislative Claims Commission; West Virginia; Supplemental Report of the Legislative Claims Commission for December 2017

Library Commission, West Virginia; 2017 Public Library Facilities Assessment

Lottery, West Virginia; Comprehensive Annual Financial Report for Fiscal Years Ended June 30, 2017 and 2016

Medical Imaging and Radiation Therapy Technology Board of Examiners, West Virginia; 2017 Annual Report

Medicine, State of West Virginia Board of; Annual Report for the Biennium of July 1, 2015-June 30, 2017

Mid-Ohio Valley Regional Council; Annual Report July 1, 2016-June 30,2017

Municipal Bond Commission, West Virginia; Annual Summary of Receipts & Disbursements July 1, 2016-June 30, 2017

Municipal Home Rule Pilot Program, West Virginia; Summary Report 2017

Natural Resources, West Virginia Division of; 2017 Annual Report

Natural Resources; West Virginia Division of; 2016-2017 West Virginia Division of Natural Resources Annual Report

Occupational Therapy, West Virginia Board of; FY 2016/2017 Annual Report

Ohio River Valley Water Sanitation Commission; 2017 Annual Report

Osteopathic Medicine, West Virginia School of; Annual Investment Report

Personnel, West Virginia Division of; FY 2017 Annual Report

Pharmacy, West Virginia; Annual Report

Privacy Office, West Virginia State; 2017 Annual Report

Public Employees Grievance Board; 2017 Annual Report

Public Service Commission Consumer Advocate Division, State of West Virginia; Consumer Advocate Division 2018 Annual Report

Public Service Commission of West Virginia; Public Service Commission's Management Summary Report/Electric and Gas Supply & Demand Forecast

Regional Jail and Correctional Facility Authority, West Virginia; Annual Report FY 2017

Regional Planning and Development Councils, West Virginia; Return on Investment Report

Regional Planning and Development Councils, West Virginia; Annual Report for Biennium of July 1, 2015-June 30, 2017

Registered Nurses, West Virginia Board of; Annual Report of the Biennium July 1, 2015-June 30, 2017

Rehabilitation Services, Division of; 2016 Annual Report

Report of the WV Judicial Compensation Commission; Annual Report

Ron Yost Personal Assistance Services (RYPAS) Board; 2017 Annual Report July 1, 2016-June 30, 2017

Sanitarians, West Virginia State Board of; 2017 Annual Report

Southern States Energy Board; 2017 Financial Statements and Required Communications

State Athletic Commission; Annual Report for Calendar Years 2016 and 2017

State of West Virginia Department of Administration Public Defender Services; Public Defender Services Annual Report Fiscal Year 2017

Tax Department, West Virginia State; West Virginia Fireworks Safety Fee Report July 2016-December 2017

Tax Department, West Virginia State; Fifty-Second Biennial Report, originally published in October 2017. This revision is

inclusive of corrected annual revenues for the Wine Liter Tax for the 2016 and 2017 fiscal years

Tax Department, West Virginia State; Tax Credit Review and Accountability Report

Treasury Investments, West Virginia Board of; Comprehensive Annual Financial Report

Veterinary Medicine, West Virginia Board of; Revised Biennium Report 2016 and 2017

Water Development Authority, West Virginia; 2017 Annual Report

Women's Commission, West Virginia; 2017 Annual Report

Youth Services, West Virginia Department of Health and Human Resources-West Virginia; West Virginia Youth Services Annual Report

Sincerely,

Jim Justice,  
*Governor.*

WEST VIRGINIA LEGISLATURE  
Commission on Special Investigations  
Charleston, West Virginia

The Honorable Steve Harrison  
Clerk of the House of Delegates  
State Capitol Building  
Charleston, WV 25305

Dear Mr. Harrison:

We are pleased to provide you with two (2) copies of the Commission on Special Investigations' Thirty-seventh Annual Report to the West Virginia Legislature.

This report covers the activities of the Commission from July 1, 2016 to June 30, 2017.

Please note in the Journal that the report has been received. Sent to you earlier were one hundred (100) copies of the report. We would appreciate having them distributed within the House.

If you need additional copies, please contact me.

Sincerely,

Charles R. Bedwell,  
Director

### **Messages from the Senate**

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 3005**, Relating to regulation of unmanned aircraft systems.

On motion of Delegate Cowles, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 14. USE OF UNMANNED AIRCRAFT SYSTEMS.**

**§61-14-1. Definitions.**

As used in this article:

(1) ‘Aircraft’ means any device now known or subsequently invented, used, or designed for flight in the air, including, but not limited to, unmanned aircraft vehicles or systems;

(2) ‘Unmanned aircraft system’ or ‘system’ means an aircraft that is operated without direct human intervention from inside or

on the aircraft and includes the crewmember, the associated support equipment, the control station, data links, telemetry, communications, and navigation equipment necessary to operate the unmanned aircraft, including, but not limited to, drones;

(3) ‘Unmanned aircraft system operator’ or ‘operator’ means a person exercising control over an unmanned aircraft system during flight.

**§61-14-2. Prohibited use of an unmanned aircraft system; criminal penalties.**

(a) Except as authorized by the provisions of this article, a person may not operate an unmanned aircraft system:

(1) To knowingly and intentionally capture or take photographs, images, video, or audio of another person or the private property of another, without the other person’s permission, in a manner that would invade the individual’s reasonable expectation of privacy, including, but not limited to, capturing, or recording through a window;

(2) To knowingly and intentionally view, follow, or contact another person or the private property of another without the other person’s permission in a manner that would invade the individual’s reasonable expectation of privacy, including, but not limited to, viewing, following, or contacting through a window;

(3) To knowingly and intentionally harass another person;

(4) To violate a restraining order or similar judicial order;

(5) To act with a willful wanton disregard for the safety of persons or property; or

(6) To knowingly and intentionally operate an unmanned aircraft system in a manner that interferes with the official duties of law enforcement personnel or emergency medical personnel.

(b) Any person violating the provisions of subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof,



shall be fined not less than \$100 nor more than \$1,000 or confined in jail for not more than one year, or both fined and confined.

(c) Any person who equips an unmanned aircraft system with any deadly weapon or operates any unmanned aircraft system equipped with any deadly weapon, other than for military in an official capacity, is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(d) Any person who operates an unmanned aircraft system with the intent to cause damage to or disrupt in any way the flight of a manned aircraft is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 imprisoned for not less than one nor more than five years, or both fined and imprisoned.

(e) A person that is authorized by the Federal Aviation Administration to operate unmanned aircraft systems for commercial purposes may operate an unmanned aircraft system in this state for such purposes if the unmanned aircraft system is operated in a manner consistent with federal law.”

And,

By amending the title of the bill to read as follows:

**Com. Sub. for H. B. 3005** – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-14-1 and §61-14-2, all relating to regulation of unmanned aircraft systems; defining terms; creating misdemeanor criminal offense for certain conduct using an unmanned aircraft system and setting penalties therefor; creating felony criminal offense for operating an unmanned aircraft system equipped with a lethal weapon, creating an exception thereto for military purposes in an official capacity; and setting penalties therefor; creating felony criminal offense for operating an unmanned aircraft system with the intent to cause damage or disrupt in any way the flight of a manned aircraft and setting penalties therefor; and creating an

exception for operating an unmanned aircraft system for commercial purposes that is authorized by the Federal Aviation Administration in a manner that is consistent with federal law.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 355**), and there were—yeas 88, nays 10, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Canestraro, Ferro, Fluharty, Hornbuckle, Isner, Lynch, Paynter, Pushkin, Robinson and Sponaugle.

Absent and Not Voting: Deem and C. Romine.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3005) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4015**, Relating to the management and continuous inventory of vehicles owned, leased, operated, or acquired by the state and its agencies.

On motion of Delegate Foster, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page two, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.**

**ARTICLE 1. DEPARTMENT OF ADMINISTRATION.**

**§5A-1-2. Department of Administration and Office of Secretary; secretary; divisions; directors.**

(a) The Department of Administration and the Office of Secretary of Administration are continued in the executive branch of state government. The secretary is the Chief Executive Officer of the department and shall be appointed by the Governor, by and with the advice and consent of the Senate, for a term not exceeding the term of the Governor.

(b) The Department of Administration may receive federal funds.

(c) The secretary serves at the will and pleasure of the Governor. The annual compensation of the secretary shall be as specified in §6-7-2a of this code.

(d) There shall be in the Department of Administration an Aviation Division, at the discretion of the secretary, a Finance Division, a Fleet Management Division, a General Services Division, an Information Services and Communications Division, Division of Personnel and a Purchasing Division. Each division shall be headed by a director who may also head any and all sections within that division and who shall be appointed by the secretary.

(e) There shall also be in the Department of Administration those agencies, boards, commissions and councils specified in §5F-2-1 of this code.

~~(f) The secretary may establish a Fleet Management Office within the Department of Administration to:~~

~~(1) Manage all motor vehicles and aircraft owned or possessed by the State of West Virginia or any of its departments, divisions, agencies, bureaus, boards, commissions, offices or authorities: *Provided, That, such vehicles and aircraft shall not be used for personal purposes, other than for de minimis personal use;*~~

~~(2) Administer the rules, including emergency rules, promulgated under the provisions of sections forty eight and forty nine, article three of this chapter; and~~

~~(3) Perform any duties relating to motor vehicles and aircraft owned or possessed by the State of West Virginia assigned by the secretary, which duties may include those set out in §5A-3-50 through §5A-3-53 of this code.~~

### ARTICLE 3. PURCHASING DIVISION.

#### **§5A-3-49. Central motor pool for state-owned vehicles and aircraft.**

[Repealed]

#### **§5A-3-52. ~~Special funds for travel management created.~~ Aviation division; fund.**

~~(a) The travel management special fund is terminated. All deposits currently in this special fund from aviation fees shall be transferred into the Aviation Fund created in subsection e of this section. All funds in this special fund from the monthly fee for vehicles shall be transferred into the Fleet Management Office Fund created in subsection (b) of this section.~~

~~(b) There is created in the State Treasury a special revenue account, to be known as the Fleet Management Office Fund. Expenditures are authorized from collections, but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven b of this code. Any balance remaining in the special revenue account at the end of any state fiscal year does not revert to the General Revenue Fund but remains in the special revenue account and shall be used solely in a manner consistent with this article. All costs and expenses incurred pursuant to this section, including administrative, shall be paid from those funds. Charges for operating, repairing and servicing motor vehicles made against any institution, agency or department shall be paid into the Fleet Management Office Fund by that institution, department or agency.~~

(a) The secretary may establish an aviation division within the Department of Administration to:

(1) Manage all aircraft owned or possessed by the State of West Virginia or any of its departments, divisions, agencies, bureaus, boards, commissions, offices or authorities: *Provided, That, such aircraft shall not be used for personal purposes;*

(2) Administer the rules, including emergency rules, promulgated under the provisions of §5A-3-48 of this code; and

(3) Perform any duties relating to aircraft owned or possessed by the State of West Virginia assigned by the secretary, which duties may include those set out in §5A-3-50 through §5A-3-53 of this code.

~~(e)~~ (b) The special revenue account, to be known as the Aviation Fund, is hereby continued and shall be administered by the director of the division, or in the absence of a director, by the secretary. Expenditures from this fund are authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-1 *et seq.* of this code and upon fulfillment of the provisions of §11B-2-1 *et seq.* of this code. Any balance remaining in the special revenue account at the end of any state fiscal year does not revert to the General Revenue Fund but remains in the special revenue account and shall be used solely in a manner consistent with this article. All costs and expenses incurred pursuant to §5A-3-52 of this code, including administrative, shall be paid from those funds. Charges for operating, repairing and servicing aircraft made against any institution, agency, or department shall be paid into the Aviation Fund by that institution, department, or agency.

## **ARTICLE 12. FLEET MANAGEMENT DIVISION.**

### **§5A-12-1 Definitions.**

As used in this article:

(a) ‘Central motor pool’ means, under the direction and control of the Secretary of Administration, the group of state vehicles to be shared among spending units;

(b) ‘Centralized accounting system’ means the system of record for the maintenance of an accurate inventory of state vehicle fixed assets as maintained by the Enterprise Resource Planning Board pursuant to §12-6D-1 et seq. of this code;

(c) ‘Director’ means the Director of the Fleet Management Division;

(d) ‘Division’ means the Fleet Management Division, under the Department of Administration, as established pursuant to this article;

(e) ‘Fleet Coordinator’ means the head of a spending unit, or his or her designee, who is responsible for the duties of fleet coordinator as required by this article;

(f) ‘Indirect costs’ means the expenses of operating state vehicles that may or may not be attributable to a specific vehicle, including miscellaneous expenses for cleaning supplies, shop supplies, small parts, office and administrative expenses attributable to fleet coordinator activity, training costs for fleet coordinators and state vehicle driver training, facilities costs, administrative office overhead, parking costs, and shop equipment costs where applicable;

(g) ‘Secretary’ means the Secretary of the Department of Administration;

(h) ‘Spending unit’ means the State of West Virginia and all agencies, offices, departments, divisions, boards, commissions, councils, committees, or other entities of the state government for which an appropriation is requested or to which an appropriation is made by the Legislature. ‘Spending unit’ does not mean any county, city, township, public service district, or other political subdivision of the state;

(i) ‘State vehicle’ means, for the purpose of this article, a vehicle with a rating of one ton or less that is owned, purchased, or leased by any state spending unit, on which a state vehicle license plate is required, where the use of such vehicle is paid for with public funds regardless of the source of such funding, but does not

include all-terrain vehicles (ATVs) or vehicles requiring a commercial driver's license to operate;

(j) 'State vehicle fleet' means all state vehicles;

(k) 'State vehicle license plate' means a license plate authorized to be issued by the Division of Motor Vehicles pursuant to §17A-3-23 and §17A-3-25 of this code, which identifies the vehicle as owned or leased by the state or a spending unit;

(l) 'State Vehicle Title, Registration and Relicensing Project of 2018' means the requirement for all spending units owning or leasing state vehicles, to report to the Division of Motor Vehicles and obtain new titles, new registration cards and new state vehicle license plates by December 31, 2018, pursuant to §17A-3-23 and §17A-3-25 of this code, to standardize the naming conventions on titles and registration cards of state vehicles in order to facilitate the creation and maintenance of a centralized state vehicle inventory system; and

(m) 'Vehicle log' means the record of state vehicle use, to be updated by the vehicle operator and maintained by the fleet coordinators, used to track vehicle utilization data required to be compiled and maintained pursuant to this article.

#### **§5A-12-2. Scope of Article.**

(a) This article applies to all spending units of state government relating to the purchase, lease, or use of any state vehicle with the expenditure of public funds, except as otherwise provided by this code.

(b) Notwithstanding any exemption given to a spending unit by this code from the provisions of §5A-3-1 *et seq.* of this code or any prior exemption granted administratively from the Fleet Management Division or the Fleet Management Office, each spending unit of the state that owns, leases, purchases, or reimburses for personal vehicle use, shall comply with the reporting provisions of this article.

**§5A-12-3. Fleet Management Division created; director; duties and responsibilities.**

(a) The Fleet Management Office, as previously authorized pursuant to §5A-1-2 and §5A-3-52 of this code, is hereby continued in the Department of Administration as the Fleet Management Division for the purpose of maintaining a state vehicle fleet.

(b) The Division shall have the following duties and responsibilities:

(1) To provide or contract for management services, including fueling and vehicle maintenance, and any other services necessary to properly manage the operation and use of state vehicles;

(2) To preapprove and assist with purchase of new or replacement vehicles for agencies including facilitating financing arrangements;

(3) To maintain a state vehicle fleet for all state vehicles owned or leased by the State of West Virginia or any of its spending units;

(4) To charge a fee for division services by spending units utilizing state vehicles;

(5) To provide training and notice to fleet coordinators and spending units concerning the duties and responsibilities under this article, including any requirements related to the State Vehicle Title, Registration and Relicensing Project of 2018, established pursuant to §17A-3-25 of this code;

(6) To develop safe operation and other policies governing state vehicle use;

(7) To propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code;

(8) Report annually to the Governor and to the Joint Committee on Government and Finance, regarding the operations of the state fleet and the utilization of state vehicles;



(9) To develop and maintain, in cooperation with the Travel Management Office, state policies for the utilization of state vehicles, including establishing best practices for state vehicle use; and

(10) To provide assistance upon request to any spending unit related to financing, purchasing, leasing, operating, maintaining, transferring, and decommissioning state vehicles.

(c) The secretary shall appoint a director of the division, who shall:

(1) Employ such staff as needed to effectuate the provisions of this article;

(2) Maintain adequate office space for staff and equipment as needed to effectuate the provisions of this article; and

(3) Under the direction of the secretary, establish a central motor pool, which shall be maintained and administered by the division, subject to such rules as the director may promulgate: *Provided*, That the division is responsible for the storage, maintenance, and repairs of all vehicles assigned to the central motor pool.

#### **§5A-12-4. Fleet Management Division Fund.**

The special revenue account, known as the ‘Fleet Management Office Fund’, previously created by §5A-3-52 of this code, shall terminate effective July 1, 2018. On and after July 1, 2018, all funds previously belonging to the Fleet Management Office Fund shall transfer to the special revenue account which shall be known as the ‘Fleet Management Division Fund’ which shall be created in the State Treasury, and shall be administered by the director. Expenditures are authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with §12-3-1 *et seq.* of this code and upon fulfillment of the requirements of §11B-2-1 *et seq.* of this code. Any balance remaining in the special revenue account at the end of any state fiscal year does not revert to the General Revenue Fund but

remains in the special revenue account and may be used solely in a manner consistent with this article.

**§5A-12-5. Rule-making authority; emergency rules.**

(a) The director shall propose legislative rules as may be necessary to implement this article, in accordance with §29A-3-1 et seq. of this code. Those rules shall include, but not be limited to:

(1) Requirements governing the use of state vehicles;

(2) Reporting requirements and responsibilities for fleet coordinators;

(3) Requirements and responsibilities for each driver or operator of a state vehicle;

(4) Information to be collected and maintained on state vehicle log sheets, including information related to mileage, destinations, and purpose of trip;

(5) The form and manner for each spending unit fleet coordinator to report to the division, including any electronic format as deemed necessary by the director;

(6) The information that each spending unit fleet coordinator shall collect and maintain regarding state vehicle use by the spending unit;

(7) The information for spending unit fleet coordinators to annually report to the division regarding state vehicle use;

(8) Requirements and policies governing commuting in and taking home state vehicles; and

(9) Requirements and policies governing volunteer and non-public employee drivers.

(b) All rules of the Fleet Management Office in effect on the effective date of this article shall remain in effect until they are amended, replaced, or repealed: *Provided*, That these rules shall expire on July 1, 2021, if not sooner superseded.

(c) On or before June 15, 2018, the director shall propose emergency legislative rules which may amend or modify existing legislative rules governing the use of state vehicles pursuant to §5A-12-1 et seq. of this code to implement the provisions of this article.

#### **§5A-12-6. Vehicle operator regulations; training.**

(a) Each operator of a state vehicle, or a personal vehicle for which reimbursement is sought, shall maintain the vehicle logs to the level of detail required by the division through legislative rules, and as may be required by the spending unit.

(b) Each operator of a state vehicle shall comply with the laws, rules, and policies governing state vehicle use, including spending unit rules and policies.

(c) Prior to operating a state vehicle, each operator shall be required to take such training courses as may be required by the Board of Risk and Insurance Management, the Travel Management Office, the Fleet Management Division, and the spending unit.

(d) If any public employee or public official fails to comply with any rule or regulation for state vehicle use, the spending unit may require that the individual attend training, be restricted from using state vehicles, or be prohibited from using state vehicles: *Provided*, That nothing in this section authorizes the division to restrict the use of state vehicles except for those employees under its control.

#### **§5A-12-7. Spending unit duties and responsibilities.**

(a) Every spending unit shall report all vehicles and equipment requiring a state license plate, including those vehicles with a rating of more than one ton, those requiring a commercial driver's license to operate, and all-terrain vehicles, as fixed assets in the centralized accounting system maintained by the Enterprise Resource Planning Board.

(b) Every spending unit that owns state vehicles shall annually affirm to the State Agency for Surplus Property on or before July

15 of each year, that the vehicles and assets reported to the centralized accounting system as required by §5A-12-7(a) of this code are accurate and current.

**§5A-12-8. Fleet coordinators.**

(a) Each spending unit shall name a fleet coordinator, who shall be responsible for the management and maintenance of state vehicle information, and for reporting state vehicle utilization reports to the division as required by this article and legislative rules promulgated pursuant thereto.

(b) Each spending unit shall provide to the division the name and contact information for the spending unit fleet coordinator.

(c) Each fleet coordinator is required to attend the Fleet Coordinator training provided by the Fleet Management Division.

(d) Each fleet coordinator shall be responsible for providing adequate training to each operator of a state vehicle within his or her spending unit.

**§5A-12-9. Utilization of Vehicle Management Services; exemption.**

(a) Each spending unit that owns, uses, or maintains a state vehicle shall utilize the vehicle management services provided by the Fleet Management Division for all state vehicles.

(b) Spending units may request an exemption from part or all of the services provided by the Fleet Management Division. The division shall review each request and may recommend approval of the request by the secretary. The division shall submit a legislative rule identifying each spending unit for which an exemption has been approved, which rule shall further state the nature of the proposed exemption, and which services will be used, as well as the manner in which the spending unit will comply with all other requirements of this article, including the requirements to report certain information to the division: *Provided*, That no request for exemption pursuant to this section shall become

effective without the enactment of a legislative rule pursuant to the provisions of §29A-3-1 et seq. of this code.

**§5A-12-10. Annual reports by spending units.**

(a) Each spending unit that owns or operates a state vehicle, rents vehicles for a state purpose, or reimburses for personal vehicle use, shall annually report the Fleet Management Division, beginning on or before October 31, 2018, and on or before October 31 each year thereafter, in the manner required by this article and by legislative rule.

(b) Each spending unit that owns or leases a state vehicle or rents or reimburses an employee for personal vehicle use, shall periodically compile and maintain the individual specific vehicle records of each state vehicle, and all records of vehicle rental and private vehicle use expenditures, for not less than three years, or as may be required by the division or the State Auditor pursuant to §5A-12-13 of this code.

**§5A-12-11. Complaint process.**

(a) The director shall provide a complaint process for use by the general public to report to the division issues relevant to the operation and maintenance of a state vehicle fleet. Complaints may be received by the division in writing, by telephone, or electronically: *Provided*, That the division shall review all complaints weekly, and report to the appropriate spending unit the information regarding the state vehicle in use by the spending unit, and shall describe the nature of the complaint, including, but not limited to mechanical problems, equipment failures, misuse, or illegal operation of a state vehicle.

(b) Each spending unit shall investigate each complaint it receives and provide an update to the division on a regular basis and at the conclusion of the investigation.

**§5A-12-12. State vehicle fleet annual report.**

(a) The Fleet Management Division shall maintain sufficient records and fleet coordinator reports to produce a State Vehicle

Fleet Annual Report, regarding the maintenance and operation of the state vehicle fleet.

(b) On or before December 31, 2019 and each December 31 thereafter, the division shall submit the State Vehicle Fleet Annual Report to the Governor, and to the Joint Committee on Government and Finance, containing, at a minimum:

(1) The total number of state vehicles;

(2) The total number of vehicles operated by each spending unit;

(3) The total number of state vehicle miles driven, both in the aggregate and by spending unit;

(4) The total amount of fuel purchased, and the total expenditures for annual maintenance, repair, fuel expenditures, both in the aggregate and by spending unit;

(5) The total number of miles reimbursed for personal vehicle use and the amount reimbursed annually, both in the aggregate and by spending unit;

(6) The total number of vehicles owned and operated by the division, including information on the total miles driven, and the annual expenditures for maintenance, repair, and fuel;

(7) The total annual indirect costs of operating the state vehicle fleet, both in the aggregate and by spending unit;

(8) A summary of complaints received concerning state vehicle usage;

(9) A summary of the State Auditor's spot compliance audit report authorized pursuant to §5A-12-13 of this code;

(10) The operating revenue and expenses of the division; and

(11) Recommendations for any policy or statutory changes the director determines may be necessary to maintain accurate records

of the state vehicle fleet, utilization of state vehicles, and the expenses necessary to maintain such vehicle fleet.

(c) An annual report produced in an electronic format complies with the reporting requirements of this article and shall be made available on the division website: *Provided*, That the division shall redact any personally identifiable or confidential information.

#### **§5A-12-13. Spot compliance audits by the State Auditor.**

(a) Beginning July 1, 2019, the State Auditor shall conduct spot compliance audits to monitor operator, spending unit, and fleet coordinator records and reports for accuracy and compliance with the record keeping provisions of this article. The State Auditor shall conduct a spot compliance audit on not less than 20 percent of the state vehicle fleet annually, in order to conduct spot compliance audits of all state vehicle records on a five-year cycle.

(b) A spending unit found to be noncompliant with the recordkeeping provisions of this article may be subject to further compliance monitoring as the State Auditor and director deem necessary.

(c) The State Auditor shall report to the division the findings of each spot compliance audit. Such reports shall list the spending units and fleet coordinators audited, and verify:

(1) That state vehicle drivers of the spending unit have complied with applicable training requirements and are keeping complete and accurate vehicle logs;

(2) That spending unit fleet coordinators have attended training, and are compiling and maintaining the state vehicle records required by this article; and

(3) The accuracy of fleet coordinator reporting in the manner consistent with the provisions of this article.

#### **§5A-12-14. Legislative compliance audit.**

On or before December 31, 2020, the Legislative Auditor, in accordance with §4-10-1 *et seq.* of this code, shall audit the

division for state spending unit and fleet coordinator compliance with the reporting requirements and applicable provisions of this article. Such audit shall also include an evaluation of the data collected by the division to determine if the data being provided to the division in spending unit annual reports are sufficient to evaluate the state costs of owning, maintaining, and leasing state vehicles, and to evaluate vehicle use and expenditure trends among the spending units.

## **CHAPTER 12. PUBLIC MONEYS AND SECURITIES.**

### **ARTICLE 6D. WEST VIRGINIA ENTERPRISE RESOURCE PLANNING BOARD.**

#### **§12-6D-7. Establishing state vehicle fixed assets record keeping.**

The West Virginia Enterprise Resource Planning Board shall, after consulting with the Fleet Management Division, established pursuant to §5A-12-1 *et seq.* of this code, and the Division of Motor Vehicles, pursuant to the authority in §17A-3-25, develop standard naming conventions for the title, registration, and other fixed asset information to be used in the identification of state vehicles in the system of record for fixed assets, and shall also designate the information to be entered by spending units into the centralized accounting system maintained by the West Virginia Enterprise Resource Planning Board, for the development and maintenance of an accurate and updated state vehicle inventory.

## **CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION,**

### **CERTIFICATE OF TITLE, AND ANTITHEFT PROVISIONS.**

#### **ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF CERTIFICATES OF TITLE.**

**§17A-3-23. Registration plates to state, county, municipal and other governmental vehicles; use for undercover activities.**



(a) Any motor vehicle designed to carry passengers, owned or leased by the state of West Virginia, or any of its departments, bureaus, commissions, or institutions, except vehicles used by the Governor, Treasurer, not to exceed 8 vehicles operated by investigators of the Office of the Attorney General, three vehicles per elected office of the Board of Public Works not otherwise specified, vehicles operated by the State Police, not to exceed five vehicles operated by the office of the Secretary of Military Affairs and Public Safety, not to exceed five vehicles operated by the Division of Homeland Security and Emergency Management, vehicles operated by natural resources police officers of the Division of Natural Resources, not to exceed 10 vehicles operated by the arson investigators of the Office of State Fire Marshal, not to exceed two vehicles operated by the Division of Protective Services, not to exceed 16 vehicles operated by inspectors of the Office of the Alcohol Beverage Control Commissioner, vehicles operated by the West Virginia Wing of the Civil Air Patrol, and vehicles operated by probation officers employed under the Supreme Court of Appeals may not be operated or driven by any person unless it has displayed and attached to the front thereof, in the same manner as regular motor vehicle registration plates are attached, a plate of the same size as the regular registration plate, with white lettering on a green background bearing the words 'West Virginia' in one line and the words 'State Car' in another line, and the lettering for the words 'State Car' shall be of sufficient size to be plainly readable from a distance of 100 feet during daylight: Provided, That beginning January 1, 2019, state vehicle license plates shall be gold with blue lettering.

The vehicle shall also have attached to the rear a plate bearing a number and any other words and figures as the Commissioner of Motor Vehicles shall prescribe. The rear plate shall also be green with the number in white: Provided, That beginning January 1, 2019, state vehicle license plates shall be gold with blue lettering.

(b) Registration plates issued to vehicles owned by counties shall be white on red with the word 'County' on top of the plate and the words 'West Virginia' on the bottom.

(c) Registration plates issued to a city or municipality shall be white on blue with the word 'City' on top and the words 'West Virginia' on the bottom.

(d) Registration plates issued to a city or municipality law-enforcement department shall include blue lettering on a white background with the words 'West Virginia' on top of the plate and shall be further designed by the commissioner to include a law-enforcement shield together with other insignia or lettering sufficient to identify the motor vehicle as a municipal law-enforcement department motor vehicle. The colors may not be reversed and shall be of reflectorized material. The registration plates issued to counties, municipalities, and other governmental agencies authorized to receive colored plates hereunder shall be affixed to both the front and rear of the vehicles.

(e) (1) Registration plates issued to vehicles operated by county sheriffs shall be designed by the commissioner in cooperation with the sheriffs' association with the word 'Sheriff' on top of the plate and the words 'West Virginia' on the bottom. The plate shall contain a gold shield representing the sheriff's star and a number assigned to that plate by the commissioner. Every county sheriff shall provide the commissioner with a list of vehicles operated by the sheriff, unless otherwise provided in this section, and a fee of \$10 for each vehicle submitted by July 1, 2002.

(2) Registration plates issued to vehicles operated by the West Virginia Wing of the Civil Air Patrol shall be designed by the commissioner in cooperation with the Civil Air Patrol and include the words 'Civil Air Patrol' on the plate. The Civil Air Patrol shall provide the commissioner with a list of vehicles operated by the Civil Air Patrol, unless otherwise provided in this section, and a fee of \$10 for each new vehicle for which a Civil Air Patrol license plate is requested.

(f) The commissioner is authorized to designate the colors and design of any other registration plates that are issued without charge to any other agency or non-state government entity entitled to registration plates at no charge in accordance with the motor vehicle laws: Provided, That where the institutions of higher

education opt to have their logo displayed on the state license plate, such institution shall bear any additional costs of those added features: *Provided, however,* That no public service districts or designated nongovernmental organizations shall be issued a license plate designated for vehicles owned or leased by the state of West Virginia, or any of its departments, bureaus, commissions, or institutions.

(g) Upon application, the commissioner is authorized to issue a maximum of five Class A license plates per applicant to be used by county sheriffs and municipalities on law-enforcement vehicles while engaged in undercover investigations.

(h) The commissioner is authorized to issue a maximum of five Class A license plates to be used on vehicles assigned to the Division of Motor Vehicles investigators for commercial driver examination fraud investigation and driver's license issuance fraud detection and fraud prevention.

(i) The commissioner is authorized to issue an unlimited number of license plates per applicant to authorized drug and violent crime task forces in the state of West Virginia when the chairperson of the control group of a drug and violent crime task force signs a written affidavit stating that the vehicle or vehicles for which the plates are being requested will be used only for official undercover work conducted by a drug and violent crime task force.

(j) The commissioner is authorized to issue 20 Class A license plates to the Criminal Investigation Division of the Department of Revenue for use by its investigators.

(k) The commissioner may issue a maximum of 10 Class A license plates to the Division of Natural Resources for use by natural resources police officers. The commissioner shall designate the color and design of the registration plates to be displayed on the front and the rear of all other state-owned vehicles owned by the Division of Natural Resources and operated by natural resources police officers.

(l) The commissioner is authorized to issue an unlimited number of Class A license plates to the Commission on Special Investigations for state-owned vehicles used for official undercover work conducted by the Commission on Special Investigations.

(m) The commissioner is authorized to issue a maximum of two Class A plates to the Division of Protective Services for state-owned vehicles used by the Division of Protective Services in fulfilling its mission.

(n) The commissioner is authorized to issue Class A registration plates for vehicles used by the Medicaid Fraud Control Unit created by §9-7-7 of this code.

(o) The commissioner is authorized to issue Class A registration plates for vehicles used by the West Virginia Insurance Fraud Unit created by §33-41-8 of this code.

(p) No other registration plate may be issued for, or attached to, any state-owned vehicle.

(q) The Commissioner of Motor Vehicles shall have a sufficient number of both front and rear plates produced to attach to all state-owned ears. ~~The numbered registration plates for the vehicles shall start with the number five hundred and the commissioner shall issue consecutive numbers for all state-owned ears or leased vehicles.~~

(r) The commissioner shall, after consultation with the Fleet Management Division established pursuant to §5A-12-1 *et seq.* of this code and the Enterprise Resource Planning Board established pursuant to §12-6D-1 *et seq.* of this code, develop and adopt a standardized naming convention for the title, registration, and licensing of state vehicles, pursuant to §17A-3-23 and §7A-3-25 of this code. The naming convention adopted shall be consistent with the naming convention adopted for the centralized accounting system as maintained by the Enterprise Resource Planning Board for the purpose of creating and maintaining an accurate and up to date inventory of the state vehicle fleet.

(s) It is the duty of each office, department, bureau, commission, or institution furnished any vehicle to have plates as described herein affixed thereto prior to the operation of the vehicle by any official or employee.

~~(s)~~ (t) The commissioner may issue special registration plates for motor vehicles titled in the name of the Division of Public Transit or in the name of a public transit authority as defined in this subsection and operated by a public transit authority or a public transit provider to transport persons in the public interest. For purposes of this subsection, 'public transit authority' means an urban mass transportation authority created pursuant to the provisions of §8-27-1 *et seq.* of this code or a nonprofit entity exempt from federal and state income taxes under the Internal Revenue Code and whose purpose is to provide mass transportation to the public at large. The special registration plate shall be designed by the commissioner and shall display the words 'public transit' or words or letters of similar effect to indicate the public purpose of the use of the vehicle. The special registration plate shall be issued without charge.

(u) Each green registration plate with white letters affixed to a state vehicle, and each corresponding title and registration certificate for all state vehicles, other than those vehicles with Class A registration plates as provided in this section, terminates at midnight on December 31, 2018. Each spending unit assigned a state vehicle that is required to display a state vehicle license plate and registration shall obtain a new title, new registration card, and new state vehicle license plate prior to January 1, 2019: *Provided*, That no state vehicle license plate shall be issued unless the spending unit has provided an affirmative statement under penalty of perjury that the vehicle is a state asset recorded in the central accounting system as maintained by the Enterprise Resource Planning Board, and the same has been verified by the commissioner, as required by §17A-3-25 of this code. When new registrations are issued pursuant to this article and for subsequent, non-Class A registrations of state owned or leased vehicles, the state vehicle registration plate and certificate shall be valid for a period of not more than 24 months and shall be required to be renewed every two years.

(v) The commissioner is authorized to prepare and promulgate emergency rules, pursuant to §29A-3-1 et seq. of this code in order to implement amendments to this section.

~~(t)~~ (w) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$100. Magistrates have concurrent jurisdiction with circuit courts for the enforcement of this section.

**§17A-3-25. State vehicle title, registration and relicensing project of 2018; emergency and legislative rules.**

(a) On or before July 1, 2018, the commissioner shall coordinate with the Fleet Management Division established pursuant to §5A-12-1 et seq. of this code and the Enterprise Resource Planning Board established pursuant to §12-6D-1 et seq. of this code and other applicable agencies, to develop a standardized titling and registration system for state vehicles. To the extent practicable, the standardization of vehicle title, registration, and state vehicle license plates shall conform to the state's central accounting system maintained by the Enterprise Resource Planning Board. The standardization of state vehicle titles, registrations, and license plates, as described in this section, shall be known as the 'State Vehicle Title, Registration, and Relicensing Project of 2018'. Every spending unit shall comply with the provisions of this section, and §17A-3-23 of this code.

(b) The commissioner, in coordination with the Fleet Management Division, shall develop a standard system for identifying and recording the names of agencies, offices, or spending units to which each state vehicle is assigned, or registered, and such standard naming conventions shall be developed to align with the state's central accounting system, and the centralized state vehicle inventory system. The commissioner shall propose legislative and emergency rules, pursuant to §29A-3-1 et seq. of this code, establishing those standard naming conventions for the registration, titling, and licensing of every state vehicle, and assigning by rule a list of the standardized naming conventions for each spending unit for the purpose of issuing new

title, registration, and license plates to each state vehicle by December 31, 2018.

(c) Once the commissioner has promulgated legislative and emergency rules as authorized pursuant to subsection (b) of this section, and not later than September 1, 2018, the division shall begin to issue the standardized title, registration, and state vehicle license plates for all state vehicles.

(d) Any spending unit applying to license or relicense a state vehicle pursuant to this section shall include with the application an affirmative statement under the penalty of perjury that the vehicle is a state asset recorded in the central accounting system as maintained by the Enterprise Resource Planning Board before the commissioner is required to issue any motor vehicle registration plates: *Provided*, That for leased vehicles, the spending unit shall affirm to the commissioner that the vehicle is leased and not required to be recorded in the state central accounting system.

(e) The commissioner shall confirm that each vehicle for which an agency applies for a license, title, or registration is properly listed within the centralized accounting system as being a vehicle owned by a state agency before processing the application.

(f) The commissioner is authorized, by legislative and emergency rule, to establish a procedure whereby the commissioner shall reject the application for a state vehicle title, registration and state vehicle license plate if that application does not conform to the standard naming convention requirements. The commissioner shall provide by rule for the reasonable remedy, correcting of errors, or to compel compliance with the standard naming conventions.

(g) At midnight on December 31, 2018, all green state vehicle license plates with white lettering affixed to vehicles shall expire. The commissioner, in coordination with the Fleet Management Division, shall provide notice to each spending unit, and advertise as deemed appropriate, to inform the fleet coordinators, as defined in §5A-12-3 of this code, that such license plates expire and the procedure for being issued new titles, registrations, and license

plates pursuant to this article. The head of each spending unit with state vehicles shall cooperate and comply with the requirements of the State Vehicle Title, Registration, and Relicensing Project of 2018, and the centralized accounting system.

(h) Upon receipt of the new title, registration, and license plates, each spending unit shall enter the appropriate information into the state's central accounting system maintained by the Enterprise Resource Planning Board, in such detail and specificity as required by the board, the Fleet Management Division established pursuant to §5A-12-1 *et seq.* of this code.

**§17A-3-26. Enforcement; report.**

(a) Beginning January 1, 2019, any state vehicle in this state with a green state license plate with white lettering is in violation of this article.

(b) After January 1, 2019, any law-enforcement officer who discovers a state vehicle with an expired state vehicle license plate shall issue a citation with a penalty of \$100 per violation. Upon payment of such penalty, notwithstanding court costs, the clerk of the court shall remit the amount of the penalty to the law-enforcement agency having brought the charge before the court.

(c) Any spending unit issued a citation pursuant to this section shall file a report with the Fleet Management Division within 30 days of the citation and describe the state vehicle by the vehicle identification number, the make, model, and year of the vehicle, the state vehicle license plate, and the date on which the license plate was renewed.

**§17A-3-27. Compliance audit.**

On or before December 31, 2019, the Legislative Auditor, in accordance with §4-10-1 *et seq.* of this code, shall audit the Division of Motor Vehicles for compliance with the State Vehicle Title, Registration, and Relicensing Project of 2018. The Legislative Auditor may make recommendations for future compliance monitoring of any spending unit found not in



compliance with the project and make such recommendations for administrative penalties for noncompliance with the project.

## CHAPTER 29B. FREEDOM OF INFORMATION.

### ARTICLE 1. PUBLIC RECORDS.

#### §29B-1-4. Exemptions.

(a) There is a presumption of public accessibility to all public records, subject only to the following categories of information which are specifically exempt from disclosure under ~~the provisions~~ of this article:

(1) Trade secrets, as used in this section, which may include, but are not limited to, any formula, plan pattern, process, tool, mechanism, compound, procedure, production data or compilation of information which is not patented which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article or trade or a service or to locate minerals or other substances, having commercial value, and which gives its users an opportunity to obtain business advantage over competitors;

(2) Information of a personal nature such as that kept in a personal, medical, or similar file, if the public disclosure of the information would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in this particular instance: *Provided*, That this article does not preclude an individual from inspecting or copying his or her own personal, medical, or similar file;

(3) Test questions, scoring keys and other examination data used to administer a licensing examination, examination for employment, or academic examination;

(4) (A) Records of law-enforcement agencies that deal with the detection and investigation of crime and the internal records and notations of such law-enforcement agencies which are maintained for internal use in matters relating to law enforcement;

(B) Records identifying motor vehicles used, and the agencies using them, for undercover investigation activities conducted by state law-enforcement agencies or other agencies that are authorized by this code to use undercover or unmarked vehicles;

(5) Information specifically exempted from disclosure by statute;

(6) Records, archives, documents or, manuscripts describing the location of undeveloped historic, prehistoric, archaeological, paleontological, and battlefield sites or constituting gifts to any public body upon which the donor has attached restrictions on usage or the handling of which could irreparably damage the record, archive, document, or manuscript;

(7) Information contained in or related to examination, operating, or condition reports prepared by, or on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions, except those reports which are by law required to be published in newspapers;

(8) Internal memoranda or letters received or prepared by any public body;

(9) Records assembled, prepared, or maintained to prevent, mitigate, or respond to terrorist acts or the threat of terrorist acts, the public disclosure of which threaten the public safety or the public health;

(10) Those portions of records containing specific or unique vulnerability assessments or specific or unique response plans, data, databases, and inventories of goods or materials collected or assembled to respond to terrorist acts; and communication codes or deployment plans of law-enforcement or emergency response personnel;

(11) Specific intelligence information and specific investigative records dealing with terrorist acts or the threat of a terrorist act shared by and between federal and international law-enforcement agencies, state and local law-enforcement, and other

agencies within the Department of Military Affairs and Public Safety;

(12) National security records classified under federal executive order and not subject to public disclosure under federal law that are shared by federal agencies and other records related to national security briefings to assist state and local government with domestic preparedness for acts of terrorism;

(13) Computing, telecommunications, and network security records, passwords, security codes, or programs used to respond to or plan against acts of terrorism which may be the subject of a terrorist act;

(14) Security or disaster recovery plans, risk assessments, tests, or the results of those tests;

(15) Architectural or infrastructure designs, maps, or other records that show the location or layout of the facilities where computing, telecommunications or network infrastructure used to plan against or respond to terrorism are located or planned to be located;

(16) Codes for facility security systems; or codes for secure applications for facilities referred to in subdivision (15) of this subsection;

(17) Specific engineering plans and descriptions of existing public utility plants and equipment;

(18) Customer proprietary network information of other telecommunications carriers, equipment manufacturers, and individual customers, consistent with 47 U.S.C. §222;

(19) Records of the Division of Corrections, Regional Jail and Correctional Facility Authority, and the Division of Juvenile Services relating to design of corrections, jail and detention facilities owned or operated by the agency, and the policy directives and operational procedures of personnel relating to the safe and secure management of inmates or residents, that if released, could be used by an inmate or resident to escape a facility,

or to cause injury to another inmate, resident, or to facility personnel;

(20) Information related to applications under §61-7-4 of this code, including applications, supporting documents, permits, renewals, or any other information that would identify an applicant for or holder of a concealed weapon permit: *Provided*, That information in the aggregate that does not identify any permit holder other than by county or municipality is not exempted: *Provided, however*, That information or other records exempted under this subdivision may be disclosed to a law-enforcement agency or officer: (i) To determine the validity of a permit, (ii) to assist in a criminal investigation or prosecution, or (iii) for other lawful law-enforcement purposes; and

(21) Personal information of law-enforcement officers maintained by the public body in the ordinary course of the employer-employee relationship. As used in this paragraph, 'personal information' means a law-enforcement officer's social security number, health information, home address, personal address, personal telephone numbers, and personal email addresses, and those of his or her spouse, parents, and children, as well as the names of the law-enforcement officer's spouse, parents, and children.

(b) As used in subdivisions (9) through (16), inclusive, subsection (a) of this section, the term 'terrorist act' means an act that is likely to result in serious bodily injury or damage to property or the environment and is intended to:

(1) Intimidate or coerce the civilian population;

(2) Influence the policy of a branch or level of government by intimidation or coercion;

(3) Affect the conduct of a branch or level of government by intimidation or coercion; or

(4) Retaliate against a branch or level of government for a policy or conduct of the government.

(c) The provisions of subdivisions (9) through (16), inclusive, subsection (a) of this section do not make subject to the provisions of this chapter any evidence of an immediate threat to public health or safety unrelated to a terrorist act or the threat of a terrorist act which comes to the attention of a public entity in the course of conducting a vulnerability assessment response or similar activity.”

And,

By amending the title of the bill to read as follows:

**Com. Sub. for H. B. 4015** – “A Bill to repeal §5A-3-49 of the Code of West Virginia, 1931, as amended; to amend and reenact §5A-1-2 of said code; to amend and reenact §5A-3-52 of said code; to amend said code by adding thereto a new article, designated §5A-12-1, §5A-12-2, §5A-12-3, §5A-12-4, §5A-12-5, §5A-12-6, §5A-12-7, §5A-12-8, §5A-12-9, §5A-12-10, §5A-12-11, §5A-12-12, §5A-12-13 and §5A-12-14; to amend said code by adding thereto a new section, designated §12-6D-7; to amend and reenact §17A-3-23 of said code; to amend said code by adding thereto three new sections, designated §17A-3-25, §17A-3-26, and §17A-3-27; and to amend and reenact §29B-1-4 of said code, all relating to the management and inventory of vehicles owned, leased, operated, or acquired by the state and its agencies; authorizing establishment of aviation division within Department of Administration; establishing Fleet Management Division within Department of Administration; repealing provisions relating to the central motor pool; continuing management of state owned or leased aircraft through an Aviation Division; setting duties of Aviation Division; continuing Aviation Fund and authorizing administration by division director or secretary of Department of Administration; defining terms; setting scope of article and applicability to spending units; continuing Fleet Management Office as Fleet Management Division; setting duties and responsibilities of division; providing for the appointment of a division director; providing powers and duties of the division director; terminating the Fleet Management Office Fund; establishing the Fleet Management Division Fund; providing for transfer of funds from Fleet Management Office Fund to Fleet Management Division

Fund; establishing rulemaking authority for division director; requiring proposal of certain legislative rules; setting requirements for operators of state vehicles; establishing duties and responsibilities of spending units with respect to state vehicles and equipment; requiring each spending unit designate a fleet coordinator; requiring spending unit provide name and contact information of fleet coordinator to division; setting requirements and responsibilities of fleet coordinators; requiring spending units use vehicle management services provided by division; authorizing certain exceptions; requiring annual reporting by spending units to division; requiring spending units maintain certain records; requiring division director establish complaint process for general public to report issues relevant to state vehicle fleet; requiring spending unit investigate complaints received by division; requiring division prepare state vehicle fleet annual report; setting contents of annual report; providing for spot compliance audits by the State Auditor; requiring legislative compliance audit; directing Enterprise Resource Planning Board develop standard naming convention for state vehicle information in centralized accounting system; increasing number of state vehicles Attorney General may have without state license plate; changing colors of state license plates to gold with blue lettering effective January 1, 2019; authorizing Commissioner of the Division of Motor Vehicles to issue special plates to certain organizations and entities at no charge; authorizing inclusion of higher education institution logos on state license plates; requiring higher education institutions bear any additional costs of those features; prohibiting public service districts or designated nongovernmental institutional from being issued state license plate; directing commissioner of Division of Motor Vehicles develop and adopt standardized naming convention for title, registration and licensing of state vehicles; providing for expiration of green and white state license plates; requiring spending units obtain new state license plate prior to January 1, 2019; requiring affirmative statement from spending unit that vehicle is state asset recorded in central accounting system, and verification of same, prior to issuance of state license plate; providing license plates and registrations be valid for not more than 24 months; requiring renewal every two years; authorizing promulgation of emergency rules by commissioner;

directing proposal of legislative and emergency rules to establish standardized naming conventions for state vehicle titles, licenses, and registrations; establishing process for spending unit to apply for and acquire new uniform vehicle title and registration plate; requiring updating of information in centralized accounting system following receipt of new title, registration and license plates; providing for a citation for vehicles with expired state license plate; requiring spending unit file report with division upon receipt of citation; directing compliance audit by Legislative Auditor of Division of Motor Vehicles; exempting confidential information relating to certain vehicles from public disclosure under the Freedom of Information Act; authorizing rule-making; and requiring annual reports to the Governor and Legislature.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 356**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Deem and C. Romine.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4015) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 4023**, Relating to the regulation of dialysis technicians.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

**H. B. 4025**, Permitting reciprocity for licensure as a pharmacy technician.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 4027**, Creating an education permit for allopathic physician resident.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

**H. B. 4178**, Permitting certain portions of certified nurse aide training to be provided through distance learning technologies.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 4279**, Relating to adult protective services system.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4368**, Relating to voluntary assignments of wages by state employees who have been overpaid.

On motion of Delegate Foster, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the article heading and inserting in lieu thereof the following:

**“ARTICLE 5. WAGE PAYMENT AND COLLECTION.**

**§21-5-3. Payment of wages by employers other than railroads; assignments of wages.**



(a) Every person, firm or corporation doing business in this state, except railroad companies as provided in section one of this article, shall settle with its employees at least twice every month and with no more than 19 days between settlements, unless otherwise provided by special agreement, and pay them the wages due, less authorized deductions and authorized wage assignments, for their work or services.

(b) Payment required in subsection (a) of this section shall be made:

(1) In lawful money of the United States;

(2) By cash order as described and required in §21-5-4 of this code;

(3) By deposit or electronic transfer of immediately available funds into an employee's payroll card account in a federally insured depository institution. The term 'payroll card account' means an account in a federally insured depository institution that is directly or indirectly established through an employer and to which electronic fund transfers of the employee's wages, salary, commissions or other compensation are made on a recurring basis, whether the account is operated or managed by the employer, a third person payroll processor, a depository institution or another person. 'Payroll card' means a card, code or combination thereof or other means of access to an employee's payroll card account, by which the employee may initiate electronic fund transfers or use a payroll card to make purchases or payments. Payment of employee compensation by means of a payroll card must be agreed upon in writing by both the person, firm or corporation paying the compensation and the person being compensated; or

(4) By any method of depositing immediately available funds in an employee's demand or time account in a bank, credit union or savings and loan institution that may be agreed upon in writing between the employee and such person, firm or corporation, which agreement shall specifically identify the employee, the financial institution, the type of account and the account number: *Provided*, That nothing herein contained shall be construed in a manner to

require any person, firm or corporation to pay employees by depositing funds in a financial institution.

(c) If, at any time of payment, any employee ~~shall be~~ is absent from his or her regular place of labor and ~~shall~~ does not receive his or her wages through a duly authorized representative, he or she ~~shall be~~ is entitled to payment at any time thereafter upon demand upon the proper paymaster at the place where his or her wages are usually paid and where the next pay is due.

(d) Nothing herein contained ~~shall~~ may affect the right of an employee to assign part of his or her claim against his or her employer except as in subsection (e) of this section.

(e) No assignment of or order for future wages ~~shall~~ may be valid for a period exceeding one year from the date of the assignment or order. An assignment or order shall be acknowledged by the party making the same before a notary public or other officer authorized to take acknowledgments, and any order or assignment shall specify thereon the total amount due and collectible by virtue of the same and, unless otherwise provided for in subsection (f) of this section, three-fourths of the periodical earnings or wages of the assignor ~~shall are~~ all times be exempt from such assignment or order and no assignment or order ~~shall be~~ is valid which does not so state upon its face: *Provided*, That no such order or assignment ~~shall be~~ is valid unless the written acceptance of the employer of the assignor to the making thereof is endorsed thereon: *Provided, however*, That nothing herein contained ~~shall~~ may be construed as affecting the right of employer and employees to agree between themselves as to deductions to be made from the payroll of employees.

(f) If an employee of the state has been overpaid wages, including incremental salary increases pursuant to §5-5-2 of this code, an employee may voluntarily authorize a written assignment or order for future wages to the state to repay the overpayment in an amount not to exceed three-fourths of his or her periodical earnings or wages.”

And,

By amending the title of the bill to read as follows:

**Com. Sub. for H. B. 4368** - “A Bill to amend and reenact §21-5-3 of the Code of West Virginia, 1931, as amended, relating to voluntary assignments of wages by state employees who have been overpaid; and providing that state employees may voluntarily authorize an assignment or order of future wages to repay an overpayment, not to exceed a certain amount.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 357**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Fluharty and Hornbuckle.

Absent and Not Voting: Deem and C. Romine.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4368) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**H. B. 4434**, Clarifying provisions relating to candidates unaffiliated with a political party as it relates to certificates of announcement.

On motion of Delegate Cowles, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.**

**§3-5-23. Certificate nominations; requirements and control; penalties.**

(a) Groups of citizens having no party organization may nominate candidates who are not already candidates in the primary election for public office otherwise than by conventions or primary elections. In that case, the candidate or candidates, jointly or severally, shall file a nomination certificate in accordance with the provisions of this section and the provisions of §3-5-24 of this code.

(b) The person or persons soliciting or canvassing signatures of duly qualified voters on the certificate or certificates, may solicit or canvass duly registered voters residing within the county, district, or other political division represented by the office sought, but must first obtain from the clerk of the county commission credentials which must be exhibited to each voter canvassed or solicited, which credentials may be in the following form or effect:

State of West Virginia, County of ....., ss:

This certifies that the holder of this credential is hereby authorized to solicit and canvass duly registered voters residing in ..... (here place the county, district or other political division represented by the office sought) to sign a certificate purporting to nominate ..... (here place name of candidate heading list on certificate) for the office of ..... and others, at the general election to be held on ....., 20.....

Given under my hand and the seal of my office this ..... day of ....., 20.....

Clerk, county commission of ..... County.

The clerk of each county commission, upon proper application made as herein provided, shall issue such credentials and shall keep a record thereof.

(c) The certificate shall be personally signed by duly registered voters, in their own proper handwriting or by their marks duly witnessed, who must be residents within the county, district, or other political division represented by the office sought wherein the canvass or solicitation is made by the person or persons duly authorized. The signatures need not all be on one certificate. The number of signatures shall be equal to not less than one percent of the entire vote cast at the last preceding general election for the office in the state, district, county, or other political division for which the nomination is to be made, but in no event shall the number be less than 25. The number of signatures shall be equal to not less than one percent of the entire vote cast at the last preceding general election for any statewide, congressional, or presidential candidate, but in no event shall the number be less than 25. Where two or more nominations may be made for the same office, the total of the votes cast at the last preceding general election for the candidates receiving the highest number of votes on each ticket for the office shall constitute the entire vote. A signature on a certificate may not be counted unless it be that of a duly registered voter of the county, district, or other political division represented by the office sought wherein the certificate was presented.

(d) The certificates shall state the name and residence of each of the candidates; that he or she is legally qualified to hold the office; that the subscribers are legally qualified and duly registered as voters and desire to have the candidates placed on the ballot; and may designate, by not more than five words, a brief name of the party which the candidates represent and may adopt a device or emblem to be printed on the official ballot. All candidates nominated by the signing of the certificates shall have their names placed on the official ballot as candidates, as if otherwise nominated under the provisions of this chapter.

The Secretary of State shall prescribe the form and content of the nomination certificates to be used for soliciting signatures.

Offices to be filled by the voters of more than one county shall use separate petition forms for the signatures of qualified voters for each county.

Notwithstanding any other provision of this code to the contrary, a duly registered voter may sign the certificate provided in this section and may vote for candidates of his or her choosing in the corresponding primary election.

(e) The Secretary of State, or the clerk of the county commission, as the case may be, may investigate the validity of the certificates and the signatures thereon. If, upon investigation, there is doubt as to the legitimacy and the validity of certificate, the Secretary of State may ask the Attorney General of the state, or the clerk of the county commission may ask the prosecuting attorney of the county, to institute a quo warranto proceeding against the nominee by certificate to determine his or her right to the nomination to public office and upon request being made, the Attorney General or prosecuting attorney shall institute the quo warranto proceeding. The clerk of the county commission shall, at the request of the Secretary of State or the clerk of the circuit court, compare the information from any certificate to the county voter registration records in order to assist in determining the validity of any certificates.

(f) For the purposes of this section, any person who, at the time of the filing of the nomination certificate or certificates, is registered and affiliated with a recognized political party as defined in §3-1-8 of this code may not become a candidate for political office by virtue of the nomination-certificate process as set forth in this section.

(g) For the purposes of this section, any person who was a candidate for nomination by a recognized political party as defined in §3-1-8 of this code may not, after failing to win the nomination of his or her political party, become a candidate for the same political office by virtue of the nomination-certificate process as set forth in this section.

(f) (h) In addition to penalties prescribed elsewhere for violation of this chapter, any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$1,000, or confined in jail not more than one year, or both fined and ~~imprisoned~~ confined: *Provided*, That a

criminal penalty may not be imposed upon anyone who signs a nomination certificate and votes in the primary election held after the date the certificate was signed.”

And,

By amending the title of the bill to read as follows:

**H. B. 4434** - “A Bill to amend and reenact §3-5-23 of the Code of West Virginia, 1931, as amended, to prohibit any person from becoming a candidate for political office by virtue of the nomination-certificate process when he or she, at the time of the filing of the nomination certificate or certificates, is registered and affiliated with a recognized political party as defined in §3-1-8 of this code or when he or she was a candidate for nomination by a recognized political party as defined in §3-1-8 of this code but failed to win the nomination of his or her party.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 358**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Deem, C. Romine and Summers.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4434) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4473**, Relating to use of state funds for advertising to promote a public official or government office.

On motion of Delegate Cowles, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu the following:

**“ARTICLE 2B. LIMITATIONS ON A PUBLIC OFFICIAL FROM USING HIS OR HER NAME OR LIKENESS.**

**§6B-2B-1. Definitions.**

As used in this article:

(a) ‘Advertising’ means publishing, distributing, disseminating, communicating, or displaying information to the ~~general~~ public through audio, visual, or other media tools with the purpose of promoting the public official or a political party. ~~It includes~~ ‘Advertising’ may include, but is not limited to, billboard, radio, television, mail, electronic mail, publications, banners, table skirts, magazines, social media, websites, and other forms of publication, dissemination, display, or communication.

(b) ‘Agent’ means any volunteer or employee, contractual or permanent, serving at the discretion of a public official or public employee.

(c) ‘Educational materials’ means publications, guides, calendars, handouts, pamphlets, reports, or booklets intended to provide information about the public official or governmental office. It includes information or details about the office, services the office provides to the public, updates on laws and services, and other informational items that are intended to educate the public.

(d) ‘Instructional material’ means written instructions explaining or detailing steps for completion of a governmental agency document or form.

(e) ‘Likeness’ means a photograph, drawing, or other depiction of an individual.



(f) ‘Mass media communication’ means communication through audio, visual, or other media tools, including U.S. mail, electronic mail, and social media, intended for general dissemination to the public. Examples include mass mailing by U.S. mail, list-serve emails and streaming clips on websites. It does not include: (i) Regular responses to constituent requests or questions during the normal course of business; or (ii) communications that are authorized or required by law to be publicly disseminated, such as legal notices.

(g) ‘Press release’ means a written, audio, or video communication issued by an official or agency to the public or to members and organizations of the news media to report specific but brief information about an event, circumstance, or other happening.

~~(g)~~ (h) ‘Public employee’ means any full-time or part-time employee of any state, or political subdivision of the state, and their respective boards, agencies, departments, and commissions, or in any other regional or local governmental agency.

~~(h)~~ (i) ‘Public official’ means any person who is elected or appointed to any state, county, or municipal office or position, including boards, agencies, departments, and commissions, or in any other regional or local governmental agency.

~~(i)~~ (j) ‘Public payroll’ means payment of public moneys as a wage or salary from the state, or political subdivision of the state, or any other regional or local governmental agency, whether accepted or not.

~~(j)~~ (k) ‘Social media’ means forms of electronic communication through which users create online communities to share information, ideas, personal messages, and other content. It includes web and mobile-based technologies which are used to turn communication to interactive dialogue among organizations, communities, and individuals. Examples include, but are not limited to, Facebook, Myspace, Twitter, and YouTube.

~~(k)~~ (l) 'Trinkets' means items of tangible personal property that are not vital or necessary to the duties of the public official's or public employee's office, including, but not limited to, the following: magnets, mugs, cups, key chains, pill holders, band-aid dispensers, fans, nail files, matches, and bags.

**§6B-2B-2. Limitations on a public official from using his or her name or likeness.**

(a) *Trinkets.* – Public officials, their agents, or anyone on public payroll may not place the public official's name or likeness on trinkets paid for with public funds: *Provided*, That when appropriate and reasonable, public officials may expend a minimal amount of public funds for the purchase of pens, pencils, or other markers to be used during ceremonial signings.

(b) *Advertising.* – (1) Public officials, their agents, or anyone on public payroll may not use public funds, including funds of the office held by the public official, public employees, or public resources to distribute, disseminate, publish, or display the public official's name or likeness for the purpose of advertising to the ~~general~~ public.

(2) Notwithstanding the prohibitions in subdivision (1) of this subsection, the following conduct is not prohibited:

(A) A public official's name and likeness may be used in a public announcement or mass media communication when necessary, reasonable, and appropriate to relay specific public safety, health, or emergency information.

(B) A public official's name and likeness may appear on an agency's social media and website ~~provided~~ if it complies with §6B-2B-3 of this code.

~~(C) Dissemination of office press releases or agency information via email, social media or other public media tools for official purposes is not considered advertising or prohibited under this subsection, if it: (i) Is intended for a legitimate news or informational purpose; (ii) is not intended as a means of promotion~~

~~of the public official; and (iii) is not being used as educational material.~~

(3) Banners and table skirts are considered advertising and may not include the public official's name or likeness.

(4) Nothing in this article shall be interpreted as prohibiting public officials from using public funds to communicate with constituents in the normal course of their duties as public officials if the communications do not include any reference to voting in favor of the public official in an election.

(c) *Vehicles.* – Public officials, their agents, or any person on public payroll may not use or place the public official's name or likeness on any publicly owned vehicles.

(d) *Educational Materials.* –

A public official's name or likeness may ~~not~~ be placed on any educational material, that is paid for with public funds, so long as the primary purpose of the material is to provide information about the processes, operations, structure, functions, or history of an agency, agencies, or branch of government, or to provide lists of contact information or other identifying information about a public official. ~~Provided, That this prohibition does not apply to the submission of a report required to be issued by law.~~ Educational materials in which the name and likeness of an official may appear include, but are not limited to: directories; reports; reference books; and legislative publications, such as the West Virginia Blue Book and the Legislative Manual.

(e) *Press releases.* – Notwithstanding any other provision of law, the name and likeness of a public official may be included in a press release, produced with public funds and which is disseminated by any means, if that press release is intended for a legitimate news or informational purpose and, considered as a whole, does not feature or present the public official in a form, manner, or context which is intended to promote the official. A press release produced with public funds may not request, solicit, or promote voting for any official or political party.

**§6B-2B-3. Limitations on promotion through Use of public official's name or likeness on agency website or social media.**

(a) A public official's name and likeness may appear on a public agency's website and on the agency's social media accounts or pages subject to the following restrictions in any of the following circumstances:

~~(1) The public official's name may appear throughout the website if it is reasonable, incidental, appropriate and has a primary purpose to promote the agency's mission and services rather than to promote the public official.~~

~~(2) (1) The public official's name and likeness may only appear appears on the agency's website home page and on any pages or sections devoted to or social media accounts or pages for the purpose of providing biographical information regarding the public official;~~

~~(2) The public official's name and likeness appears in educational materials posted or otherwise shared on the agency's website or social media accounts or pages, so long as the educational materials comply with the requirements of §6B-2B-2(d) of this code;~~

~~(3) The public official's name and likeness may appear on the agency's social media if it is reasonable, incidental, appropriate and has a primary purpose to promote the agency's mission and services rather than to promote the public official.~~

~~(3) The public official's name and likeness appears in a press release posted or otherwise shared on the agency's website or social media accounts or pages, so long as the press release complies with the requirements of §6B-2B-2(e) of this code; or~~

~~(4) The public official's name and likeness appears on the agency's website or social media accounts or pages for any other purpose that is reasonable, incidental, appropriate, and has a primary purpose to promote the agency's mission and services rather than to promote the public official.~~

(b) ~~This section does not apply to~~ The requirements of this section do not apply to a public official's personal or non-public agency social media accounts.

(c) A public agency's website or social media may not provide links or reference to a public official's or public employee's personal or campaign social media or website.

#### **§6B-2B-4. Exceptions to use of name or likeness.**

(a) A public official may use his or her name or likeness on any official record or report, letterhead, document, or certificate or instructional material issued in the course of his or her duties as a public official: *Provided*, That other official documents used in the normal course of the agency, including, but not limited to, facsimile cover sheets, press release headers, office signage, and envelopes may include the public official's name: *Provided, however, if the* That when official documents are reproduced for distribution or dissemination to the public as educational material, the items are subject to the prohibitions in §6B-2B-2(d) of this code.

(b) When appropriate and reasonable, the West Virginia Division of Tourism may use a public official's name and likeness on material used for tourism promotion.

(c) The prohibitions contained in this article do not apply to any person who is employed as a member of the faculty, staff, administration, or president of a public institution of higher education and who is engaged in teaching, research, consulting, coaching, recruiting, or publication activities: *Provided*, That the activity is approved as a part of an employment contract with the governing board of the institution of higher education or has been approved by the employee's department supervisor or the president of the institution by which the faculty or staff member is employed.

(d) The prohibitions contained in §6B-2B-2 of this code do not apply to ~~a public official's campaign related expenditures or materials~~ items paid for from the public official's campaign funds.

(e) The prohibitions contained in §6B-2B-2 of this code do not apply to items paid for with the public official's personal money.

(f) The prohibitions contained in §6B-2B-2 of this code do not apply to items or materials required by law to contain the public official's name or likeness.”

And,

By amending the title of the bill to read as follows:

**Com. Sub. for H. B. 4473** - “A Bill to amend and reenact §6B-2B-1, §6B-2B-2, §6B-2B-3, and §6B-2B-4 of the Code of West Virginia, 1931, as amended, all relating to the use of a public official's name or likeness on items or in materials produced using public funds; defining terms; providing that a public official's name or likeness may be included in certain educational materials and press releases produced using public funds; providing that a public official's name or likeness may appear on an agency's website or social media for certain purposes; and clarifying that items or materials that are paid for by a public official's campaign funds are not subject to restrictions on items or materials produced using public funds.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 359**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Iaquinta.

Absent and Not Voting: Deem, C. Romine and Summers.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4473) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4478**, Authorizing public schools to distribute excess food to students.

On motion of Delegate Foster, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page two, section five, line thirty-six, after the word “made”, by striking out the word “food”.

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 360**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Blair.

Absent and Not Voting: Deem, C. Romine and Summers.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4478) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4502**, Adding the crimes of murder and armed robbery to the list of offenses for which a prosecutor may apply for an order authorizing interception.

On motion of Delegate Cowles, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 1D. WIRETAPPING AND ELECTRONIC SURVEILLANCE ACT.**

**§62-1D-8. County prosecuting attorney or duly appointed special prosecutor may apply for order authorizing interception.**

The prosecuting attorney of any county or duly appointed special prosecutor may apply to one of the designated circuit judges referred to in §62-1D-7 of this code and the judge, in accordance with the provisions of this article, may grant an order authorizing the interception of wire, oral, or electronic communications by an officer of the investigative or law-enforcement agency when the prosecuting attorney or special prosecutor has shown reasonable cause to believe the interception would provide evidence of the commission of: (1) Kidnapping or abduction as defined and prohibited by the provisions of §61-2-14 and §61-2-14a of this code and including threats to kidnap or demand ransom as defined and prohibited by the provisions of §61-2-14c of this code; (2) any offense included and prohibited by §25-4-11 of said code, §61-5-8, §61-5-9 and §61-5-10 or §62-8-1 of ~~said this~~ this code to the extent that any of said sections provide for offenses punishable as a felony; (3) ~~dealing, transferring or trafficking in any controlled substance or substances in the felonious violation~~ felony violations of §60A-1-101 *et seq.* of this code; (4) ~~of any offense included and prohibited by~~ violations of §61-14-1 *et seq.* of this code; (5) violations of §61-2-1 of this code; (6) violations of §61-2-12 of this code; (7) felony violations of §61-8B-1 et seq. of this code; (8) violations of §61-1-1 of this code; (9) violations of §61-13-3 of this code; or (10) any aider or abettor to any of the ~~foregoing~~ offenses referenced in this section or any conspiracy to commit any of the ~~foregoing~~ offenses referenced in this section if any aider, abettor, or conspirator is a party to the communication to be intercepted.”

And,

By amending the title of the bill to read as follows:



**Com. Sub. for H. B. 4502** - “A Bill to amend and reenact §62-1D-8 of the Code of West Virginia, 1931, as amended, relating to including treason, murder, certain degrees of robbery, certain felony sexual offenses, and organized criminal activity to the list of offenses for which a prosecutor may apply for an order authorizing interception of communications.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 361**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Deem, C. Romine and Summers.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4502) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4509**, Relating to the establishment of substance abuse treatment facilities.

On motion of Delegate Cowles, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, section one, line three, after the word “the”, by inserting the words “state which the”.

And,

By amending the title of the bill to read as follows:

**Com. Sub. for H. B. 4509** - “A Bill to amend and reenact §16-53-1 of the Code of West Virginia, 1931, as amended, relating to the establishment of substance abuse treatment and recovery

facilities; and permitting the Department of Health and Human Resources to provide funding to facilities that provide peer-support services which follow specified standards.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 362**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Deem, C. Romine and Summers.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4509) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

**H. B. 4622**, Relating to authorizing legislative rules regarding higher education.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

**H. C. R. 3**, U. S. Army Cpl David Michael Hopkins and U. S. Army Cpl Romey Earl Hughart, Jr. Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

**H. C. R. 4**, U. S. Army SPC4 Gary Wayne Morgan Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

**H. C. R. 16**, Frenchburg Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

**H. C. R. 26**, U. S. Army PFC Tracy Victor Rohrbaugh Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

**H. C. R. 27**, Making Grafton's Annual Memorial Day Parade the Official State Memorial Day Parade.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

**H. C. R. 33**, U. S. Army 2LT Clarence Drago Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

**H. C. R. 87**, Constable Joseph H. Davidson Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

**H. C. R. 91**, U. S. Navy Capt Homer Leroy Smith Memorial Bridge.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

**S. C. R. 17** - "Requesting the Division of Highways name bridge number 19-340-14.66 (19A037), locally known as Harpers Ferry Bridge, carrying US 340 over the Shenandoah River, Park Access Road, and CSX Railroad in Jefferson County, the 'John Hancock Hall Memorial Bridge'."

Whereas, John Hancock Hall was the inventor of the M1819 Hall breech-loading rifle and was a mass production innovator; and

Whereas, In 1819, John Hancock Hall, a New England gun maker, signed a contract with the United States War Department to produce 1,000 breech-loading rifles, a weapon he had designed and patented in 1811; and

Whereas, Under the terms of the contract, Hall came to Harpers Ferry, where he constructed an industrial complex along the Shenandoah River. This site soon became known as Hall's Rifle Works, and the small island on which it stood was called Lower Hall Island; and

Whereas, Hall spent several years tooling new workshops and perfecting precision machinery for producing rifles with interchangeable parts—a boldly ambitious goal for an industry which was traditionally based on the manual labor of skilled craftsmen; and

Whereas, Hall's innovations in construction, tools, controls, stops, and gauges were historic breakthroughs in milling iron and machine tools; and

Whereas, The men who had learned Hall's methods of interchangeable parts while working at his factories in Harpers

Ferry went on to apply those methods to the production of shoes, watches, clocks, bicycles, clothing, rubber goods, and later, automobiles. Hall's methods transformed the United States from an economy of workshop craftsmen to a nation of industrialized mass production—the American system; and

Whereas, Hall's achievement formed the basis of mass production that ushered in our modern age; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 19-340-14.66 (19A037), locally known as Harpers Ferry Bridge, carrying US 340 over the Shenandoah River, Park Access Road, and CSX Railroad in Jefferson County, the "John Hancock Hall Memorial Bridge"; and, be it

*Further Resolved,* That the Division of Highways is hereby requested have made and be placed signs identifying the bridge as the "John Hancock Hall Memorial Bridge"; and, be it

*Further Revolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

**S. C. R. 21** - "Requesting the Division of Highways name bridge number 23-16/49-0.02 (23A234), locally known as Ellis Lumber Bridge, carrying County Route 16/49 over Buffalo Creek in Logan County, the 'U. S. Army PFC Charles Thurman "Buddy" Ellis Memorial Bridge'."

Whereas, Charles Thurman "Buddy" Ellis was born November 14, 1924, in Sunbeam, WV, son of the late Floyd and Catherine Ellis; and

Whereas, He attended Logan County schools until the eighth grade; and

Whereas, He joined the United States Army on June 10, 1943, where he served on the beaches of Normandy during WWII; and loved to tell stories about the war and how it was in Normandy that he learned to drive; and he returned home on February 16, 1946; and

Whereas, When he returned home he began driving a truck for Ideal Cleaners. It was there that he met his wife, Juanita, whom he married on February 15, 1947. After some time, he began selling merchandise, along with delivering dry-cleaning on his delivery truck. He and Juanita founded Ellis Clothing in the 1950s, which sold clothing, housewares, and general merchandise. In 1972, the decision was made to focus on hardware and building supplies. They bought property in Crown and erected a new store. Ellis Supply prospered and continues to serve our area today, with locations in Crown and Oceana; and

Whereas, He and his wife joined a church on November 20, 1949, and helped build the current Man Church of the Nazarene. Buddy believed that you should be in church any time the door is open and that supporting the church should be a priority. Throughout his 68 years of church membership, Buddy served in many offices and capacities including: Lifelong trustee on the church board where he served for over 60 years; sang with the choir; salted the parking lot; kept the candy basket stocked with peppermints; Sunday school teacher; Sunday school superintendent; church treasurer; and church bus driver. Leading people to Jesus was his passion in life. He transported countless people to church over the years and never had a conversation that didn't include his testimony or a church invitation; and

Whereas, Charles Thurman "Buddy" Ellis, 92, of Man, joined his beloved wife, Juanita, in heaven on Thursday, April 20, 2017; and

Whereas, It is fitting that an enduring memorial be established to commemorate U. S. Army, PFC Thurman “Buddy” Ellis and his contributions to our state and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 23-16/49-0.02 (23A234), locally known as Ellis Lumber Bridge, carrying County Route 16/49 over Buffalo Creek in Logan County, the “U. S. Army PFC Thurman ‘Buddy’ Ellis Memorial Bridge”; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army PFC Charles Thurman ‘Buddy’ Ellis Memorial Bridge”; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

**S. C. R. 22** - “Requesting the Division of Highways name a portion of Old Route 10, known as Three-Mile Curve, from the bridge to the railroad tracks, in Logan, Logan County, the ‘U. S. Army Colonel Larkin Bilton Vance Memorial Highway’.”

Whereas, Larkin Bilton Vance was born in 1928 and was educated in a one-room school in Logan County until the eighth grade. He attended Man High School until 1943 and enlisted in the United States Navy at the age of 15. He reported to the Great Lakes Training Center and, after his training, was assigned to a ship leaving for the Pacific. At the end of WWII, he held the position of head quartermaster on the ship stationed in Okinawa. He continued his military pursuits and served in the Korean War, Vietnam, and the Cuban and Belgian Congo crises. He graduated from Army

Officer Candidate School at Fort Benning, Georgia, in 1952 and retired after 30 years of service as a Colonel in the U. S. Army. He then served with NATO for an additional 10 years. During this time, he had the opportunity to meet with many distinguished world leaders. He was inducted into the Hall of Fame at Fort Benning and awarded the Civilian Award, a coveted national award for outstanding citizenship; and

Whereas, Naming this road is an appropriate recognition of Colonel Larkin Bilton Vance's contributions to his country and to the state and community of his birth; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name a portion of Old Route 10, known as Three-Mile Curve, from the bridge to the railroad tracks, in Logan, Logan County, the "U. S. Army Colonel Larkin Bilton Vance Memorial Highway"; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs identifying the road as the "U. S. Army Colonel Larkin Bilton Vance Memorial Highway"; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

**S. C. R. 25** - "Requesting the Division of Highways name bridge number 23-119-15.47 (23A102), locally known as Chapmanville RR Overpass, carrying US 119 over CSX Railroad in Logan County, the 'U. S. Army PFC O. T. (Teaberry) Mullins Memorial Bridge'."



Whereas, O. T. (Teaberry) Mullins was born December 18, 1923, in Ferrellsburg, West Virginia, son of John M. Mullins and Martha Farley. He moved to Chapmanville, West Virginia, in 1953; and

Whereas, O. T. (Teaberry) Mullins is survived by his children, Connie Mullins Guthrie and Jill Mullins; and

Whereas, PFC O. T. (Teaberry) Mullins served in the Army Air Corp, having been drafted on July 8, 1943. He received the Army Achievement Medal, Army Commendation Medal, Army Good Conduct Medal, Asia-Pacific Campaign Medal, WW II Army Occupation of Okinawa Medal, and WW II Victory Medal; and

Whereas, PFC O. T. (Teaberry) Mullins was a life member of the American Legion and VFW. He was a conductor for CSX Transportation 42 years and on the Chapmanville Town Council for 47 years. He was the owner of Mullins License Service and Teaberry Motor Sales, salesman for Paul Cooke Ford, sales manager for Boone Motors and served on the Chapmanville Police Department; and

Whereas, Naming the bridge is an appropriate recognition of the contributions he made to his country, state, community, and Boone County; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 23-119-15.47 (23A102), locally known as Chapmanville RR Overpass, carrying US 119 over CSX Railroad in Logan county the “U. S. Army PFC O. T. (Teaberry) Mullins Memorial Bridge”; and, be it

*Further Resolved*, That the Division of Highways is requested to have made and be placed signs identifying the bridge as the “U. S. Army PFC O. T. (Teaberry) Mullins Memorial Bridge”; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

**S. C. R. 26** - "Requesting the Division of Highways name bridge number 40-6-5.97 (40A122), locally known as Eighteen-Mile Creek Bridge 5.97, carrying County Route 6 over Eighteen-Mile Creek in Putnam County, the 'U. S. Army PFC Thomas Mayford Martin Memorial Bridge'."

Whereas, Thomas Mayford Martin was born September 22, 1927, in Gay, Roane County, West Virginia, then moved to a home built by his father on the banks of Eighteen-Mile Creek. He was the son of Fred M. Martin and Sadie Fay Archer; and

Whereas, Thomas Mayford Martin learned to swim in Eighteen-Mile Creek. He fished, hunted, and trapped along the creek most of his life; and

Whereas, Thomas Mayford Martin graduated from Buffalo High School, class of 1945, and enlisted in the U. S. Army on October 23, 1950; and

Whereas, PFC Thomas Mayford Martin saw combat in Korea in the Army's 24th Infantry Division, 21st Infantry Regiment, where he drove an ammunition truck to the front lines of the combat zone. The truck had an open cab and he often drove at night on mountain roads with no headlights; and

Whereas, PFC Thomas Mayford Martin carried with him to Korea a license plate which read "Mountaineers Are Always Free". He proudly displayed the license on the ammunition truck he drove. His family still have a picture taken of the license on the truck in Korea, and still have the license; and

Whereas, Following military service, PFC Thomas Mayford Martin married, raised a family, and worked for many years with the Division of Highways serving as an inspector and a project supervisor in district one. In 1996, he worked as a strip mine reclamation inspector. Thomas Mayford Martin died in December of 1998; and

Whereas, It is appropriate that this bridge over Eighteen-Mile Creek be dedicated to the memory of this veteran; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 40-6-5.97 (40A122), locally known as Eighteen-Mile Creek Bridge 5.97, carrying County Route 6 over Eighteen-Mile Creek in Putnam County, the “U. S. Army PFC Thomas Mayford Martin Memorial Bridge”; and, be it

*Further Resolved*, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army PFC Thomas Mayford Martin Memorial Bridge”; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

**S. C. R. 27** - “Requesting the Division of Highways name bridge number 23-80-5.66 (23A089), locally known as the Huff Junction Beam Span, on WV 80 over Huff Creek in Logan County, the ‘U. S. Army CPL F. Lee Noel Memorial Bridge’.”

Whereas, F. Lee Noel was born on April 14, 1928, in Wilsendale, Wayne County, to E. R. Noel, Sr., and Vacey Ann Marcum, and died on September 3, 2014; and

Whereas, F. Lee Noel graduated in 1948 from Lenore High School where he lettered in basketball; and

Whereas, CPL F. Lee Noel was inducted into the U. S. Army on December 5, 1950, served in the 3rd Armored Division, the Korean Conflict, and was honorably discharged on November 14, 1956; and

Whereas, CPL F. Lee Noel was employed by Island Creek Coal Company as a heavy equipment operator for 41 years and owned the Pic Pac grocery stores in Man and Justice; and

Whereas, CPL F. Lee Noel served as an elder, trustee, Sunday school superintendent, and in the choir of the Man Church of God during his nearly 50 years of membership; and

Whereas, CPL F. Lee Noel was the bass singer in the Evangeleers Quartet, was a member of the Lions Club at Man for over 25 years, and loved golfing with his family; and

Whereas, CPL F. Lee Noel was survived by: his wife of nearly 60 years, Billie Redmond Noel; two children, Nancy (Ron) Lemon and Norman (Danita) Noel; four grandchildren; and four great-grandchildren; and

Whereas, It is only fitting that this bridge be named to honor U. S. Army CPL F. Lee Noel; therefore, be it

*Resolved by the West Virginia Legislature:*

That the Division of Highways is hereby requested to bridge number 23-80-5.66 (23A089), locally known as the Huff Junction Beam Span, on WV 80 over Huff Creek in Logan County, the “U. S. Army CPL F. Lee Noel Memorial Bridge”; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army CPL F. Lee Noel Memorial Bridge”; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

**S. C. R. 37** - “Requesting the Division of Highways to name a portion of West Virginia Route 3, beginning at the intersection of Routes 3 and 34, east of Hamlin, and ending at the eastern border of the town of Hamlin, the ‘Sheriff John E. White Memorial Road’.”

Whereas, John Elbert White was born August 8, 1943, in Charleston, West Virginia. He was the son of Harold and Odessa White of Sweetland, West Virginia, and was raised in Sweetland, in Lincoln County; and

Whereas, John Elbert White continued to live in Lincoln County, West Virginia, moving to Hamlin for 31 years. John then moved back to Sweetland and lived there until he passed away on May 9, 2017; and

Whereas, John Elbert White attended Hamlin Elementary School and then Hamlin High School in Hamlin, West Virginia. He played basketball, ran track, and played trumpet in the band. While growing up, he helped run his parent’s store in Sweetland. After graduating from high school, he started a grocery store, White’s Supermarket/Grocery, with his parents in 1962. This was the start of White’s Plaza in Hamlin, West Virginia; and

Whereas, In 1967, John Elbert White married Ida Sharon Porter. John and Sharon had a son, John A. White, in 1969, and a daughter, Beth Ann White, in 1974. John Elbert White, along with his wife and family, ran many businesses over the years in Hamlin, including Hamlin Floral, White’s NAPA, B&J Gift Shop, Sharon’s Salon, Burger King, and Pizza INN. He always wanted to see

Hamlin and Lincoln County grow and to see young business owners succeed. He would offer advice or assistance in any way he could to individuals wanting to get started in business or wanting to serve the community, even as elected officials; and

Whereas, In 1973, John Elbert White was approached by community members to serve a vacant term for sheriff of Lincoln County. While a sheriff for Lincoln County, he attended law-enforcement training at UCLA in California. He went on to run for sheriff the next term (1976) and served another 4 years as Sheriff. Serving his community was his passion. He loved Hamlin and Lincoln County, not to mention the great State of West Virginia; and

Whereas, On February 8, 1990, John Elbert White filled a vacant seat for Lincoln County Clerk and served until November 15, 1990. Throughout his life he continued to be active in the political setting. He organized trips to the State Capitol for grade school and junior high students. He helped children to serve as pages in the House of Delegates and Senate during sessions of the State Legislature. John hoped to positively influence young people to get involved in their communities and state; and

Whereas, John served on the Southwestern Community Action Council board and was chairman of Lincoln County Opportunity Company. During his volunteer time with Southwestern Community Action Council he was a part of many achievements in the county such as the first headstart program and better senior centers and services in Lincoln County. They started with one headstart in Yawkey, West Virginia, growing to eight headstart programs throughout the county. While working with these organizations, the senior center in Hamlin was serving meals and services out of a small, older home. With the help of John and others, in 1995, the senior center grew to a new building of 21,576 square feet and now includes services in Wayne County, West Virginia. It is considered one of the best agencies in the state. John received many awards and other recognitions during his life with one being a Distinguished Mountaineer award from Governor Joe Manchin and another being named Home Town Hero from WSAZ; and

Whereas, John Elbert White attended Hamlin Baptist Church and was an active member throughout his life. He served as a junior deacon of the church and later as a deacon. He always wanted to see people come together in fellowship and have a good meal. While serving at the church, he wanted to see it grow in membership and land/infrastructure. The old high school band room was purchased by the church and turned into a fellowship hall. John liked to make sure there were meals for the church members for Valentine's Day, Easter, Mother's Day, Thanksgiving, Christmas, pastor appreciation, and any other occasion to fellowship. He even opened the fellowship hall one Saturday a month to provide free breakfast out of his own pocket for any male who wanted to attend, with no obligation. Along with other church members, he helped provide meals to the sports teams at Hamlin Middle School. John and his wife participated in the Good News Club, helping Hamlin schools and the community. Monetary reimbursement was not the source behind John Elbert White's doing so much for Hamlin, Lincoln County, and West Virginian. The reimbursement was the pure enjoyment of seeing the area's people succeed. Putting his community and others first was his priority. John Elbert White continued to plan activities for the church and community until his death; and

Whereas, It is fitting that an enduring memorial be established to commemorate Sheriff John E. White and his contributions to our state; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name a portion of West Virginia Route 3, beginning at the intersection of Routes 3 and 34, east of Hamlin, and ending at the eastern border of the town of Hamlin, the "Sheriff John E. White Memorial Road"; and be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs at both ends identifying the portion of road as the "Sheriff John E. White Memorial Road"; and be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of Highways.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

**S. C. R. 43** - "Requesting the Division of Highways name bridge number 17-19/33-0.01 (17A093), locally known as Spelter Bridge, carrying County Route 19/33 over West Fork River in Harrison County, the 'U. S. Army T-4 CE Caesar Bango Memorial Bridge'."

Whereas, Caesar Bango was born in Anmoore, West Virginia, on November 16, 1924, to Jose and Maria Bango. He was one of six siblings, three boys and three girls. His family moved to Spelter, West Virginia, when he was four. He attended school there and graduated from Victory High School in 1943. The next day he was drafted into the United States Army; and

Whereas, Caesar Bango completed boot camp at Fort Leonard Wood in Missouri. He was then the only soldier out of 300 selected to work on the Manhattan Project in Los Alamos, New Mexico, where the first atomic bomb was being built. Years later, he recalled his experience, "They wouldn't tell me where I was going or what I was going to be doing. All my letters were censored and I couldn't use the phone for 30 months. It was worse than war because they kept the atomic bombs there and you never knew what was going to happen." He also recounted the smoke that rolled all over the countryside the day the first atomic bomb was detonated in the New Mexico desert. He had a perspective of World War II that few in our country had the opportunity to share; and

Whereas, Caesar Bango returned to Spelter after the war ended, married Goldie Fern Sprout and had a son, Jefferson Jose "JJ" Bango. Caesar worked at the Zinc Plant for 30 years, was employed



by the Division of Highways for 17 years, and engaged in civic efforts and activities for his community and country. He supported election efforts and was politically active for decades in Harrison County, and did not miss an election after his military discharge in 1946. He left the service with the rank of T-4 CE. He served as a community leader on the board of directors for the Enlarged Hepzibah Public Service District Board for 10 years; was a member of the Shinnston American Legion and the Loyal Order of Moose; and he was a friend of labor; and

Whereas, Caesar Bango faithfully served the unincorporated town of Spelter, West Virginia, as honorary mayor, advocating for improvements for the betterment of its citizens, including the remediation of its lands and homes caused by industrial pollution and the construction of recreational facilities for all the children of Harrison County, West Virginia; and

Whereas, Caesar Bango lived to the age of 90 and died on May 1, 2015, having been preceded in death by his wife in 2002 and his son in 1975; and

Whereas, It is fitting that an enduring memorial be established to commemorate T-4 CE Caesar Bango and his contributions to our state and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 17-19/33-0.01 (17A093), locally known as Spelter Bridge, carrying County Route 19/33 over West Fork River in Harrison County, the “U. S. Army T-4 CE Caesar Bango Memorial Bridge”; and, be it

*Further Resolved*, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army T-4 CE Caesar Bango Memorial Bridge”; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

### **Resolutions Introduced**

Delegate Westfall offered the following resolution, which was read by its title and referred to the Committee on Rules:

**H. C. R. 103** - “Requesting the Joint Committee on Government and Finance study the feasibility and propriety of adopting ‘Right to Shop’ legislation to determine whether health care costs can be reduced for West Virginians through a program requiring the disclosure of cost estimates and establishing a system of rewards when savings are achieved above plan costs.”

Whereas, “Right to Shop” legislation requires carriers offering a health plan to develop and implement a program providing incentives for enrollees who elect to receive a comparable health care service covered by the plan from providers that charge less than the average allowed amount paid by that carrier to network providers for comparable health care services; and

Whereas, The cost of health care services continues to rise placing enormous pressure on patients to pay premiums and meet deductibles, copays, and coinsurance amounts; and

Whereas, Prices vary significantly among providers for the same health care services, and patients have little information about what these services cost until after the service is provided; and

Whereas, Requiring greater transparency regarding the cost of health care services and rewarding patients when they find high quality/lower cost options may have a beneficial effect in reducing the rising costs; and

Whereas, In 2017, the State of Maine adopted “Right to Shop” legislation on a bipartisan basis and Florida, Kentucky, New Hampshire and Virginia have programs of sharing savings with state workers when those employees shop for health care services; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is requested to study the feasibility and propriety of adopting “Right to Shop” legislation to determine whether health care costs can be reduced for West Virginians through a program requiring the disclosure of cost estimates and establishing a system of rewards when savings are achieved above plan costs; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the Legislature, on the first day of the regular session, 2019, on its findings, conclusions and recommendations, together with drafts of any legislation to effectuate its recommendations; and, be it

*Further Resolved*, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Delegates Dean, Maynard, Paynter, Caputo, Eldridge and Rohrbach offered the following resolution, which was read by its title and referred to the Committee on Rules:

**H. C. R. 104** - “Requesting the Joint Committee on Government and Finance study the requirements and costs to implement a state-based occupational pneumoconiosis, or Black Lung, compensation program.”

Whereas, It has been established that many individuals during the course of their lives, and in pursuit of their livelihoods in order to raise their families in West Virginia, have been exposed to the hazard of inhaling minute particles of dust and as a result have sustained chronic respiratory disabilities; and

Whereas, Occupational pneumoconiosis, also known as Black Lung, in these affected individuals has resulted in loss of employment opportunities, increased medical costs, and considerable pain and suffering to them and their families; and

Whereas, It behooves us to study the many different ways Black Lung affects West Virginians and what can be done for them and their families; and

Whereas, The study should include the number of individuals, specifically miners, who have contracted Black Lung, the most efficient and beneficial ways of providing benefits, the potential costs of those benefits, and the resources that are available, in the private sector, as well as from state and federal sources, including the recapturing of federal moneys, state funds currently being directed to federal programs, and potential funding resources; and

Whereas, The study should directly address those questions, and identify solutions to potential obstacles in the creation of a Black Lung program, in addition to recommending proposed legislation; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is hereby requested to study the requirements and costs to implement a state-based occupational pneumoconiosis, or Black Lung, compensation program; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance enlist the assistance of other state agencies and departments as necessary in conducting the study; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2019, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved,* That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

## **Special Calendar**

### **Unfinished Business**

The following resolutions, coming up in regular order, as unfinished business, were reported by the Clerk and adopted:

**Com. Sub. for H. C. R. 11**, Charleston Police Department Captain Jerry D. Hill Memorial Bridge,

**H. C. R. 21**, U. S. Marine Corps PFC Randall Carl Phelps Memorial Bridge,

**H. C. R. 39**, Requesting the Joint Committee on Government and Finance to study sustainability of the state's higher education system,

**Com. Sub. for H. C. R. 40**, U. S. Air Force SMSgt Billie E. 'Bunky' Hodge Bridge,

**H. C. R. 44**, U. S. Army PFC Clayton Collins Memorial Bridge,

**Com. Sub. for H. C. R. 53**, Pastor Robert L. 'Bob' Barker Memorial Bridge,

**Com. Sub. for H. C. R. 54**, U. S. Army SPC 4 Thurman 'Duwayne' Young Memorial Road,

**H. C. R. 56**, Requesting the Joint Committee on Government and Finance study the Public Employees Insurance Agency and potential alternative methods to control healthcare costs,

**Com. Sub. for H. C. R. 67**, U. S. Army CPL Wilson B. Lambert, Jr. Memorial Road,

**H. C. R. 71**, U. S. Army CPL Lee Roy Young Memorial Bridge,

**Com. Sub. for H. C. R. 76**, U. S. Marine Corps LCpl Michael Linn Cooper Memorial Bridge,

**Com. Sub. for H. C. R. 85**, Requesting the legislatures and departments of transportation of Maryland, Pennsylvania, and Virginia to endorse and pursue the construction of a new four-lane, limited access highway, extending Interstate Highway 99 from its present terminus at Bedford, Pennsylvania to Covington, Virginia,

**H. C. R. 93**, Requesting the Joint Committee on Government and Finance study exempting state employees from the payment of state income tax,

**H. C. R. 94**, Requesting the Joint Committee on Government and Finance to conduct a study comparing West Virginia's asbestos rules with those in other states,

And,

**H. C. R. 99**, Requesting the Joint Committee on Government and Finance to study the feasibility and propriety of requiring liability insurance or other means of security on certain motorboats and personal watercraft in this state,

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**H. C. R. 100**, Morgantown High School Veterans Bridge; coming up in regular order, as unfinished business, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, the resolution was postponed one day.

**H. C. R. 101**, Requesting the Governor's Task Force on Public Employee Insurance Agency Stability to review means and methods of including medical facilities; coming up in regular order, as unfinished business, was reported by the Clerk and adopted.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**H. C. R. 102**, U. S. Army PFC Earl Russell Cobb, SPC4 Carl Bradford Goodson, and SSGT George T. Saunders, Jr., Memorial Bridge; coming up in regular order, as unfinished business, was reported by the Clerk and adopted.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

### **Third Reading**

**Com. Sub. for S. B. 36**, Relating generally to DNA testing, on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 363**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Deem, C. Romine and Summers.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 36) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**Com. Sub. for S. B. 51**, Relating to domestic relations, on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 364**), and there were—yeas 81, nays 16, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Bates, Canestraro, Fleischauer, Hamilton, Hartman, Hicks, Love, Marcum, Miley, Pushkin, Pyles, Rodighiero, Rowe, Sponaugle, Thompson and Williams.

Absent and Not Voting: Deem, C. Romine and Storch.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 51) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

**Com. Sub. for S. B. 51** – “A Bill to amend and reenact §48-6-301 of the Code of West Virginia, 1931, as amended; and to amend and reenact §48-9-205 and §48-9-206 of said code, all relating to domestic relations; removing language related to child support from code section governing the awarding of spousal support and separate maintenance; directing court to consider certain factors to decide amount and duration of spousal support and separate maintenance; removing the 24-month time frame for a description of the allocation of caretaking and other parenting responsibilities performed from the matters contained in permanent parenting plan; clarifying that the court may accommodate the preferences of a child 14 years of age and older if the court determines it is in the best interests of the child; directing court to allocate custodial responsibility so that custodial time spent with each parent achieves certain objectives; and directing courts to consider which parent will encourage and accept a positive relationship between child and other parent and which parent is more likely to keep other parent involved in child’s life and activities.”

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**S. B. 282**, Exempting State Conservation Committee from Purchasing Division requirements for contracts related to flood recovery, on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 365**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Blair, Deem and C. Romine.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 282) passed.



On motion of Delegate Shott, the title of the bill was amended to read as follows:

**S. B. 282** – “A Bill to amend and reenact §5A-3-3 of the Code of West Virginia, 1931, as amended, relating to exempting joint funding agreements with the United States Geological Survey from purchasing requirements.”

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**S. B. 299**, Relating to mandatory insurance coverage for medical foods for amino acid-based formulas, on third reading, coming up in regular order, was read a third time.

Delegate Boggs requested to be excused from voting on the passage of S. B. 299 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 366**), and there were—yeas 95, nays 2, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Fast and Love.

Absent and Not Voting: Blair, Deem and C. Romine.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 299) passed.

An amendment to the title of the bill, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the title to read as follows:

**S. B. 299** – “A Bill to amend and reenact §5-16-7 and §5-16-9 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §33-15-4p; to

amend said code by adding thereto a new section, designated §33-16-3bb; to amend said code by adding thereto a new section, designated §33-24-7q; to amend said code by adding thereto a new section, designated §33-25-8n; and to amend said code by adding thereto a new section, designated §33-25A-8p, all relating to mandatory insurance coverage, up to the age of 20, for certain medical foods for amino acid-based formulas; providing a list of diagnosed conditions for which insurance coverage should extend; providing that coverage extends to medically necessary foods for home use when prescribed by a physician; defining terms; and providing for exclusions from such coverage.”

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**Com. Sub. for S. B. 347**, Relating to operation of motorboats, on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 367**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Blair and Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 347) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**Com. Sub. for S. B. 359**, Authorizing Supreme Court establish curricula for mental hygiene commissioners and certain magistrates, on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 368**), and there were—yeas 98, nays none,

absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Blair and Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 359) passed.

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 369**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Blair and Deem.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 359) takes effect from its passage.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**Com. Sub. for S. B. 461**, Extending time to file petition for motor fuel excise tax refund, on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 370**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Blair, Dean, Deem and Marcum.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 461) passed.

An amendment to the title of the bill, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the title to read as follows:

**Com. Sub. for S. B. 461** - “A Bill to amend and reenact §11-14C-31 of the Code of West Virginia, 1931, as amended, relating to petitions for refunds of motor fuel excise tax by certain taxpayers; extending time periods for certain taxpayers to file petition for refunds; and maintaining current time period to file petition for refunds of taxes paid on motor fuel sold for certain purposes.”

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**Com. Sub. for S. B. 465**, Relating to mandated reporting of child abuse and neglect, on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 371**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Blair, Deem and Marcum.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 465) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**Com. Sub. for S. B. 475**, Industrial Hemp Development Act, on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 372**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Blair, Deem and Marcum.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 475) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**S. B. 479**, Establishing local government monitoring by Auditor, on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 373**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Blair, Deem and Marcum.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 479) passed.

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 374**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Atkinson and Deem.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 479) takes effect from its passage.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**Com. Sub. for S. B. 500**, Authorizing City of White Sulphur Springs to expend principal and interest from special interest-

bearing fund, on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 375**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 500) passed.

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 376**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 500) takes effect from its passage.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**Com. Sub. for S. B. 543**, Relating to confidentiality of medical records; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 377**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Deem, A. Evans and Sponaugle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 543) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**Com. Sub. for S. B. 555**, Providing immunity from civil liability for qualified directors of certain governmental and nonprofit entities, on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 378**), and there were—yeas 84, nays 13, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Bates, Byrd, Cowles, Fleischauer, Fluharty, Folk, Frich, Isner, Miley, Moye, Pyles, Robinson and Rowe.

Absent and Not Voting: Deem, A. Evans and Sponaugle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 555) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**Com. Sub. for S. B. 574**, Relating to crime of misrepresentation of military honors, on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 379**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Deem, A. Evans and Sponaugle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 574) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**Com. Sub. for S. B. 575**, Approving additional beds for intermediate care facilities, on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 380**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Folk.

Absent and Not Voting: Deem, A. Evans and Sponaugle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 575) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**S. B. 576**, Relating to Patient Injury Compensation Fund, on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 381**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Upson.

Absent and Not Voting: Deem, A. Evans and Sponaugle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 576) passed.



An amendment to the title of the bill, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the title to read as follows:

**S. B. 576** - “A Bill to amend and reenact §29-12D-1a of the Code of West Virginia, 1931, as amended; and to amend and reenact §59-1-11 and §59-1-28a of said code, all relating to Patient Injury Compensation Fund; changing dates for collection of assessments to be deposited in Patient Injury Compensation Fund; designating person responsible for paying assessment in certain circumstances; conforming language establishing when certain assessment must be paid with current law language describing when medical malpractice claim may be asserted; providing for transfer of remaining funds; changing the amount of certain circuit clerk filing fees; and correcting cross-references.”

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**Com. Sub. for S. B. 582**, Allowing candidate for political party executive committee serve as election official, on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 382**), and there were—yeas 78, nays 19, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Barrett, Blair, Byrd, Canestraro, Cowles, E. Evans, Fluharty, Hicks, Hornbuckle, Iaquina, Isner, Lynch, Marcum, Pack, Pushkin, Robinson, Rodighiero, Thompson and Upson.

Absent and Not Voting: Deem, A. Evans and Sponaugle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 582) passed.

On motion of Delegate Hanshaw, the title of the bill was amended to read as follows:

**Com. Sub. for S. B. 582** - “A Bill to amend and reenact §3-1-28 of the Code of West Virginia, 1931, as amended, relating to eligibility to be appointed or serve as an election official; and permitting candidates for district, county, or state political party executive committee or delegate to the national convention of a political party, and permitting the parent, child, sibling, or spouse of such a candidate, to serve as election officials.”

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 383**), and there were—yeas 82, nays 15, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Barrett, Byrd, Canestraro, Cowles, E. Evans, Fleischauer, Fluharty, Hicks, Isner, Lynch, Marcum, Pushkin, Robinson, Rodighiero and Thompson.

Absent and Not Voting: Deem, A. Evans and Sponaugle.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 582) takes effect from its passage.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**S. B. 584**, Finding certain claims against state to be moral obligations of state, on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 384**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Deem, A. Evans and Sponaugle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 584) passed.

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 385**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Deem, A. Evans and Sponaugle.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 584) takes effect from its passage.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**Com. Sub. for S. B. 589**, Relating to issuance of personalized plates for antique motor vehicles, on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 386**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Deem, A. Evans and Sponaugle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 589) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**Com. Sub. for S. B. 590**, Providing special license plate for curing childhood cancer, on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 387**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Deem, A. Evans and Sponaugle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 590) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**Com. Sub. for S. B. 616**, Establishing maximum gross weight for certain wood-bearing trucks, on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 388**), and there were—yeas 86, nays 11, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Brewer, Byrd, Caputo, Diserio, Fleischauer, Fluharty, Iaquina, Miley, Rowe, Thompson and Williams.

Absent and Not Voting: Deem, A. Evans and Sponaugle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 616) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**S. B. 626**, Relating generally to coal mining, on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 389**), and there were—yeas 93, nays 4, absent

and not voting 3, with the nays and absent and not voting being as follows:

Nays: Fleischauer, Fluharty, Pushkin and Rowe.

Absent and Not Voting: Deem, A. Evans and Sponaugle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 626) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**S. B. 631**, Relating generally to one-call system, on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 390**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Deem, A. Evans and Sponaugle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 631) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

At 1:31 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 3:00 p.m.

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### **Afternoon Session**

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The House of Delegates was called to order by the Honorable Tim Armstead, Speaker.

## Special Calendar

### Second Reading

**S. B. 242**, Requiring health insurance providers provide coverage for certain Lyme disease treatment, on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 273**, Reducing use of certain prescription drugs; on second reading, coming up in regular order, was reported by the Clerk.

Delegate Cowles asked and obtained unanimous consent that the bill be placed at the foot of second reading.

**Com. Sub. for S. B. 275**, Relating to tax on purchases of intoxicating liquors, on second reading, coming up in regular order, was read a second time.

On motion of Delegate Hanshaw, the bill was amended on page eleven, section nine-d, line sixteen, after the word “code” and the period, by inserting the following:

“For purposes of this article, the term ‘original sealed package’ means an original sealed package as defined in §8-13-7 of this code.”

On page eleven, section nine-d, lines twenty-four through twenty-six, by striking out paragraph (B) in its entirety and inserting in lieu thereof a new paragraph (B), to read as follows:

“(B) Effective January 1, 2019, all such tax collected on sales sourced within the corporate limits of any municipality within the state shall be remitted to that municipality. All such tax collected on sales sourced outside the corporate limits of any municipality shall be remitted to the county in which the sale is sourced.”

On page thirteen, section twenty-one, lines thirteen through seventeen, by striking out subdivisions (2) and (3) in their entirety and inserting in lieu thereof two new subdivisions, designated subdivisions (2) and (3), to read as follows:

“(2) Effective January 1, 2019, all such tax collected on sales sourced within the corporate limits of any municipality within the state shall be remitted to that municipality. All such tax collected on sales sourced outside the corporate limits of any municipality shall be remitted to the county in which the sale is sourced.

(3) When determining whether the tax is collected on sales within the corporate limits of any municipality, a seller shall use the sourcing rules provided in §11-15B-1 *et seq.* of this code.”

The bill was then ordered to third reading.

**Com. Sub. for S. B. 290**, Relating to DEP standards of water quality and effluent limitations, on second reading, coming up in regular order, was read a second time and ordered to third reading.

**S. B. 322**, Relating to employees of Department of Agriculture, on second reading, coming up in regular order, was read a second time and ordered to third reading.

**S. B. 385**, Decreasing and adding appropriations out of Treasury to DHHR and MAPS; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 392**, Reconfiguring membership of Emergency Medical Services Advisory Council, on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page one, section five, line nine, by striking out “15” and inserting in lieu thereof “18”.

On page two, section five, line thirty, after “(3)” by inserting the words “Three persons to represent the general public” and a semicolon.

On page two, section five, line thirty, before the word “One”, by inserting “(4)”.

And,

By renumbering the remaining subdivision accordingly.

The bill was then ordered to third reading.

**S. B. 411**, Removing Commissioner of Bureau for Public Health from State Board of Sanitarians, on second reading, coming up in regular order, was read a second time and ordered to third reading.

**S. B. 463**, Establishing group to examine benefits and need of transferring milk rules and regulations from DHHR to Agriculture, on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 7. PURE FOOD AND DRUGS.**

**§16-7-5a. Joint Task Force on Milk Rules and Regulations.**

(a) The Legislature finds that it is in the public interest to examine the potential benefit and economies of scale by transferring some or all authority to promulgate milk rules and regulations from the Department of Health and Human Resources to the Department of Agriculture.

(b) On or before June 1, 2018, the Governor shall appoint a Joint Task Force on Milk Rules and Regulations composed of the following fifteen members:

(1) One representative from the Department of Agriculture;

(2) One representative from the Bureau for Public Health;

(3) One representative of the West Virginia University Extension Service;

(4) One representative from local health departments in the state;



(5) Two representatives from a trade or industry group representing the farming and agriculture industry in the state, at least one of whom shall be a dairy farmer;

(6) Three citizen members;

(7) Three Senators as recommended by the President of the Senate, no more than two of whom shall be from the same political party; and

(8) Three Delegates as recommended by the Speaker of the House of Delegates, no more than two of whom shall be from the same political party.

(c) The representative from the Department of Agriculture shall preside over the work group and shall provide staff to facilitate meetings of the Joint Task Force. The Joint Task Force shall examine the potential benefit and economies of scale of transferring some or all authority to promulgate milk rules and regulations from the Department of Health and Human Resources to the Department of Agriculture. The task force may recommend legislation to the Governor and to the Joint Committee on Government and Finance no later than December 31, 2018.

(d) The expenses of the members on the task force shall be paid equally from the funds of the Department of Agriculture, the Bureau for Public Health, and the West Virginia University Extension Service: *Provided*, That the members of the Joint Task Force may receive no compensation for their services other than actual expenses incurred in the discharge of their duties as members of the Joint Task Force.

(d) The authority of the Joint Task Force on Milk Rules and Regulations shall sunset and expire and is of no force and effect after December 31, 2018, or upon submission of any recommendations or draft legislation, whichever comes first.”

The bill was then and ordered to third reading.

**S. B. 498**, Creating two-year pilot program allowing all-terrain and recreational vehicles in Cabwaylingo State Forest, on second reading, coming up in regular order, was read a second time.

On motion of Delegates Hamrick and Howell, the bill was amended on page one, section three-a, line one, after the word “director”, by inserting the words “in consultation with the forestry director”.

On page one, section three-a, line five, after the word “director”, by inserting the words “in consultation with the forestry director”.

And,

On page two, section three-a, line twelve, after subsection (d) by inserting a new subsection (e) to read as follows:

“(e) The Director of the Division of Natural Resources shall have authority to promulgate emergency legislative rules and legislative rules necessary to effectuate the provisions of this section.”

The bill was then ordered to third reading.

**Com. Sub. for S. B. 506**, Deregulating persons who perform work on heating, ventilating, and cooling systems, on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk, amending the bill on page four, section five, line nine, by striking out the word “relating” and inserting in lieu thereof the word “related”.

On page four, section five, lines twenty-one and twenty-two, by striking out the words “purposes set forth in the amendments to this article that were made effective July 1, 2018, including, but not limited to” and inserting in lieu thereof the words “purpose of describing”.

On page five, section five, line twenty-four, by striking out the words “without examination”.

And,

On page five, section five, line thirty-five, after the word “representatives” and the semicolon, by inserting the word “and”.

Delegate Householder requested to be excused from voting on the amendment of Com. Sub. for S. B. 506 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The amendment was subsequently adopted.

The bill was then ordered to third reading.

**S. B. 525**, Relating to certification for emergency medical training - mining, on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page two, section three, line thirty-four, by striking out the word “commissioner” and inserting in lieu thereof the word “director”.

On page three, section three, line forty-four, by striking out the words “certification and”.

And,

On page three, section three, lines forty-seven through forty-nine, by striking out the words “have a valid cardiopulmonary resuscitation certification and must be an approved Mine Safety and Health Administration or Occupational Safety and Health Administration-certified instructor” and inserting in lieu thereof

the words “obtain an EMT-M Instructor Certification issued by the West Virginia Office of Miners’ Health, Safety and Training”.

The bill was then ordered to third reading.

**Com. Sub. for S. B. 548**, Authorizing county commissions to pay election officials, on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 556**, Creating small business and minority populations economic and workforce development taskforce to assist Economic Development Authority, on second reading, coming up in regular order, was read a second time and ordered to third reading.

**S. B. 585**, Altering boundary line between Doddridge and Harrison counties, on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and heading, and inserting in lieu thereof the following:

“§1. That the following bounded and described area of land now a part of the county of Doddridge and adjoining the county of Harrison shall be and is hereby severed from said county of Doddridge and attached to the county of Harrison, state of West Virginia. The boundary line between Doddridge and Harrison Counties is and shall be modified so that all property of the Salem Correctional Center, formerly the West Virginia Industrial Home, shall be within Harrison County as follows:

Beginning at a point in the chain link fence on the line between Doddridge County and Harrison County, West Virginia, being the northwest corner of the tract of land herein described, and bearing, South 46 degrees 40 minutes 09 seconds East, a distance of 127.43 feet from a 3/4” iron rebar and cap now set at an angle point on said county line between Doddridge and Harrison Counties, said point being on the lands of West Virginia State Industrial Home (Tax Map 301 Parcel 32, Deed Book 101 Page 570) (Harrison County);

Thence, running with said county line and through said West Virginia State Industrial Home (Parcel 32), lands, South 46 degrees 40 minutes 09 seconds East, for a distance of 407.12 feet to a MAG nail now set;

Thence, partially through said West Virginia State Industrial Home (Parcel 32), lands and other lands of the State of West Virginia (Tax Map 22 Parcel 40) (Doddridge County), South 21 degrees 20 minutes 14 seconds West, passing a chain link fence at a distance of 491.50 feet, for a total distance of 645.89 feet to a point in said chain link fence, which bears, North 21 degrees 20 minutes 14 seconds East, a distance of 442.94 feet from a MAG nail now set in Harrison County Route 50/29 and Doddridge County Route 38;

Thence, leaving said county line between said Doddridge and Harrison Counties, and through said State of West Virginia (Parcel 40) (Doddridge County) and with said chain link fence, South 68 degrees 39 minutes 55 seconds West, a distance of 114.17 feet to a point;

Thence, South 04 degrees 41 minutes 59 seconds East, a distance of 30.17 feet to a point;

Thence, South 01 degrees 18 minutes 54 seconds East, a distance of 10.28 feet to a point;

Thence, South 03 degrees 43 minutes 27 seconds West, a distance of 10.10 feet to a point;

Thence, South 12 degrees 11 minutes 09 seconds West, a distance of 20.48 feet to a point;

Thence, South 55 degrees 59 minutes 51 seconds West, a distance of 37.73 feet to a point;

Thence, South 44 degrees 19 minutes 41 seconds West, a distance of 20.08 feet to a point;

Thence, South 47 degrees 36 minutes 07 seconds West, a distance of 10.05 feet to a point;

Thence, South 52 degrees 08 minutes 56 seconds West, a distance of 40.38 feet to a point;

Thence, South 64 degrees 50 minutes 32 seconds West, a distance of 10.40 feet to a point;

Thence, South 60 degrees 52 minutes 42 seconds West, a distance of 159.19 feet to a point;

Thence, North 88 degrees 14 minutes 48 seconds West, a distance of 29.94 feet to a point;

Thence, South 84 degrees 54 minutes 06 seconds West, a distance of 38.29 feet to a point;

Thence, South 79 degrees 27 minutes 07 seconds West, a distance of 80.87 feet to a point;

Thence, South 81 degrees 09 minutes 06 seconds West, a distance of 9.85 feet to a point;

Thence, South 87 degrees 05 minutes 26 seconds West, a distance of 9.99 feet to a point;

Thence, North 84 degrees 40 minutes 59 seconds West, a distance of 10.30 feet to a point;

Thence, North 01 degrees 54 minutes 25 seconds East, a distance of 19.89 feet to a point;

Thence, North 77 degrees 48 minutes 02 seconds West, a distance of 9.53 feet to a point;

Thence, North 70 degrees 19 minutes 32 seconds West, a distance of 8.19 feet to a point;

Thence, North 63 degrees 03 minutes 51 seconds West, a distance of 8.36 feet to a point;

Thence, North 55 degrees 42 minutes 57 seconds West, a distance of 9.10 feet to a point;

Thence, North 48 degrees 39 minutes 56 seconds West, a distance of 10.24 feet to a point;

Thence, North 38 degrees 36 minutes 40 seconds West, a distance of 39.22 feet to a point;

Thence, North 39 degrees 39 minutes 58 seconds West, a distance of 39.85 feet to a point;

Thence, North 39 degrees 47 minutes 57 seconds West, a distance of 94.34 feet to a point;

Thence, North 34 degrees 34 minutes 50 seconds West, a distance of 49.99 feet to a point;

Thence, North 34 degrees 17 minutes 51 seconds West, a distance of 60.62 feet to a point;

Thence, North 33 degrees 07 minutes 52 seconds West, a distance of 88.90 feet to a point;

Thence, North 33 degrees 22 minutes 22 seconds West, a distance of 69.52 feet to a point;

Thence, North 28 degrees 27 minutes 37 seconds East, a distance of 10.45 feet to a point;

Thence, North 54 degrees 04 minutes 14 seconds East, a distance of 30.48 feet to a point;

Thence, North 57 degrees 37 minutes 32 seconds East, a distance of 19.94 feet to a point;

Thence, North 64 degrees 35 minutes 58 seconds East, a distance of 19.96 feet to a point;

Thence, North 68 degrees 13 minutes 15 seconds East, a distance of 19.08 feet to a point;

Thence, North 71 degrees 59 minutes 48 seconds East, a distance of 40.17 feet to a point;

Thence, North 74 degrees 21 minutes 11 seconds East, a distance of 164.94 feet to a point;

Thence, North 48 degrees 23 minutes 34 seconds East, a distance of 9.24 feet to a point;

Thence, North 37 degrees 13 minutes 32 seconds East, a distance of 81.25 feet to a point;

Thence, North 27 degrees 50 minutes 49 seconds East, a distance of 198.04 feet to a point;

Thence, North 56 degrees 53 minutes 52 seconds East, a distance of 66.32 feet to a point;

Thence, North 44 degrees 13 minutes 13 seconds East, a distance of 20.63 feet to a point;

Thence, North 35 degrees 45 minutes 02 seconds East, a distance of 54.35 feet to a point;

Thence, North 41 degrees 32 minutes 03 seconds West, a distance of 70.20 feet to a point;

Thence, North 31 degrees 14 minutes 26 seconds East, a distance of 278.48 feet to a point;

Thence, North 81 degrees 03 minutes 31 seconds East, a distance of 130.95 feet to the Point of Beginning, containing 14.20 acres, MORE OR LESS, as shown on an exhibit attached hereto and made a part of this description.

The tract or parcel of land herein described being part of the same lands conveyed to West Virginia State Industrial Home in Deed Book 101 Page 570 at the Office of the Clerk, Harrison County, West Virginia and State of West Virginia as recorded in at the Office of the Clerk, Doddridge County, West Virginia.”

The bill was then ordered to third reading.



**Com. Sub. for S. B. 603**, Relating to proceedings for involuntary custody for examination, on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 5. INVOLUNTARY HOSPITALIZATION.**

**§27-5-2. Institution of proceedings for involuntary custody for examination; custody; probable cause hearing; examination of individual.**

(a) Any adult person may make an application for involuntary hospitalization for examination of an individual when the person making the application has reason to believe that the individual to be examined is addicted, as defined in §27-1-11 of this code, or is mentally ill and, because of his or her addiction or mental illness, the individual is likely to cause serious harm to himself, herself, or to others if allowed to remain at liberty while awaiting an examination and certification by a physician or psychologist.

Notwithstanding any language in this subsection to the contrary, if the individual to be examined under the provisions of this section is incarcerated in a jail, prison, or other correctional facility, then only the chief administrative officer of the facility holding the individual may file the application, and the application must include the additional statement that the correctional facility itself cannot reasonably provide treatment and other services for the individual’s mental illness or addiction.

(b) The person making the application shall make the application under oath.

(c) Application for involuntary custody for examination may be made to the circuit court or a mental hygiene commissioner of the county in which the individual resides or of the county in which he or she may be found. When no circuit court judge or mental hygiene commissioner is available for immediate presentation of

the application, the application may be made to a magistrate designated by the chief judge of the judicial circuit to accept applications and hold probable cause hearings. A designated magistrate before whom an application or matter is pending may, upon the availability of a mental hygiene commissioner or circuit court judge for immediate presentation of an application or pending matter, transfer the pending matter or application to the mental hygiene commissioner or circuit court judge for further proceedings unless otherwise ordered by the chief judge of the judicial circuit.

(d) The person making the application shall give information and state facts in the application as may be required by the form provided for this purpose by the Supreme Court of Appeals.

(e) The circuit court, mental hygiene commissioner, or designated magistrate may enter an order for the individual named in the application to be detained and taken into custody for the purpose of holding a probable cause hearing as provided in §27-5-2(g) of this code for the purpose of an examination of the individual by a physician, psychologist, a licensed professional counselor practicing in compliance with §30-31-1 et seq. of this code, a licensed independent clinical social worker practicing in compliance with §30-30-1 et seq. of this code, an advanced nurse practitioner with psychiatric certification practicing in compliance with §30-7-1 et seq. of this code, a physician assistant practicing in compliance with §30-3-1 et seq. of this code, or a physician assistant practicing in compliance with ~~§30-14A-1~~ §30-3E-1 et seq. of this code: *Provided*, That a licensed professional counselor, a licensed independent clinical social worker, a physician assistant or an advanced nurse practitioner with psychiatric certification may only perform the examination if he or she has previously been authorized by an order of the circuit court to do so, the order having found that the licensed professional counselor, the licensed independent clinical social worker, physician assistant, or advanced nurse practitioner with psychiatric certification has particularized expertise in the areas of mental health and mental hygiene or addiction sufficient to make the determinations as are required by the provisions of this section. The examination is to be provided or arranged by a community mental health center

designated by the Secretary of the Department of Health and Human Resources to serve the county in which the action takes place. The order is to specify that the hearing be held forthwith and is to provide for the appointment of counsel for the individual: *Provided, however,* That the order may allow the hearing to be held up to 24 hours after the person to be examined is taken into custody rather than forthwith if the circuit court of the county in which the person is found has previously entered a standing order which establishes within that jurisdiction a program for placement of persons awaiting a hearing which assures the safety and humane treatment of persons: *Provided further,* That the time requirements set forth in this subsection only apply to persons who are not in need of medical care for a physical condition or disease for which the need for treatment precludes the ability to comply with the time requirements. During periods of holding and detention authorized by this subsection, upon consent of the individual or in the event of a medical or psychiatric emergency, the individual may receive treatment. The medical provider shall exercise due diligence in determining the individual's existing medical needs and provide treatment the individual requires, including previously prescribed medications. As used in this section, 'psychiatric emergency' means an incident during which an individual loses control and behaves in a manner that poses substantial likelihood of physical harm to himself, herself, or others. Where a physician, psychologist, licensed professional counselor, licensed independent clinical social worker, physician assistant, or advanced nurse practitioner with psychiatric certification has within the preceding 72 hours performed the examination required by the provisions of this subdivision, the community mental health center may waive the duty to perform or arrange another examination upon approving the previously performed examination. Notwithstanding the provisions of this subsection, §27-5-4(r) of this code applies regarding payment by the county commission for examinations at hearings. If the examination reveals that the individual is not mentally ill or addicted or is determined to be mentally ill or addicted but not likely to cause harm to himself, herself, or others, the individual shall be immediately released without the need for a probable cause hearing and ~~absent a finding of professional negligence~~ the examiner is not

civily liable for the rendering of the opinion absent a finding of professional negligence. The examiner shall immediately provide the mental hygiene commissioner, circuit court, or designated magistrate before whom the matter is pending the results of the examination on the form provided for this purpose by the Supreme Court of Appeals for entry of an order reflecting the lack of probable cause.

(f) A probable cause hearing is to be held before a magistrate designated by the chief judge of the judicial circuit, the mental hygiene commissioner, or circuit judge of the county of which the individual is a resident or where he or she was found. If requested by the individual or his or her counsel, the hearing may be postponed for a period not to exceed 48 hours.

The individual must be present at the hearing and has the right to present evidence, confront all witnesses and other evidence against him or her, and to examine testimony offered, including testimony by representatives of the community mental health center serving the area. Expert testimony at the hearing may be taken telephonically or via videoconferencing. The individual has the right to remain silent and to be proceeded against in accordance with the Rules of Evidence of the Supreme Court of Appeals, except as provided in §27-1-12 of this code. At the conclusion of the hearing, the magistrate, mental hygiene commissioner, or circuit court judge shall find and enter an order stating whether or not there is probable cause to believe that the individual, as a result of mental illness or addiction, is likely to cause serious harm to himself or herself or to others.

(g) Probable cause hearings may occur in the county where a person is hospitalized. The judicial hearing officer may: Use videoconferencing and telephonic technology; permit persons hospitalized for addiction to be involuntarily hospitalized only until detoxification is accomplished; and specify other alternative or modified procedures that are consistent with the purposes and provisions of this article. The alternative or modified procedures shall fully and effectively guarantee to the person who is the subject of the involuntary commitment proceeding and other interested parties due process of the law and access to the least

restrictive available treatment needed to prevent serious harm to self or others.

(h) If the magistrate, mental hygiene commissioner, or circuit court judge at a probable cause hearing or at a final commitment hearing held pursuant to the provisions of §27-5-4 of this code finds that the individual, as a result of mental illness or addiction, is likely to cause serious harm to himself, herself, or others and because of mental illness or addiction requires treatment, the magistrate, mental hygiene commissioner, or circuit court judge may consider evidence on the question of whether the individual's circumstances make him or her amenable to outpatient treatment in a nonresidential or nonhospital setting pursuant to a voluntary treatment agreement. The agreement is to be in writing and approved by the individual, his or her counsel, and the magistrate, mental hygiene commissioner, or circuit court judge. If the magistrate, mental hygiene commissioner, or circuit court judge determines that appropriate outpatient treatment is available in a nonresidential or nonhospital setting, the individual may be released to outpatient treatment upon the terms and conditions of the voluntary treatment agreement. The failure of an individual released to outpatient treatment pursuant to a voluntary treatment agreement to comply with the terms of the voluntary treatment agreement constitutes evidence that outpatient treatment is insufficient and, after a hearing before a magistrate, mental hygiene commissioner, or circuit judge on the issue of whether or not the individual failed or refused to comply with the terms and conditions of the voluntary treatment agreement and whether the individual as a result of mental illness or addiction remains likely to cause serious harm to himself, herself, or others, the entry of an order requiring admission under involuntary hospitalization pursuant to the provisions of §27-5-3 of this code may be entered. In the event a person released pursuant to a voluntary treatment agreement is unable to pay for the outpatient treatment and has no applicable insurance coverage, including, but not limited to, private insurance or Medicaid, the Secretary of the Department of Health and Human Resources may transfer funds for the purpose of reimbursing community providers for services provided on an outpatient basis for individuals for whom payment for treatment is

the responsibility of the department: *Provided*, That the department may not authorize payment of outpatient services for an individual subject to a voluntary treatment agreement in an amount in excess of the cost of involuntary hospitalization of the individual. The secretary shall establish and maintain fee schedules for outpatient treatment provided in lieu of involuntary hospitalization. Nothing in the provisions of this article regarding release pursuant to a voluntary treatment agreement or convalescent status may be construed as creating a right to receive outpatient mental health services or treatment or as obligating any person or agency to provide outpatient services or treatment. Time limitations set forth in this article relating to periods of involuntary commitment to a mental health facility for hospitalization do not apply to release pursuant to the terms of a voluntary treatment agreement: *Provided, however*, That release pursuant to a voluntary treatment agreement may not be for a period of more than six months if the individual has not been found to be involuntarily committed during the previous two years and for a period of no more than two years if the individual has been involuntarily committed during the preceding two years. If in any proceeding held pursuant to this article the individual objects to the issuance or conditions and terms of an order adopting a voluntary treatment agreement, then the circuit judge, magistrate, or mental hygiene commissioner may not enter an order directing treatment pursuant to a voluntary treatment agreement. If involuntary commitment with release pursuant to a voluntary treatment agreement is ordered, the individual subject to the order may, upon request during the period the order is in effect, have a hearing before a mental hygiene commissioner or circuit judge where the individual may seek to have the order canceled or modified. Nothing in this section affects the appellate and habeas corpus rights of any individual subject to any commitment order.

(i) If the certifying physician or psychologist determines that a person requires involuntary hospitalization for an addiction to a substance which, due to the degree of addiction, creates a reasonable likelihood that withdrawal or detoxification from the substance of addiction will cause significant medical complications, the person certifying the individual shall recommend that the individual be closely monitored for possible

medical complications. If the magistrate, mental hygiene commissioner, or circuit court judge presiding orders involuntary hospitalization, he or she shall include a recommendation that the individual be closely monitored in the order of commitment.

(j) The Supreme Court of Appeals and the Secretary of the Department of Health and Human Resources shall specifically develop and propose a statewide system for evaluation and adjudication of mental hygiene petitions which shall include payment schedules and recommendations regarding funding sources. Additionally, the Secretary of the Department of Health and Human Resources shall also immediately seek reciprocal agreements with officials in contiguous states to develop interstate/intergovernmental agreements to provide efficient and efficacious services to out-of-state residents found in West Virginia and who are in need of mental hygiene services.

**§27-5-3. Admission under involuntary hospitalization for examination; hearing; release.**

(a) *Admission to a mental health facility for examination.* – Any individual may be admitted to a mental health facility for examination and treatment upon entry of an order finding probable cause as provided in §27-5-2 of this code and upon certification by a physician, psychologist, licensed professional counselor, licensed independent clinical social worker practicing in compliance with the provisions of §30-30-1 *et seq.* of this code or an advanced nurse practitioner with psychiatric certification practicing in compliance with §30-7-1 *et seq.* of this code that he or she has examined the individual and is of the opinion that the individual is mentally ill or addicted and, because of such mental illness or addiction, is likely to cause serious harm to himself, herself, or to others if not immediately restrained: *Provided*, That the opinions offered by an independent clinical social worker or an advanced nurse practitioner with psychiatric certification must be within their particular areas of expertise, as recognized by the order of the authorizing court.

(b) *Three-day time limitation on examination.* – If the examination does not take place within three days from the date the

individual is taken into custody, the individual shall be released. If the examination reveals that the individual is not mentally ill or addicted, the individual shall be released.

(c) *Three-day time limitation on certification.* – The certification required in §27-5-3(a) of this code shall be valid for three days. Any individual with respect to whom the certification has been issued may not be admitted on the basis of the certification at any time after the expiration of three days from the date of the examination.

(d) *Findings and conclusions required for certification.* – A certification under this section must include findings and conclusions of the mental examination, the date, time and place of the examination and the facts upon which the conclusion that involuntary commitment is necessary is based.

(e) *Notice requirements.* – When an individual is admitted to a mental health facility pursuant to the provisions of this section, the chief medical officer of the facility shall immediately give notice of the individual's admission to the individual's spouse, if any, and one of the individual's parents or guardians or if there is no spouse and are no parents or guardians, to one of the individual's adult next of kin if the next of kin is not the applicant. Notice shall also be given to the community mental health facility, if any, having jurisdiction in the county of the individual's residence. The notices other than to the community mental health facility shall be in writing and shall be transmitted to the person or persons at his, her, or their last known address by certified mail, return receipt requested.

(f) *Five-day time limitation for examination and certification at mental health facility.* – After the individual's admission to a mental health facility, he or she may not be detained more than five days, excluding Sundays and holidays, unless, within the period, the individual is examined by a staff physician and the physician certifies that in his or her opinion the patient is mentally ill or addicted and is likely to injure himself, herself, or others if allowed to be at liberty.



(g) *Fifteen-day time limitation for institution of final commitment proceedings.* – If, in the opinion of the examining physician, the patient is mentally ill or addicted and because of the mental illness or addiction is likely to injure himself, herself, or others if allowed to be at liberty, the chief medical officer shall, within 15 days from the date of admission, institute final commitment proceedings as provided in §27-5-4 of this code. If the proceedings are not instituted within such 15-day period, the patient shall be immediately released. After the request for hearing is filed, the hearing may not be canceled on the basis that the individual has become a voluntary patient unless the mental hygiene commissioner concurs in the motion for cancellation of the hearing.

(h) *Thirty-day time limitation for conclusion of all proceedings.* – If all proceedings as provided in §27-3-1 *et seq.* and §27-4-1 *et seq.* of this code are not completed within 30 days from the date of institution of the proceedings, the patient shall be immediately released.”

The bill was then ordered to third reading.

**Com. Sub. for S. B. 273**, Reducing use of certain prescription drugs; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page twenty-one, section one, line nine, by striking out “§30-3E-1 *et seq.*” and inserting in lieu thereof “§30-3E-3”.

And,

On pages twenty-two through twenty-four, by striking out section four in its entirety and inserting in lieu thereof a new section four, to read as follows:

**“§16-54-4. Opioid prescription limitations.**

(a) When issuing a prescription for an opioid to an adult patient seeking treatment in an emergency room for outpatient use, a

health care practitioner may not issue a prescription for more than a four-day supply.

(b) When issuing a prescription for an opioid to an adult patient seeking treatment in an urgent care facility setting for outpatient use, a health care practitioner may not issue a prescription for more than a four day supply: *Provided*, That an additional dosing for up to no more than a seven day supply may be permitted, but only, if the medical rationale for more than a four day supply is documented in the medical record.

(c) A health care practitioner may not issue an opioid prescription to a minor for more than a three-day supply and shall discuss with the parent or guardian of the minor the risks associated with opioid use and the reasons why the prescription is necessary.

(d) A dentist or an optometrist may not issue an opioid prescription for more than a three-day supply at any time.

(e) A practitioner may not issue an initial opioid prescription for more than a seven-day supply. The prescription shall be for the lowest effective dose which in the medical judgement of the practitioner would be the best course of treatment for this patient and his or her condition.

(f) Prior to issuing an initial opioid prescription, a practitioner shall:

(1) Take and document the results of a thorough medical history, including the patient's experience with nonopioid medication, nonpharmacological pain management approaches, and substance abuse history;

(2) Conduct, as appropriate, and document the results of a physical examination;

(3) Develop a treatment plan, with particular attention focused on determining the cause of the patient's pain; and

(4) Access relevant prescription monitoring information under the Controlled Substances Monitoring Program Database.

(g) Notwithstanding any provision of this code or legislative rule to the contrary, no medication listed as a Schedule II controlled substance as set forth in §60A-2-206 of this code, may be prescribed by a practitioner for greater than a 30-day supply: *Provided*, That two additional prescriptions, each for a 30-day period for a total of a 90-day supply, may be prescribed if the practitioner accesses the West Virginia Controlled Substances Monitoring Program Database as set forth in §60A-9-1 et seq. of this code: *Provided*, however, That the limitations in this section do not apply to cancer patients, patients receiving hospice care from a licensed hospice provider, patients receiving palliative care, a patient who is a resident of a long-term care facility, or a patient receiving medications that are being prescribed for use in the treatment of substance abuse or opioid dependence.

(h) A practitioner is required to conduct and document the results of a physical examination every 90 days for any patient for whom he or she continues to treat with any Schedule II controlled substance as set forth in §60-2-206 of this code.

(i) A veterinarian licensed pursuant to the provisions of §30-10-1 et seq. of this code may not issue more than an initial opioid prescription for more than a seven-day supply. The prescription shall be for the lowest effective dose which in the medical judgment of the veterinarian would be the best course of treatment for this patient and his or her condition.

(j) A prescription for any opioid drug listed on Schedule II as set forth in §60A-2-206 of this code for greater than a seven-day period shall require the patient to execute a narcotics contract with their prescribing practitioner. The contract shall be made a part of the patient's medical record. The narcotics contract is required to provide that:

(1) The patient agrees only to obtain scheduled medications from this particular prescribing practitioner;

(2) The patient agrees he or she will only fill those prescriptions at a single pharmacy which includes a pharmacy with more than one location;

(3) The patient agrees to notify the prescribing practitioner within 72 hours of any emergency where he or she are prescribed scheduled medication; and

(4) If the patient fails to honor the provisions of the narcotics contract, the prescribing practitioner may either terminate the provider-patient relationship or continue to treat the patient without prescribing a Schedule II opioid for the patient. Should the practitioner decide to terminate the relationship, he or she is required to do so pursuant to the provisions of this code and any rules promulgated hereunder. Termination of the relationship for the patient's failure to honor the provisions of the contract is not subject to any disciplinary action by the practitioner's licensing board."

And,

On pages twenty-seven and twenty-eight, by striking out section eight in its entirety and inserting a new section eight, to read as follows:

**"§16-54-8. Treatment of pain.**

(a) When patients seek treatment for any of the myriad conditions that cause pain, a health care practitioner shall refer or prescribe to a patient any of the following treatment alternatives, based on the practitioner's clinical judgment and the availability of the treatment, before starting a patient on an opioid: physical therapy, occupational therapy, acupuncture, massage therapy, osteopathic manipulation, chronic pain management program, and chiropractic services, as defined in §30-16-3 of this code.

(b) Nothing in this section should be construed to require that all of the treatment alternatives set forth in §16-54-8(a) of this code are required to be exhausted prior to the patient receiving a prescription for an opioid.

(c) At a minimum an insurance provider who offers an insurance product in this state, the Bureau for Medical Services and the Public Employees Insurance Agency shall provide coverage for 20 visits per event of physical therapy, occupational therapy,

osteopathic manipulation, a chronic pain management program, and chiropractic services, as defined in §30-16-3 of this code, when ordered by a health care practitioner to treat conditions that cause chronic pain.

(d) A patient may seek treatment for physical therapy, occupational therapy, osteopathic manipulation, a chronic pain management program, and chiropractic services, as defined in §30-16-3 of this code, prior to seeking treatment from a practitioner and a practitioner referral is not required as a condition of coverage by the Bureau for Medical Services, the Public Employees Insurance Agency, and any insurance provider who offers an insurance product in this state. Any deductible, coinsurance, or co-pay required for any of these services may not be greater than the deductible, coinsurance, or co-pay required for a primary care visit.

(e) Nothing in this section precludes a practitioner from simultaneously prescribing an opioid and prescribing or recommending any of the procedures set forth in §16-54-8(a) of this code.”

Delegates Hornbuckle, Fluharty, Pushkin and Byrd moved to amend the bill on page twenty-eight, after section nine, by inserting a new section, designated section ten, to read as

**“§16-54-10. Opioid epidemic accountability; allowing a civil action for the act of violating the sanctity of the state, its people and humanity.**

(a) Effective January 1, 2019, every opioid manufacturer or wholesaler distributing opioids in this state who has previously or is currently selling opioids in this state shall report to the office the total amount of dosages it has distributed to each pharmacy in this state from the first day of January 2007 until the last day of December 2017. Once the office has collected a complete count of the number of opioids in the state sold during the 10-year time period, it shall then calculate the percentage of the total attributable to each entity. Once that percentage is established, for purposes of this section, it shall be deemed the entity’s Opioid Crisis Participation Percentage.

(b) The office shall take all reasonable measures to confirm that the disclosure required by this section is accurate. In the event that the disclosure is inaccurate, the office may institute a civil action in the Circuit Court of Kanawha County and, if proven by a preponderance of the evidence that the disclosure was inaccurate, the entity shall pay a civil penalty in an amount equal to \$100.00 for every opioid dosage that was not accurately disclosed.

(c) Because of the loss of life that and addiction of thousands of West Virginia's that occurred because of distribution of opioids in this state during the ten-year time period has cost the state thousands of lives through death and addiction, and billions of dollars in health, criminal justice and societal costs, the Legislature finds that this horrible event may have occurred because of the grossly negligent acts of certain opioid manufacturers and wholesalers who distributed hundreds of millions of these pills in this state in that ten-year period, that any opioid pharmaceutical manufacturer or wholesaler that with careless disregard of the safety and proportionality of its distribution of opioids in this state, during the ten-year period beginning January 1, 2007, and ending December 31, 2017, is guilty of gross negligence, and if found guilty of this act by a court of competent jurisdiction, has violated the sanctity of our state, its people and of humanity, and therefore, upon a judgement of guilt thereof, is subject to a civil penalty of no less than \$1 million and no more than \$100 million.

(d) Notwithstanding any other code provision to the contrary, all assessments of civil damages collected under the provisions of this section shall be deposited in the Ryan Brown Addiction Prevention and Recovery Fund, created in §16-53-2 of this code, and the funds shall be used in the manner as required by that section.

(e) The provisions of this section shall have no force or effect on and after January 1, 2039”.

Delegates Marcum requested to be excused from voting on the amendment to Com. Sub. for S. B. 273 under the provisions of House Rule 49.

The Speaker replied that Delegate Marcum may have a direct personal or pecuniary interest therein and not as a member of a class of persons, and excused the Gentleman from voting.

Delegate Byrd asked and obtained unanimous consent to withdraw his name as a cosponsor of the amendment.

Delegate Byrd then requested to be excused from voting on the amendment to Com. Sub. for S. B. 273 under the provisions of House Rule 49.

The Speaker replied that Delegate Byrd may have a direct personal or pecuniary interest therein and not as a member of a class of persons, and excused the Gentleman from voting.

On the adoption of the amendment, Delegate Hornbuckle demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 391**), and there were—yeas 36, nays 59, excused 2, absent and not voting 3, with the yeas and absent and not voting and excused being as follows:

Yeas: Barrett, Bates, Boggs, Brewer, Campbell, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hamilton, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Miley, R. Miller, Moye, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaule, Thompson, Ward and Williams.

Excused: Byrd and Marcum.

Absent and Not Voting: Deem, Walters and Wilson.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

Delegates Byrd, Hornbuckle and Fluharty moved to amend the bill on page three, following the enacting clause, by inserting the following:

“CHAPTER 11. TAXATION.

**ARTICLE 18. EXCISE TAX ON SCHEDULE II DRUGS TO FIGHT DRUG ABUSE AND FUND STATE EMPLOYEE CONTRIBUTIONS TO PEIA.**

**§11-18-1. Collection of fee for sales of Schedule II controlled substances to state pharmacies; disposition of proceeds.**

(a) There is imposed an excise tax of 10 cents on each pill purchased by or for any licensed pharmacy in this state for all opium and opiate drugs and their derivatives and substances included as Schedule II drugs, as defined in §60A-2-206 of this code, to be collected from pharmaceutical manufacturers or distributors selling to licensed pharmacies in this state, and collected by and remitted to the Tax Commissioner by pharmacies licensed and doing business in the State of West Virginia. No pharmaceutical manufacturer, distributor or pharmacy may pass on as a cost or otherwise collect this excise tax from the patient. Each pharmacy shall periodically remit the tax collected to the Tax Commissioner pursuant to legislative or interpretative rules as promulgated for the tax’s collection by the commissioner pursuant to §29A-3-1 *et seq.*, to be deposited by the commissioner upon collection, as follows:

(1) 50% of all moneys collected shall be deposited into the Public Employees Insurance Agency Stability Fund and expended pursuant to §11B-2-32 of this code, and

(2) 50% of all moneys collected shall be deposited into a special account in the State Treasury to be known as the “Office of Drug Control Policy Substance Abuse and Control Account” established pursuant to §16-5T-6-41 of this code.”

And,

On page five, following the period on line thirty at the end of §16-5H-9, by inserting the following:



“ARTICLE 5T. OFFICE OF DRUG CONTROL POLICY.

**§16-5T-6. Funding of substance abuse programs administered by the Office of Drug Control Policy.**

The ‘Office of Drug Control Policy Substance Abuse and Control Account’ is hereby created for the purpose of supporting programs for the causes, treatments and elimination of substance abuse, and to utilize the proceeds to facilitate the directives of the office pursuant to this article. The office shall expend available moneys from the proceeds from deposit of all moneys collected pursuant to §11-18-1 of the code into a special account in the State Treasury to be known as the ‘Office of Drug Control Policy Substance Abuse and Control Account.’ Expenditures for the fund shall be for the purpose set forth in this section and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-1 *et seq.* of the code and upon fulfillment of the provisions of §11B-2-1 *et seq.* of this code: *Provided, That for the fiscal year ending June 30, 2019, expenditures are authorized from collections rather than pursuant to appropriation by the Legislature.’*”

Delegates Marcum and Byrd requested to be excused from voting on the adoption of the amendment under the provisions of House Rule 49.

The Speaker replied that adoption of the amendment would not have a direct pecuniary impact on the Delegates, and refused to excuse them from voting.

On the adoption of the amendment, Delegate Byrd demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 392**), and there were—yeas 37, nays 62, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Barrett, Bates, Boggs, Brewer, Byrd, Campbell, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hartman, Hicks, Hornbuckle, Iaquinta,

Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Paynter, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Thompson, Ward and Williams.

Absent and Not Voting: Deem.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

The bill was then ordered to third reading.

### **First Reading**

The following bills and joint resolution on first reading, coming up in regular order, were each read a first time and ordered to second reading:

**Com. Sub. for S. J. R. 3**, Judicial Budget Oversight Amendment,

**Com. Sub. for S. B. 10**, Relating generally to PSC jurisdiction,

**Com. Sub. for S. B. 82**, Including rebuttable presumptions in certain cases for firefighters with regard to workers' compensation,

**Com. Sub. for S. B. 141**, Expanding county assessment and collection of head tax on breeding cows,

**Com. Sub. for S. B. 230**, Authorizing Department of Commerce promulgate legislative rules,

**Com. Sub. for S. B. 244**, Specifying conditions for unlawful possession of firearm at school-sponsored activities,

**Com. Sub. for S. B. 271**, Creating centralized Shared Services Section of Department of Administration,

**Com. Sub. for S. B. 283**, Relating generally to procurement by state agencies,

**Com. Sub. for S. B. 288**, Regulating cremation, embalming and directing of funeral service,

**Com. Sub. for S. B. 313**, Waiving occupational fees and licensing requirements for certain low-income individuals, military families, and young workers,

**S. B. 339**, Relating to WV Retirement Health Benefit Trust Fund within PEIA,

**Com. Sub. for S. B. 355**, Dissolving IS&C Division under Office of Technology,

**Com. Sub. for S. B. 375**, Relating to farmers markets,

**Com. Sub. for S. B. 401**, Requiring specified coverage in health benefit plans for treatment of substance abuse disorders,

**S. B. 407**, Licensing and approval of child care programs,

**Com. Sub. for S. B. 408**, Licensing of nursing homes and assisted living residences,

**S. B. 425**, Removing sunset dates which members of policemen's or firemen's pension fund elect to participate in deferred retirement option plan,

**Com. Sub. for S. B. 434**, Specifying documents not subject to discovery in certain proceedings,

**Com. Sub. for S. B. 438**, Relating to debt service on bonds secured by State Excess Lottery Revenue Fund,

**Com. Sub. for S. B. 442**, Establishing universal forms and deadlines when submitting prior authorization electronically,

**Com. Sub. for S. B. 443**, Terminating parental rights when certain conditions are met,

**Com. Sub. for S. B. 445**, Allowing DOH acquire real or personal property for utility accommodation,

**Com. Sub. for S. B. 446**, Creating Agritourism Responsibility Act,

**S. B. 468**, Changing date and recipients for submission of Auditor's annual report,

**Com. Sub. for S. B. 469**, Converting Addiction Treatment Pilot Program to permanent program,

**Com. Sub. for S. B. 495**, Designating specific insurance coverages exempt from rate filing requirements,

**Com. Sub. for S. B. 501**, Relating to accrued benefit of retirees in Deputy Sheriff Retirement System,

**Com. Sub. for S. B. 521**, Requiring chief executive of municipal law-enforcement agency be certified law-enforcement officer,

**S. B. 551**, Relating to failure of employers to make contributions on behalf of employees to retirement plan administered by CPRB,

**S. B. 592**, Adding examination of advanced care technician for firefighter paramedic,

**S. B. 612**, Relating to sale of municipal property,

**Com. Sub. for S. B. 625**, Creating WV Volunteer Fire and Rescue Act of 2018,

And,

**H. B. 4630**, Relating to a 2019 across-the-board salary adjustment for employees of the Department of Health and Human Resources.

At the request of Delegate Cowles and by unanimous consent, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

### **Committee Reports**

On motion for leave, a bill was introduced (Originating in the Committee on Finance, with the recommendation that it do pass), which was read by its title, as follows:

**By Delegates Nelson, Anderson, C. Miller, Boggs, Walters, Westfall, Ellington, Ambler, Longstreth, Hartman and Gearheart:**

**H. B. 4631-** “A Bill expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2018 in the amount of \$1,620,000 from the Department of Revenue, Insurance Commissioner - Insurance Commission Fund, fund 7152, fiscal year 2018, organization 0704, and making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Health and Human Resources, Division of Health – Consolidated Medical Services Fund, fund 0525, fiscal year 2018, organization 0506, by supplementing and amending the appropriations for the fiscal year ending June 30, 2018.”

At the respective requests of Delegate Cowles, and by unanimous consent, the bill (H. B. 4631) was taken up for immediate consideration, read a first time and ordered to second reading.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

**S. B. 406,** Clarifying that ground emergency medical transportation is eligible for Medicare and Medicaid reimbursement,

And reports the same back, with amendment, with the recommendation that it do pass, as amended.

At the respective requests of Delegate Cowles, and by unanimous consent, the bill (S. B. 406) was taken up for immediate consideration, read a first time and ordered to second reading.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

**Com. Sub. for S. B. 528**, Providing additional circuit judge for nineteenth judicial circuit,

And reports the same back with the recommendation that it do pass.

At the respective requests of Delegate Cowles, and by unanimous consent, the bill (Com. Sub. for S. B. 528) was taken up for immediate consideration, read a first time and ordered to second reading.

### **Messages from the Executive**

The following Proclamation of His Excellency, the Governor, was laid before the House of Delegates and read by the Clerk, as follows:

STATE OF WEST VIRGINIA  
EXECUTIVE DEPARTMENT  
Charleston

### **A P R O C L A M A T I O N**

By the Governor

**WHEREAS**, The Constitution of West Virginia sets forth the respective powers, duties and responsibilities of the three separate branches of government; and

**WHEREAS**, Article VI, Section 22 of the Constitution of West Virginia provides that the current regular session of the Legislature shall not exceed sixty calendar days computed from and including the second Wednesday of January, two thousand eighteen; and

**WHEREAS**, Pursuant to Article VI, Section 22 of the Constitution of West Virginia, the two thousand eighteen regular session of the Legislature is scheduled to conclude on the tenth day of March, two thousand eighteen; and

**WHEREAS**, Article VI, Section 51 of the Constitution of West Virginia sets forth the obligations of the Governor and the Legislature relating to the preparation and enactment of the Budget Bill; and

**WHEREAS**, Subsection D, Article VI, Section 51 of the Constitution of West Virginia requires the Governor to issue a proclamation extending the regular session of the Legislature if the Budget Bill shall not have been finally acted upon by the Legislature three days before the expiration of its regular session; and

**WHEREAS**, The Budget Bill has not been finally acted upon by the Legislature as of this seventh day of March, two thousand eighteen.

**NOW, THEREFORE, I, JIM JUSTICE**, Governor of the State of West Virginia, do hereby issue this Proclamation, in accordance with Subsection D, Article VI, Section 51 of the Constitution of West Virginia, extending the two thousand eighteen regular session of the Legislature for an additional period not to exceed one day, through and including the eleventh day of March, two thousand eighteen; but no matters other than the Budget Bill shall be considered during this extension of the regular session, except a provision for the cost thereof.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



**DONE** at the Capitol in the City of Charleston, State of West Virginia, on this the seventh day of March, in the year of our Lord, Two Thousand Eighteen, and in the One Hundred Fifty-Fifth year of the State.

Jim Justice,  
*Governor*

By the Governor

MAC WARNER

*Secretary of State*

### **Leaves of Absence**

At the request of Delegate Cowles, and by unanimous consent, leave of absence for the day was granted Delegate Deem.

### **Miscellaneous Business**

Pursuant to House Rule 132, unanimous consent was requested and obtained to print the remarks of the following Members in the Appendix to the Journal:

- Delegate Kelly during the debate on S. B. 584
- Delegates White and Summers during the debate on Com. Sub. for S. B. 590
- Delegate Campbell during the debate on S. B. 500

Delegate Byrd filed a form with the Clerk's Office per House Rule 94b to be removed as a cosponsor of H. B. 4344.

Delegate Householder noted to the Clerk that he voted "Nay" when the voice vote was taken on the amendment to Com. Sub. for S. B. 506.

Delegate A. Evans noted to the Clerk that he was absent on today when the votes were taken on Com. Sub. for 555, Com. Sub. for 574, Com. Sub. for 575, S. B. 576, Com. Sub. for S. B. 582, S. B. 584, Com. Sub. for S. B. 589, Com. Sub. for S. B. 590, Com. Sub. for S. B. 616, S. B. 626 and S. B. 631, and had he been present he would have voted "Yea" thereon.

Delegate Storch noted to the Clerk that she was absent on today when the vote was taken on Roll No. 364, and had she been present he would have voted "Yea" thereon.

At 5:33 p.m., the House of Delegates adjourned until 10:00 a.m., Thursday, March 8, 2018.



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Thursday, March 8, 2018

**FIFTY-EIGHTH DAY**

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 10:00 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

Prayer was offered and the House was led in recitation of the Pledge of Allegiance.

The following communication was laid before the House of Delegates and was read by the Clerk:

House of Delegates  
West Virginia Legislature  
212-M, State Capitol  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0470

March 7, 2018

The Honorable Tim Armstead  
Speaker  
West Virginia House of Delegates  
Building 1, Room 234M  
Charleston, West Virginia 25305

Dear Mr. Speaker:

I am hereby resigning as a member of the West Virginia House of Delegates effective midnight, March 7, 2018. It has been my honor to have had the opportunity to serve the citizens of Kanawha County. Thank you for your time and attention to this matter.

Very truly yours,

Ronald N. Walters, Sr.

The Clerk proceeded to read the Journal of Thursday, March 8, 2018, being the first order of business, when the further reading thereof was dispensed with and the same approved.

### Committee Reports

Delegate Howell, Chair of the Committee on Government Organization submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

**H. C. R. 98**, Requesting the Joint Committee on Government Organization to conduct a study to consider removing solid waste facilities and the intrastate transportation of solid waste from the jurisdiction of the Public Service Commission,

And reports back a committee substitute therefor, with a new title, as follows:

**Com. Sub. for H. C. R. 98** - "Requesting the Joint Committee on Government and Finance study removing regulation of solid waste facilities and the intrastate transportation of solid waste from the jurisdiction of the Public Service Commission,"

With the recommendation that the committee substitute be adopted, but that it first be referred to the Committee on Rules.

In accordance with the former direction of the Speaker, the resolution (Com. Sub. for H. C. R. 98) was referred to the Committee on Rules.

Delegate Hanshaw, Chair of the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 8<sup>th</sup> day of March, 2018, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates:

**Com. Sub. for H. B. 4199**, Permitting a nursing home to use trained individuals to administer medication.

On motions for leave, the following resolutions were introduced (Originating in the Committee on Government Organization and

reported with the recommendation that they each be adopted, but that they first be referred to the Committee on Rules), which were read by their titles, as follows:

**By Delegates Howell, Hamrick, Adkins, Criss, Graves, Jennings, Martin, Maynard, Pack, Paynter, Pyles, Sypolt, Ward and Williams:**

**H. C. R. 105** - "Requesting the Joint Committee on Government and Finance to conduct a study regarding evaluating Department of Environmental Protection funds."

Whereas, State agencies are expected to be good and faithful stewards of the public money entrusted in their care for the purpose of serving the public good; and

Whereas, The Department of Environmental Protection is charged with upholding the commitment of this state to restore, maintain and protect the environment and to consolidate environmental programs in a single state agency; and

Whereas, It has been found that the Department of Environmental Protection has several of its special reclamation funds scattered throughout the state in various banks and accounts, none of which are part of or related to the State Treasury; and

Whereas, The public interest is best served by the protection of public money so that it can be effectively and properly managed for the protection of our environment, and secured from comingling, protected from loss and maintained in a transparent and reasonable manner; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance to conduct a study regarding evaluating the Department of Environmental Protection funds; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2019, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved*, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid

from legislative appropriations to the Joint Committee on Government and Finance.

**By Delegates Howell, Hamrick, Adkins, Criss, Graves, Jennings, Martin, Maynard, Pack, Paynter, Pyles, Sypolt, Ward and Williams:**

**H. C. R. 106** - "Requesting the Joint Committee on Government and Finance to conduct a study of licensure, certification and registration forms of occupational and professional regulation."

Whereas, West Virginia licensing boards and authorities exist to protect the public good and to ensure professional standards among those who perform occupations and professions in this state; and

Whereas, Licensure, certification and registration may serve as a barrier to entry for citizens seeking employment, making it more difficult for them to pursue gainful and meaningful employment; and

Whereas, The Legislature is committed to protecting the public while balancing economic opportunity by studying the various forms of licensure, certification and registration of occupations and professions to ensure the protection of the public is the least burdensome and as minimally restrictive as possible; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance authorize a study of licensure, certification and registration forms of occupational and professional regulation; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2019, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolves*, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

**By Delegates Howell, Hamrick, Adkins, Criss, Graves, Jennings, Martin, Maynard, Pack, Paynter, Pyles, Sypolt, Ward and Williams:**

**H. C. R. 107** – “Requesting the Joint Committee on Government and Finance to conduct a study of the feasibility of a single building to house all occupational and professional regulatory boards.”

Whereas, Boards and commissions regulating various professions and occupations pursuant to Chapter 30 of the West Virginia Code, have been encouraged to reduce costs and have been granted specific permissive authority to share staff and office overhead, to promote public safety, to provide accessibility of the public and to reduce costs; and

Whereas, Smaller state licensing boards have joined together through a memorandum of understanding to combine office and staffing services, and other boards have been proposed to merge further promoting efficiencies, increasing public access, and improving public safety through the continuity of services; and

Whereas, Several other states, including Florida, Maine, Texas and Utah, have experience in centralized professional and occupational offices, from which this state could identify best practices in shared office services for occupational and professional regulation, including any problems with consolidation that can be avoided; and

Whereas, West Virginia should consider identifying a single building in Charleston to house the occupational and professional regulatory boards, to facilitate the consolidation of staffing functions to promote public access to regulatory services, to further ensure efficiencies and economies of scale in occupational and professional regulation; therefore be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance study of the feasibility of a single building to house all occupational and professional regulatory boards; and, be it

*Further Resolved*, that the Chapter 30 Boards and Commissions, and the Real Estate Division within the Department of Administration, shall cooperate with the Legislature in the conduct of this study; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2019, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved*, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

**By Delegates Howell, Hamrick, Adkins, Brewer, Criss, Eldridge, Graves, Jennings, Martin, Maynard, Pack, Paynter, Pyles, Sypolt, Ward and Williams:**

**H. C. R. 108** – “Requesting the Joint Committee on Government and Finance to conduct a study encouraging the film industry and tourism mechanisms for promoting West Virginia.”

Whereas, Modern media culture abounds in society and feature length films, such as We Are Marshall, The Mothman Prophecies, and Matewan, have helped introduce West Virginia to people who may not otherwise get to know about the state, its history and her people; and

Whereas, Movies and other cultural activities have the potential to enrich the lives of the citizens of this, and other states, and creates opportunities for economic activity that the Legislature believes we can and should encourage in both the public and private markets; and

Whereas, Movies produced in West Virginia have the dual benefit of stimulating the economy while in production and stimulating the economy from people learning about the state who bring tourism dollars to see first-hand the wild and wonderful things they learned about; and

Whereas, the Legislature is committed to removing barriers from economic opportunity, increasing awareness of this state through cultural and tourism promotion, and stimulating the economy through media and cultural activities that help attract people to live and visit this state; therefore be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance study encouraging the film industry and tourism mechanisms for promoting West Virginia; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2019, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved,* That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

And,

**By Delegates Howell, Hamrick, Adkins, Criss, Graves, Jennings, Martin, Maynard, Pack, Paynter, Pyles, Sypolt, Ward and Williams**

**H. C. R. 109** – “Requesting the Joint Committee on Government and Finance to conduct a study on legislative rules being outcome driven rather than process driven.”

Whereas, State agencies are authorized to promulgate legislative rules due to their inherent expertise; and

Whereas, The Legislature is committed to protecting the public welfare by periodically reviewing these rules to assess their continued effectiveness and relevance, and whether the rule has become too burdensome and obsolete; and

Whereas, Rules can often be created which promote a process-driven system that favors bureaucracy over efficiency, rather than an outcome-driven system that values results and overall benefit to all; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance conduct a study on legislative rules being outcome driven rather than process driven; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2019, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved*, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

In the absence of objection, the Speaker referred the resolutions (H. C. R. 105, H. C. R. 106, H. C. R. 107, H. C. R. 108 and H. C. R. 109) to the Committee on Rules.

Delegate Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

**Com. Sub. for S. B. 336**, Providing certain DMV applicants ability to contribute to WV Department of Veterans Assistance,

And reports the same back with the recommendation that it do pass.

At the respective requests of Delegate Cowles, and by unanimous consent, the bill (Com. Sub. for S. B. 336) was taken



up for immediate consideration, read a first time and ordered to second reading.

### **Messages from the Executive**

The following communication from His Excellency, the Governor, was laid before the House of Delegates and reported by the Clerk:

State of West Virginia  
Jim Justice  
Governor of West Virginia

March 6, 2018

The Honorable Mitch Carmichael  
President of the Senate  
State Capitol, Building 1, Room 229-M  
Charleston, West Virginia 25305

The Honorable Tim Armstead  
Speaker of the House of Delegates  
State Capitol, Building 1, Room 228-M  
Charleston, West Virginia 25305

Dear President Carmichael and Speaker Armstead:

After submission of my recommended FY 2019 Executive Budget on January 10, 2018, there have been a few areas that require adjustments.

These adjustments, along with my revised General Revenue estimate from February 28, and potential revised revenue estimates from the passage of certain bills that increase General Revenue, will result in a unappropriated balance in General Revenue of over \$58 million that will solidify certainty in our budgetary condition, alleviate any doubt and fear of midyear reduction, and allow for future supplemental appropriations if the revenue comes in as I expect it to from the federal tax reform and historic sale of our road bonds.

Therefore, pursuant to Section 51, Article VI of the Constitution of the State of West Virginia, I submit revisions to the FY 2019 Budget Bill for the TITLE II – APPROPRIATIONS as follows:

### **Section 1. Appropriations from general revenue.**

Funds appropriated for the Public Employees Insurance Agency (PEIA) employer premiums, are adjusted in numerous line items throughout the General Revenue to account for the change in employer premiums originally funded in my recommended budget to alleviate the need for increased employee premium increases. Current premium rates are slightly out of sync of the 80% for employer and 20% for the employee premium rule. This adjustment will bring it back into alignment without increasing the employee premiums for the upcoming plan year. My original recommended increase of \$6,507,266 for PEIA in the General Revenue Fund is being decreased by \$1,301,455, for a net-net increase to employer premiums in General Revenue of \$5,205,811. A summary of required changes is attached.

According to my proposal for a 5% average raise for all state employees (\$2,160) and educators (\$2,020 for teachers and \$1,100 for service personnel), I am adjusting numerous lines throughout General Revenue to account for the increased raise. This also includes shifting Professional Student Support Personnel raises from county to state funding. The General Revenue cost for this increased raise is \$79,863,276 above my original recommendation. A summary of required changes is attached.

### **Judicial**

*Supreme Court – General Judicial, Fund 0180, Fiscal Year 2019, Org 2400*

(To revise Judicial Branch appropriation request, as requested)

- Decrease “Current Expenses” appropriation 13000 by \$1,300,000.

- Decrease “Repairs and Alterations” appropriation 06400 by \$400,000.
- Decrease “Other Assets” appropriation 69000 by \$300,000.

(To revise Judges’ Retirement System contribution based on actuarial requirements from the Retirement Board, as requested.)

- Decrease “Current Expenses” appropriation 13000 by \$89,000.
- Increase “Judges’ Retirement System” appropriation 11000 by \$89,000.

### **Executive**

#### *Treasurer’s Office, Fund 0126, Fiscal Year 2019, Org 1300*

(To provide funding to operate the ABLE program.)

- Add “ABLE Program” appropriation 69201 for \$150,000.

#### *Department of Agriculture, Fund 0131, Fiscal Year 2019, Org 1400*

(To provide funding to operate the Veterans to Agriculture program.)

- Add “Veterans to Agriculture Program” appropriation 36301 for \$250,000.

(To combine the appropriations for existing farmers markets.)

- Decrease “Huntington Farmers Market” appropriation 12800 by \$37,142.
- Add “WV Farmers Markets” appropriation 12801 for \$149,604.

- Decrease “Logan Farmers Market” appropriation 50100 by \$41,033.
- Decrease “Charleston Farmers Market” appropriation 74600 by \$71,429.

### **Department of Administration**

*Division of General Services, Fund 0230, Fiscal Year 2019, Org 0211*

(To move reduce funding for Capital Outlay to be supplemented as revenue comes available.)

- Decrease “Capital Outlay, Repairs and Equipment” appropriation 58900 by \$8,000,000.

*Public Employees Insurance Agency, Fund 0200, Fiscal Year 2019, Org 0225*

(To provide funding to maintain current employee health insurance coverage levels.)

- Add “PEIA Subsidy” appropriation 80100 for \$21,000,000.
- Add the language, “The above appropriation for PEIA Subsidy (fund 0200, appropriation 80100) may be transferred to a special revenue fund and shall be utilized by the West Virginia Public Employees Insurance Agency for the purposes of offsetting benefit changes to offset the aggregate premium cost-sharing percentage requirements between employers and employees. Such amount shall not be included in the calculation of the plan year aggregate premium cost-sharing percentages between employers and employees.”

### **Department of Commerce**

*West Virginia Tourism Office, Fund 0246, Fiscal Year 2019, Org 0307*

(To move reduce funding for tourism initiatives to be supplemented as revenue comes available.)

- Decrease “Tourism - Marketing” Appropriation 61801 by \$2,500,000.
- Decrease “Tourism – Brand Awareness” Appropriation 61802 by \$3,000,000.
- Decrease “Tourism – Brand Promotion” Appropriation 61803 by \$4,000,000.
- Decrease “Tourism – Public Relations” Appropriation 61804 by \$1,000,000.
- Decrease “Tourism – Events and Sponsorships” Appropriation 61805 by \$2,000,000.
- Decrease “Tourism – Industry Development” Appropriation 61806 by \$500,000.
- Decrease “State Parks and Recreation Advertising” Appropriation 61900 by \$1,000,000.

*West Virginia Development Office, Fund 0256, Fiscal Year 2019, Org 0307*

(To move reduce funding for economic development initiatives to be supplemented as revenue comes available.)

- Decrease “Site Readiness Program” Appropriation 05052 by \$8,500,000.
- Decrease “Strategic Investment Program” Appropriation 05053 by \$17,200,000.
- Decrease “Sales and Marketing Enhancement” Appropriation 05054 by \$4,300,000.
- Decrease “Infrastructure and Economic Development Projects” Appropriation 23401 by \$2,000,000.

**Department of Education**

*State Board of Education – State Aid to Schools, Fund 0317, Fiscal Year 2019, Org 0402*

(To adjust the State Aid Formula Teachers’ Retirement System appropriations based on the actuarial requirement from the Retirement Board inclusive of the pay raise.)

- Decrease “Teachers’ Retirement System” Appropriation 01900 by \$6,658,000.
- Increase “Retirement Systems – Unfunded Liability” Appropriation 77500 by \$20,430,000.

(To adjust School Aid Formula based on final local share numbers.) *(subject to revision)*

- Increase “Less Local Share” line by \$5,858,717 from (\$452,763,992) to (\$458,622,709).
- Increase “Improved Instructional Programs” Appropriation 15600 by \$413,575.
- Increase “21<sup>st</sup> Century Strategic Technology Learning Growth” Appropriation 93600 by \$827,150.

**Department of Health and Human Resources**

*Division of Human Services, Fund 0403, Fiscal Year 2019, Org 0511*

(Reduce and partially move funding to lottery surpluses.)

- Decrease “Medical Services” Appropriation 18900 by \$24,000,000.

**Department of Military Affairs and Public Safety**

*West Virginia State Police, Fund 0453, Fiscal Year 2019, Org 0612*

(To adjust the Troopers Retirement System appropriations based on the actuarial requirement from the Retirement Board inclusive of the pay raise.)

- Increase “Troopers Retirement Fund” Appropriation 60500 by \$693,492.
- Decrease “Retirement Systems – Unfunded Liability” Appropriation 77500 by \$505,000.

*Division of Justice and Community Services, Fund 0546, Fiscal Year 2019, Org 0620*

(To add reappropriation language due to a purchasing delay.)

- Insert into the reappropriation language after Child Advocacy Centers (fund 0546, appropriation 45800), “...Sexual Assault Forensic Examination Commission (fund 0546, appropriation 71400),...”

### **Bureau of Senior Services**

*Bureau of Senior Services, Fund 0420, Fiscal Year 2019, Org 0508*

(To move funding from Lottery Net Profits.)

- Increase “Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens” Appropriation 53900 by \$637,471.

### **Council for Community and Technical College Education**

*West Virginia Council for Community and Technical College Education – Control Account, Fund 0596, Fiscal Year 2019, Org 0420*

(To reduce funding for the Community College Tuition Subsidy Program based on the lack of movement of SB 284.)

- Decrease “Community College Tuition Subsidy” Appropriation 87801 by \$7,000,000.

### **Higher Education Policy Commission**

*West Virginia University – School of Medicine Medical School Fund, Fund 0343, Fiscal Year 2019, Org 0463*

(To provide funding for the Neuroscience Institute.)

- Increase “WVU – School of Health Sciences” Appropriation 17400 by \$2,000,000.

### **Section 3. Appropriations from other funds.**

#### **Department of Administration**

*Division of Finance – Shared Services Section Fund, Fund \_\_\_\_\_, Fiscal Year 2019, Org 0209*

(To create the Shared Services Section Fund recommended in SB 271.)

- Add “Personal Services and Employee Benefits” Appropriation 00100 for \$1,500,000.
- Add “Current Expenses” Appropriation 13000 for \$500,000.

*Travel Management, - Aviation Fund, Fund 2302, Fiscal Year 2019, Org 0215*

(To increase spending authority for planned aircraft repair and maintenance expenses.)

- Add “Repairs and Alterations” Appropriation 00640 for \$775,000.

#### **Department of Commerce**

*Division of Forestry – Severance Tax Operations, Fund 3084, Fiscal Year 2019, Org 0305*



(To allow for the replacement of vehicles.)

- Add “Equipment” Appropriation 07000 for \$300,000.

#### **Section 4. Appropriations from lottery net profits.**

Funds appropriated for the Public Employees Insurance Agency (PEIA) employer premiums, are adjusted in numerous line items throughout the Lottery Net Profits to account for the change in employer premiums originally funded in my recommended budget to alleviate the need for increased employee premium increases. Current premium rates are slightly out of sync of the 80% for employer and 20% for the employee premium rule. This adjustment will bring it back into alignment without increasing the employee premiums for the upcoming plan year. My original recommended increase of \$40,734 for PEIA in the Lottery Net Profits is being decreased by \$8,147, for a net-net increase to employer premiums in Lottery Net Profits of \$32,587. A summary of required changes is attached.

According to my pay raise proposal of 5% average raise (\$2,160) for state employees, I am adjusting numerous lines throughout Lottery Net Profits to account for the increased raise. The Lottery cost for this increased raise is \$426,732 above my original recommendation. A summary of required changes is attached.

#### **Department of Education and the Arts**

*Division of Culture and History – Lottery Education Fund, Fund 3534, Fiscal Year 2019, Org 0432*

(To provide state matching funds for federal grants.)

- Increase “Historic Preservation Grants” Appropriation 31100 by \$73,686.
- Increase “Grants for Competitive Arts Program” Appropriation 62400 by \$145,200.

#### **Bureau of Senior Services**

*Bureau of Senior Services – Lottery Senior Citizens Fund, Fund 5405, Fiscal Year 2019, Org 0508*

(To move funding from Lottery Net Profits to General Revenue to balance.)

- Decrease “Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens” Appropriation 53900 by \$637,471.

## **Section 6. Appropriations of federal funds.**

### **Department of Health and Human Resources**

*Divison of Human Services, Fund 8722, Fiscal Year 2019, Org 0511*

(To adjust federal spending authority based on current projections.)

- Increase “Current Expenses” Appropriation 13000 by \$15,000,000.
- Decrease “Federal Economic Stimulus” Appropriation 89100 by \$15,000,000.

## **Section 8. Awards for claims against the state.**

Amend the language to read as follows:

“There are hereby appropriated for fiscal year 2019, from the fund as designated, in the amounts as specified, general revenue funds in the amount of \$1,753,740, special revenue funds in the amount of \$22,442, and state road funds in the amount of \$408,811 for payment of claims against the state.”

## **Add the following Sections 10 and 11 –**

**“Sec. 10. Appropriations from lottery net profits surplus accrued.** — The following item is hereby appropriated from the lottery net profits, and is to be available for expenditure during the fiscal year 2019 out of surplus funds only, as determined by the

director of lottery, accrued from the fiscal year ending June 30, 2018, subject to the terms and conditions set forth in this section.

It is the intent and mandate of the Legislature that the following appropriation be payable only from surplus accrued from the fiscal year ending June 30, 2018.

In the event that surplus revenues available from the fiscal year ending June 30, 2018, are not sufficient to meet the appropriation made pursuant to this section, then the appropriation shall be made to the extent that surplus funds are available.

*Bureau of Senior Services –*

*Lottery Senior Citizens Fund*

(WV Code Chapter 29)

Fund 5405 FY 2019 Org 0508

Senior Services Medicaid Transfer –

Lottery Surplus	68199	\$ <u>6,000,000</u>
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Total TITLE II, Section 10 –

Surplus Accrued		\$ <u>6,000,000</u>
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**Sec. 11. Appropriations from state excess lottery revenue surplus accrued.** — The following item is hereby appropriated from the state excess lottery revenue fund, and is to be available for expenditure during the fiscal year 2019 out of surplus funds only, as determined by the director of lottery, accrued from the fiscal year ending June 30, 2018, subject to the terms and conditions set forth in this section.

It is the intent and mandate of the Legislature that the following appropriation be payable only from surplus accrued from the fiscal year ending June 30, 2018.

In the event that surplus revenues available from the fiscal year ending June 30, 2018, are not sufficient to meet the appropriation made pursuant to this section, then the appropriation shall be made to the extent that surplus funds are available.

*Division of Human Services**(WV Code Chapter 9, 48 and 49)*Fund 5365 FY 2019 Org 0511

## Medical Services –

Lottery Surplus	68100	\$ <u>8,000,000</u>
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## Total TITLE II, Section 11 –

Surplus Accrued		\$ <u>8,000,000</u>
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Additionally, I submit revisions to the FY 2019 Budget Bill for the TITLE I – GENERAL PROVISIONS, Section 3 Classification of Appropriations. In the language describing terms of agency transfer authority add the following after “...no funds from other appropriations shall be transferred to the “personnel services and employee benefits” or the “unclassified” appropriation...”:

*“...except that for funds appropriated in Title II – Sections 3, 6, or 7, funds may be transferred to the “personnel services and employee benefits” appropriation of the same fund in an amount not to exceed 5% of the enrolled appropriation for “personnel services and employee benefits”... ”*

Thank you for your prompt attention of this matter. Your cooperation is always appreciated. Should you have any questions or require additional information, please call me at any time.

Sincerely,

Jim Justice,  
Governor.

**Messages from the Senate**

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4016**, Relating to combatting waste, fraud, and misuse of public funds through investigations, accountability and transparency.

On motion of Delegate Cowles, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page two, section four, line four, after the word “expenditure”, by inserting a colon and the following proviso: “*Provided*, That all federal and state laws and regulations and rules regarding the confidentiality of information and privacy apply;”.

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 393**), and there were—yeas 98, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4016) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had receded from its amendments, to take effect July 1, 2018, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 4024**, Relating generally to direct cremation or direct burial expenses for indigent persons.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**H. B. 4183**, Relating generally to standardized testing requirements for nonpublic schools.

On motion of Delegate Cowles, the House of Delegates concurred in the following amendment of the bill by the Senate:

On pages one and two, section three, lines eleven and twelve, by striking out the words “the most recent published or normed version of the test” and inserting in lieu thereof the words “published or normed within the last ten years”.

On page two, section three, line fourteen, after the word “a”, by inserting the word “school’s”.

On page three, section three, line forty-seven, by striking out the words “does no longer satisfy” and inserting in lieu thereof the words “no longer satisfies”.

And,

By amending the title of the bill to read as follows:

**H. B. 4183** – “A Bill to amend and reenact §18-28-3 of the Code of West Virginia, 1931, as amended, relating generally to testing requirements for nonpublic schools; requiring a nationally normed standardized achievement test be administered at the same grade levels and in the same subject areas as required in the public schools; requiring test to be published or normed within the last ten years; requiring the student participation rate on the standardized achievement test be the same as that required in the public schools; removing exemption for nonpublic schools that exclusively teach special education students or students with learning disabilities from provisions pertaining to accountability for the school’s composite test results falling below the 40<sup>th</sup> percentile; requiring for those schools assessment to be made of students at the same grade levels and in the same subject areas as required in the public schools; allowing testing in additional subject areas or grade levels at sole discretion of school; and conforming provisions pertaining to accountability for a school’s composite test results falling below the 40<sup>th</sup> percentile.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 394**), and there were—yeas 98, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4183) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had replaced Senator Beach with Senator Woelfel as a member of conference on

**Com. Sub. for H. B. 4186**, Relating generally to guaranteed asset protection waivers.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 4275**, Relating to the law-enforcement authority of the director and officers of the division of protective services.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 4400**, Relating to the West Virginia Physicians Mutual Insurance Company.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**H. B. 4462**, Allowing off duty members and officers of the department of public safety to guard private property.

On motion of Delegate Cowles, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 2. WEST VIRGINIA STATE POLICE.

**§15-2-18. Officers or members performing failure to perform duties; ~~for private persons~~ general penalty; providing extraordinary police or security services by contract.**

(a) Any officer or member of the ~~department of public safety~~ State Police who ~~hires himself or herself to any person, firm or corporation to guard private property, or who~~ demands or receives from any person, firm or corporation any money or other thing of value as a consideration for the performance of, or the failure to perform, his or her duties under the ~~regulations~~ rules of the superintendent and the provisions of this article, ~~shall be~~ is guilty of a felony, and, upon conviction thereof, shall be ~~confined imprisoned in the penitentiary~~ a correctional facility for not less than one nor more than five years, and any such officer or member of the ~~department of public safety~~ State Police who violates any other provisions of this article, for which no other penalty is expressly provided, ~~shall be~~ is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$25 nor more than \$200, or ~~imprisoned~~ confined in the county jail for not more than four months, or both fined and ~~imprisoned~~ confined.

(b) Notwithstanding any other provision of this article to the contrary, the superintendent may contract with public, quasi-public, military, or private entities to provide extraordinary police or security services by the ~~department~~ State Police when it is determined by the superintendent to be in the public interest. The superintendent shall assign ~~such~~ the personnel, equipment, or facilities as ~~is deemed~~ he or she considers necessary and the ~~department~~ State Police shall be reimbursed for the wages, overtime wages, benefits, and costs of providing the contract services as negotiated between the parties. The compensation paid to ~~public safety~~ State Police personnel by virtue of contracts



provided for in this section shall be paid from a special account and shall be excluded from any formulation used to calculate an employee's benefits. All requests for obtaining extraordinary police or security services shall be made to the superintendent in writing and shall explain the funding source and the authority for making ~~such a~~ the request. ~~No~~ An officer or member of the ~~department shall be~~ State Police may not be required to accept any assignment made pursuant to this subsection. Every officer or member assigned to duty ~~hereunder~~ under this section shall be paid according to the hours and overtime hours actually worked notwithstanding that officer's or member's status as exempt personnel under the Federal Labor Standards Act or applicable state statutes. Every contract entered into under this subsection shall contain the provision that in the event of public disaster or emergency where the reassignment to official duty of all officers and members is required, neither the ~~department~~ State Police nor any of its officers or members ~~shall be~~ are liable for any damages incurred as the result of the reassignment. Further, any entity contracting with the ~~department of public safety~~ State Police, an officer, or member under this section shall also agree as part of that contract to hold harmless and indemnify the state, ~~department of public safety~~ State Police and its personnel from any liability arising out of employment under the contract. The superintendent ~~is authorized to promulgate~~ may propose legislative rules ~~and regulations~~ for promulgation in accordance with §29A-3-1 *et seq.* of this code, relating to the implementation of any contracts made under this subsection: *Provided, That* ~~said regulations~~ the rules shall expressly prohibit private employment of officers or members in circumstances involving labor disputes. Notwithstanding any provision of this article to the contrary, an officer or member may contract to work for a private person or entity during his or her off duty hours: Provided, however That the contract work may not be a type prohibited by this code or the rules of the State Police on the locations and the nature of services provided."

And,

By amending the title of the bill to read as follows:

**H. B. 4462** - “A Bill to amend and reenact §15-2-18 of the Code of West Virginia, 1931, as amended, relating to allowing off duty members and officers of the State Police to contract to work for a private person or entity during off duty hours as long as the type of the contract work does not violate State Police rules as to location or nature.”

The bill, as amended by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 395**), and there were—yeas 98, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4462) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 4522**, Allowing certain tax information to be shared with the Director of Purchasing Division, Department of Administration, and State Auditor.

On motion of Delegate Cowles, the House of Delegates concurred in the following amendment of the bill by the Senate, with further title amendment:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 10. TAX PROCEDURE AND ADMINISTRATION  
ACT.**

**§11-10-5dd. Disclosure of certain tax information pursuant to written agreements with state agencies purchasing or leasing goods or services or the Enterprise Resource Planning Board to facilitate purchasing; and the State Auditor.**

(a) *General.* – Notwithstanding any provision of this code to the contrary, the Tax Commissioner may enter into written agreements with other agencies of this state, as provided in this section, to share certain tax information, as defined in this section.

(b) *Contracts with the state.* – Notwithstanding any provision of this article to the contrary, the Tax Commissioner may enter into a written agreement with the chief executive officer of an agency with authority to award public contracts for the purchase or lease of goods or services, or with the chief executive officer of the Enterprise Resource Planning Board to facilitate purchasing or leasing of goods and service, to disclose whether a vendor, or prospective vendor, is in good standing before a public contract is awarded or renewed.

(c) *State Auditor.* – The State Auditor is authorized to request from the Tax Commissioner, and the Tax Commissioner shall provide to the State Auditor, confirmation whether a vendor is in good standing with the Tax Commissioner. When the State Auditor provides the Tax Commissioner an electronic file, the Tax Commissioner will determine in a timely manner whether the vendor is in good standing and, if the vendor is not in good standing, electronically advise the State Auditor of the amount of taxes, interest and additions to tax that are then due and owing by that vendor to the Tax Commissioner that should be offset, if any, or that the vendor needs to contact the Tax Commissioner's office to resolve the issue that prevents the vendor from being in good standing, before the vendor will be paid by the state.

(d) As used in §11-10-5dd of this code, the term 'good standing' means that the person has a current business registration certificate under §11-12-1 *et seq.* of this code, has filed all required returns for taxes administered under §11-10-1 *et seq.* and has paid all taxes shown to be due on those returns. A person is in 'good

standing' even though the person may be paying taxes under a payment plan provided the person is in compliance with the terms of the written payment plan agreement; or is contesting an assessment for one or more taxes administered under §11-10-1 et seq. before the Office of Tax Appeals or in a court of this state.

(e) Exchanges of information under §11-10-5dd of this code shall occur pursuant to memorandums of understanding executed by the Tax Commissioner and the chief executive officer of any agency to award public contracts for the purchase or lease of goods or services; the chief executive officer of the Enterprise Resource Planning Board; or the State Auditor, as the case may be. These memorandums may be amended from time to time.”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 396**), and there were—yeas 96, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Upson.

Absent and Not Voting: Deem and Nelson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4522) passed.

On motion of Delegate Cowles, the title of the bill was amended to read as follows:

**Com. Sub for H. B. 4522** - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-10-5dd, relating to allowing certain tax information to be shared with the State Auditor and the chief executive officer of the Enterprise Resource Planning Board and of certain other agencies pursuant to written agreements; and defining terms.”

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 4546**, Relating to where an application for a marriage license may be made.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, with amendment, of a concurrent resolution of the House of Delegates as follows:

**H. C. R. 5**, U. S. Army PFC Jessie Franklin Crow Memorial Bridge.

On motion of Delegate Cowles, the House of Delegates concurred in the following Senate amendment:

On page one, in the fourth Whereas clause, line ten, after the word “Crow”, by inserting a comma.

And,

On page one, in the fourth Whereas clause, line eleven, by striking out the word “to” and inserting in lieu thereof a comma and the word “should”.

The resolution was then adopted.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

**H. C. R. 8**, Funding for feasibility study of Coal-to-Chemicals Project.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had agreed to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses as to

**Com. Sub. for S. B. 46**, Permitting pharmacists to inform customers of lower-cost alternative drugs.

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Takubo, Cline and Stollings.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**Com. Sub. for S. B. 102**, Creating WV Uniform Fiduciary Access to Digital Assets Act.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**Com. Sub. for S. B. 133**, Exempting renewal of certain contracts entered into during declared state of emergency.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**Com. Sub. for S. B. 272**, Relating generally to drug control.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, to take effect July 1, 2018, of

**Com. Sub. for S. B. 319**, Allowing individuals who completed home schooling be eligible for PROMISE scholarship without equivalent diploma.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**S. B. 365**, Relating to Young Entrepreneur Reinvestment Act.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**Com. Sub. for S. B. 404**, Relating to sex offender registry information.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**S. B. 427**, Modifying form of notice for certain tax delinquencies.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, to take effect July 1, 2018, of

**S. B. 441**, Relating to health care provider taxes.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**Com. Sub. for S. B. 456**, Physical Therapy Licensure Compact Act.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**Com. Sub. for S. B. 499**, Requiring one year of certain approved postgraduate clinical training for persons with foreign medical degrees.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**Com. Sub. for S. B. 510**, Designating hospitals for stroke treatment.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

**Com. Sub. for S. C. R. 29** - "Requesting the Division of Highways name bridge number 30-3/5-19.82 (30A268), locally known as Lowney Singing Bridge, carrying County Route 3/5 over the West Fork of Twelvepole Creek in Mingo County, the 'U. S. Army SGT Benny Fleming Memorial Bridge'."

Whereas, SGT Benny Fleming was born on June 9, 1948, to Goodlow Fleming and Lora Evans of Wilsondale, and passed away August 30, 2013; and



Whereas, SGT Benny Fleming was a lifelong resident of Mingo County where he raised a family and made a living as a coal miner. Throughout his life, he overcame many obstacles, all while maintaining a great attitude; and

Whereas, SGT Benny Fleming attended Lowney Grade School near his family home, and graduated from Lenore High School in 1966. That same year, he enlisted in the U. S. Army. In the five years he served, he was promoted Sergeant E-5, served in Vietnam, and eventually received an honorable discharge. After returning home, he worked for the West Virginia Division of Highways; and

Whereas, SGT Benny Fleming began working underground in the coal mines in 1970s, when the danger of working underground was at its highest. He worked for Dehue Mines in Logan until they closed, and then went to work at Rawl Sales Rocky Hollow for nearly 15 years until he suddenly became sick while on vacation with his family. He was diagnosed with transverse myelitis. After spending months in the hospital, and then at a rehabilitation center, he was left paralyzed from the waist down and confined to a wheelchair; and

Whereas, When faced with an obstacle such as this, most people would have given up, but not SGT Benny Fleming. He had to learn how to use his hands again, and how to sit up again. He learned how to cook, clean, do laundry, and be self-sufficient. Eventually, he would mow his own grass, and his sister's, just to keep busy. He also became active in helping facilities become handicapped accessible. It was very important to him to be able to get in and out of places without having to ask for assistance; and

Whereas, SGT Benny Fleming had two daughters, Mabelle and Teresa. He loved them dearly. They married and had children of their own. Mabelle had his first grandchild, Jarrid, in 1991. This gave Benny something to get stronger for, and something to look forward to. Jarrid was his whole world. He would spend weekends with Benny, and he would feed him, bathe him, and change his diaper, all while being confined to a wheelchair; and

Whereas, Five years later, Mabelle had SGT Benny Fleming's second grandchild, Seann Cameron. He and Benny spent their time fishing, riding four wheelers, and Benny would point out deer and bear tracks to his grandson. Some weekends, Benny would keep both boys. That was when he was at his happiest; and

Whereas, In August of 1998, Teresa had SGT Benny Fleming's third grandchild, a boy named Carson. Just as he did with the grandsons before him, SGT Benny Fleming loved to spend time with him, watching him play basketball and talk about trains. He, too, would spend the night with Benny, and he would see to it that he was well taken care of; and

Whereas, Because of his grandkids, the last years of SGT Benny Fleming's life were his happiest. In 2002, he was the official scorekeeper for his grandson Jarrid's baseball team and never missed a game. He traveled to the away games, as well as the home games, and treated Jarrid's teammates as if they were his own. He would buy the kids drinks, hotdogs, and candy at the games, and they loved him as if he were their own grandpa. He also spent time with his companion and life partner, Cathy Perry. They were at their happiest when spending time outdoors and sharing memories; and

Whereas, In his last few years, SGT Benny Fleming began reflecting on his life. He began compiling notes and started the process of writing a short story about the life and times of growing up in the 1950s. He titled it "Growing Up Lowney". It tells the story of when he was young and going to Lowney Grade School near his childhood home. He goes into great detail and tells everything he can remember of growing up in that area of Mingo County. He typed the story himself and surprised his children and grandchildren each with a copy. The seven-page story is Benny's legacy. It is a small glimpse into the type of man that he was. Although confined to a wheelchair for the last 25 years of his life, Benny overcame many obstacles with the love and support of his family. He overcame them to become a loving father, extraordinary grandfather, and outstanding member of the community, all with a smile on his face; and

Whereas, For these reasons it is fitting and proper that the bridge be named in honor of SGT Benny Fleming; therefore, be it

*Resolved by the West Virginia Legislature:*

That the Division of Highways is hereby requested to name bridge number 30-3/5-19.82 (30A268), locally known as Lowney Singing Bridge, carrying County Route 3/5 over the West Fork of Twelvepole Creek in Mingo County, the “U. S. Army SGT Benny Fleming Memorial Bridge”; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U. S. Army SGT Benny Fleming Memorial Bridge”; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

### **Resolutions Introduced**

Delegates Nelson, Anderson, Zatezalo, Pethtel, Ferro, Kelly, Caputo, Shott, Harshbarger, Boggs, Miley, Criss, Gearheart and Storch offered the following resolution, which was read by its title and referred to the Committee on Rules:

**H. C. R. 110** - “Requesting that the Joint Committee on Government and Finance comprehensively study mineral severance taxes and associated fees in West Virginia derived from the extraction of coal, oil and natural gas compared to other energy and mineral producing states throughout the country.”

Whereas, West Virginia ranked fourth among the states in total energy production in 2015, producing 4.7% of the domestic energy in the United States; and

Whereas, In 2016, West Virginia was the largest producer of coal east of the Mississippi River and the second largest coal producing state after Wyoming, producing 11% of the coal in the United States; and

Whereas, In 2016, West Virginia was the ninth-largest producer of natural gas in the United States, producing almost 1.4 trillion cubic feet of natural gas; and

Whereas, Due to the abundance and value of coal, oil, and natural gas within its boundaries, many West Virginians will continue to rely in many important ways upon extraction industries for their jobs, for tangential growth, and development of this State's economy, as well as for their contribution of the tax revenues necessary to provide good government; and

Whereas, During its current session, the Legislature has been asked to consider many proposals for law offered by and in behalf of those industries to provide support to their efforts to remain viable; and

Whereas, It is in the best interests of the citizens of this State that the Legislature consider each of these proposals carefully in order to ensure that its actions provide those industries the best opportunity to remain viable and therefore continue to provide as many jobs, economic growth and development, and tax revenues as may be possible for the citizens of this State; therefore, be it

*Resolved by Legislature of West Virginia:*

That the Joint Committee on Government and Finance is hereby requested to study the economic effects of severance taxes on markets for minerals; to compare West Virginia's severance taxes to those in other mineral producing states; and to analyze the potential benefits of altering the current severance tax structure. The study should separately examine severance taxes on oil, natural gas, coalbed methane, and coal. The study should examine the effect of varying the rate of severance tax on natural gas based on various factors, including, but not limited to, whether the natural gas produced is "wet" or "dry"; whether the natural gas was produced by a vertical or horizontal well; the annual output of the well from which the natural gas is produced; and the prevailing market price of natural gas. The study should examine the effect of varying the rate of severance tax on coal based on various factors, including, but not limited to, whether the coal produced is

“thermal” or “metallurgical”; whether the coal produced is consumed in West Virginia, in the United States, or is exported to a foreign country; and the prevailing market price of coal.

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2019, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

*Further Resolved*, That the expenses necessary to conduct this study, to prepare a report, and to draft necessary legislation, be paid from legislative appropriations to the Joint Committee on Government and Finance.

### **Special Calendar**

#### **Unfinished Business**

**H. C. R. 100**, Morgantown High School Veterans Bridge; coming up in regular order, as unfinished business, was reported by the Clerk.

Delegate Pyles moved to amend the resolution, on page two, by striking out all of lines four through six, and inserting in lieu thereof the following:

“That the Division of Highways is hereby requested to name bridge number 31-7-33.17, locally known as the Pleasant Street Bridge, carrying County Route 119/19 over Deckers Creek in Monongalia County, the ‘Morgantown High School Veterans Bridge’; and, be it”.

And,

On page one, by striking out the title and substituting therefor a new title, to read as follows:

**H. C. R. 100** - “Requesting the Division of Highways name bridge number 31-7-33.17, locally known as the Pleasant Street Bridge, carrying County Route 119/19 over Deckers Creek in

Monongalia County, the ‘Morgantown High School Veterans Bridge’.”

On the adoption of the amendment, Delegate Pyles demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 397**), and there were—yeas 31, nays 67, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Barrett, Bates, Boggs, Brewer, Byrd, Campbell, Canestraro, Caputo, Diserio, Eldridge, Ferro, Fleischauer, Fluharty, Hicks, Hornbuckle, Isner, Longstreth, Lovejoy, Lynch, Marcum, Miley, Moye, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Thompson and Williams.

Absent and Not Voting: Deem.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

The resolution was then adopted.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

### **Third Reading**

**S. B. 242**, Requiring health insurance providers provide coverage for certain Lyme disease treatment; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 398**), and there were—yeas 93, nays 5, absent and not voting 1, with the yeas and absent and not voting being as follows:

Nays: Fast, Folk, McGeehan, Paynter and Wilson.

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 242) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

### **Reordering of the Calendar**

Delegate Cowles announced that the Committee on Rules had transferred Com. Sub. for H. B. 4019, on Third reading, House Calendar, to the Special Calendar and then placed it at the foot of the calendar.

### **Special Calendar**

#### **Third Reading**

- continued -

**Com. Sub. for S. B. 273**, Reducing use of certain prescription drugs; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 399**), and there were—yeas 97, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 273) passed.

On motion of Delegate Ellington, the title of the bill was amended to read as follows:

**Com. Sub. for S. B. 273** - “A Bill to amend and reenact §16-5H-2 and §16-5H-9 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-5Y-2, §16-5Y-4, and §16-5Y-

5 of said code; to amend said code by adding thereto a new article, designated §16-54-1, §16-54-2, §16-54-3, §16-54-4, §16-54-5, §16-54-6, §16-54-7, §16-54-8, and §16-54-9; to amend and reenact §30-3-14 of said code; to amend and reenact §30-3A-1, §30-3A-2, §30-3A-3, and §30-3A-4 of said code; to amend and reenact §30-4-19 of said code; to amend and reenact §30-5-6 of said code; to amend and reenact §30-7-11 of said code; to amend and reenact §30-8-18 of said code; to amend and reenact §30-10-19 of said code; to amend and reenact §30-14-12a of said code; to amend and reenact §30-36-2 of said code; to amend said code by adding thereto a new section, designated §60A-5-509; and to amend and reenact §60A-9-4, §60A-9-5, and §60A-9-5a of said code, all relating to reducing the use of certain prescription drugs; providing for an exemption from registration for office-based, medication-assisted treatment program in specified cases; providing for an exemption for medication-assisted treatment programs; clarifying physician responsibility for medication-assisted treatment; clarifying definition of ‘pain management clinic’; providing for emergency rulemaking; defining terms; providing for an advance directive; requiring consultation with patients prior to prescribing an opioid; limiting the amount of opioid prescriptions; requiring a narcotics contract in certain circumstances; providing exceptions to prescribing limits; providing for referral to a pain clinic or pain specialist; providing reports to licensing boards regarding abnormal or unusual prescribing practices; requiring referral to certain alternative treatments; requiring insurance coverage for certain procedures to treat chronic pain; updating board’s titles; requiring the Board of Pharmacy to report quarterly to various licensing boards; exempting the Board of Pharmacy from certain purchasing requirements; clarifying who must report to the Controlled Substances Monitoring Database; clarifying the practice of acupuncture; precluding retaliation against a health care provider for declining to prescribe a narcotic; and permitting the investigation and discipline for abnormal and unusual prescribing and dispensing of prescription drugs.”

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.



**Com. Sub. for S. B. 275**, Relating to tax on purchases of intoxicating liquors; on third reading, coming up in regular order, was read a third time.

Delegate Ward requested to be excused from voting on the passage of Com. Sub. for S. B. 275 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 400**), and there were—yeas 92, nays 6, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Caputo, Diserio, Longstreth, Marcum, Thompson and Ward.

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 275) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**Com. Sub. for S. B. 290**, Relating to DEP standards of water quality and effluent limitations; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 401**), and there were—yeas 88, nays 9, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Fleischauer, Fluharty, Hornbuckle, Isner, Moore, Pushkin, Pyles, Rowe and Williams.

Absent and Not Voting: Deem and Robinson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 290) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**S. B. 322**, Relating to employees of Department of Agriculture; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 402**), and there were—yeas 97, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Deem and Robinson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 322) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**S. B. 385**, Decreasing and adding appropriations out of Treasury to DHHR and MAPS; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 403**), and there were—yeas 72, nays 26, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Barrett, Bates, Boggs, Byrd, Canestraro, Caputo, Diserio, E. Evans, Ferro, Fleischauer, Fluharty, Hornbuckle, Longstreth, Lynch, Marcum, McGeehan, Miley, R. Miller, Moye, Pushkin, Robinson, Rowe, Sponaule, Storch, Thompson and Williams.

Absent and Not Voting: Deem.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 385) passed.

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 404**), and there were—yeas 92, nays 6, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Barrett, Longstreth, Marcum, McGeehan, Sponaugle and Williams.

Absent and Not Voting: Deem.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 385) takes effect from its passage.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**Com. Sub. for S. B. 392**, Reconfiguring membership of Emergency Medical Services Advisory Council; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 405**), and there were—yeas 98, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 392) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**S. B. 411**, Removing Commissioner of Bureau for Public Health from State Board of Sanitarians; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 406**), and there were—yeas 86, nays 12, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Adkins, Bates, Brewer, Canestraro, Diserio, Eldridge, Ferro, Iaquina, Marcum, Robinson, Thompson and Williams.

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 411) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**S. B. 463**, Establishing group to examine benefits and need of transferring milk rules and regulations from DHHR to Agriculture; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 407**), and there were—yeas 92, nays 6, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Byrd, Hamilton, Hartman, Robinson, Upson and Williams.

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 463) passed.

An amendment to the title of the bill, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the title to read as follows:

**S. B. 463** - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-7-5a, relating to authorizing the establishment of a Joint Task Force on Milk Rules and Regulations; providing for the appointment of certain members by the Governor; authorizing the task force to study milk rules and regulations; providing for reimbursement of actual expenses for members; providing task force members may receive no compensation; authorizing the task force to propose legislation; and providing for the sunset of the task force.”

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**S. B. 498**, Creating two-year pilot program allowing all-terrain or recreational vehicles in Cabwaylingo State Forest; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 408**), and there were—yeas 96, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Hamilton and Iaquina.

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 498) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**Com. Sub. for S. B. 506**, Deregulating persons who perform work on heating, ventilating, and cooling systems; on third reading, coming up in regular order, was read a third time.

Delegate Householder requested to be excused from voting on the passage of Com. Sub. for S. B. 506 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 409**), and there were—yeas 89, nays 9, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Eldridge, Fleischauer, Fluharty, Hicks, Householder, Kelly, C. Miller, Rowe and Sobonya.

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 506) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**S. B. 525**, Relating to certification for emergency medical training - mining; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 410**), and there were—yeas 98, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 525) passed.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**Com. Sub. for S. B. 548**, Authorizing county commissions to pay election officials; on third reading, coming up in regular order, was read a third time.

Delegate Espinosa requested to be excused from voting on the passage of Com. Sub. for S. B. 548 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 411**), and there were—yeas 96, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: E. Evans and Love.

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 548) passed.

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 412**), and there were—yeas 98, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 548) takes effect from its passage.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates.

**Com. Sub. for S. B. 556**, Creating small business and minority populations economic and workforce development taskforce to assist Economic Development Authority; on third reading, coming up in regular order, was reported by the Clerk.

Delegate Cowles asked unanimous consent to place the bill at the foot of the calendar, which consent was not granted, objection being heard.

Delegate Cowles then moved to place the bill at the foot of the calendar.

Delegate Folk moved to table the bill.

On this motion, Delegate Caputo demanded the yeas and nays which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 413**), and there were—yeas 9, nays 88, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Blair, Butler, Cowles, Folk, Foster, Gearheart, McGeehan, Paynter and Wilson.

Absent and Not Voting: Deem and Eldridge.

So, a majority of the members present and voting not having voted in the affirmative, the motion was rejected.

The question being the motion to place the bill at the foot of the calendar, Delegate Caputo demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 414**), and there were—yeas 55, nays 43, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Barrett, Bates, Boggs, Brewer, Byrd, Campbell, Canestraro, Capito, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Frich, Hamilton, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Lane, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moore, Moye, Pethel, Phillips,



Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Thompson, Ward and Williams.

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the motion was adopted.

The bill was then moved to the foot of the calendar.

**S. B. 585**, Altering boundary line between Doddridge and Harrison counties; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 415**), and there were—yeas 98, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 585) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

**S. B. 585** - “A Bill to attach to Harrison County an area of Doddridge County so as to place all of the grounds of the Salem Correctional Center, formerly the West Virginia Industrial Home, within the boundary of Harrison County and to change the boundary line between said counties in conformity therewith.”

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 416**), and there were—yeas 98, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 585) takes effect from its passage.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

**Com. Sub. for S. B. 603**, Relating to proceedings for involuntary custody for examination; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 417**), and there were—yeas 98, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 603) passed.

On motion of Delegate Shott, the title of the bill was amended to read as follows:

**Com. Sub. for S. B. 603** - “A Bill to amend and reenact §27-5-2 and §27-5-3 of the Code of West Virginia, 1931, as amended, all relating to proceedings for involuntary custody for examination; adding licensed professional counselors to the list of professionals that may examine an individual by order of a circuit court, mental hygiene commissioner or magistrate; providing that a licensed professional counselor may only perform the examination if he or she has been previously authorized by an order of the circuit court to do so; and removing redundant language.”

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

At 1:05 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 2:30 p.m.

\* \* \* \* \*

### **Afternoon Session**

\* \* \* \* \*

The House of Delegates was called to order by the Honorable Tim Armstead, Speaker.

### **Reordering of the Calendar**

Delegate Cowles announced that the Committee on Rules had transferred Com. Sub. for S. B. 261, on Third Reading, House Calendar, to the Special Calendar.

### **Special Calendar**

#### **Third Reading**

**Com. Sub. for S. B. 261**, Transferring certain powers and programs of WV Affordable Housing Trust Fund to WV Housing Development Fund; on third reading, coming up in regular order, was read a third time.

Delegates Sobonya and Martin requested to be excused from voting on the passage of Com. Sub. for S. B. 261 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegates would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Members from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 418**), and there were—yeas 54, nays 43, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Barrett, Boggs, Brewer, Byrd, Campbell, Canestraro, Caputo, Diserio, Eldridge, A. Evans, E. Evans, Ferro, Fleischauer,

Fluharty, Frich, Hamilton, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, C. Miller, R. Miller, Moye, Pethel, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, R. Romine, Rowe, Sobonya, Sponaule, Thompson, Wagner and Williams.

Absent and Not Voting: Bates and Deem.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 261) passed.

An amendment to the title of the bill, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the title to read as follows:

**Com. Sub. for S. B. 261** - "A Bill to repeal §31-18D-1, §31-18D-2, §31-18D-3, §31-18D-4, §31-18D-5, §31-18D-6, §31-18D-7, §31-18D-8, §31-18D-9, §31-18D-10, §31-18D-11, §31-18D-12, §31-18D-13, §31-18D-14 and §31-18D-15 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-15-4c of said code; to amend and reenact §11-22-2 of said code; to amend and reenact §31-18-3, §31-18-6, §31-18-22 and §31-18-24 of said code; and to amend said code by adding thereto a new section, designated §31-18-20d, all relating generally to the elimination of the West Virginia Affordable Housing Trust Fund; transferring current responsibilities and duties of the West Virginia Housing Trust Fund to the West Virginia Housing Development Fund; creating Affordable Housing Fund of the West Virginia Housing Development Fund and providing for uses therefor; providing for assessment of fee on all sales by licensed dealers of factory-built homes to be deposited in Affordable Housing Fund of the West Virginia Housing Development Fund; providing for assessment of fee upon the privilege of transferring real estate for consideration to be deposited in the Affordable Housing Fund of the West Virginia Housing Development Fund; defining 'Affordable Housing Fund'; authorizing West Virginia Housing Development Fund to provide funding to increase the capacity of nonprofit community housing organizations; providing for uses of funds in Affordable Housing Fund; requiring certain reporting; providing

for disposition of Affordable Housing Fund in the event of termination or dissolution of West Virginia Housing Development Fund; and providing for windup of West Virginia Affordable Housing Trust Fund.”

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 419**), and there were—yeas 62, nays 35, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Boggs, Brewer, Campbell, Canestraro, Caputo, Diserio, Eldridge, A. Evans, E. Evans, Ferro, Fleischauer, Fluharty, Hamilton, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rohrbach, Rowe, Sponaule, Thompson, Wagner and Williams.

Absent and Not Voting: Bates and Deem.

So, two thirds of the members elected to the House of Delegates not having voted in the affirmative, the Speaker declared the motion rejected.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

## **Special Calendar**

### **Second Reading**

**Com. Sub. for S. J. R. 3**, Judicial Budget Oversight Amendment; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page one, by striking out

everything after the resolved clause and inserting in lieu thereof the following:

“That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at the next general election to be held in the year 2018, which proposed amendment is that section 51, article VI thereof be amended to read as follows:

## **ARTICLE VI.**

### **§51. Budget and supplementary appropriation bills.**

The Legislature shall not appropriate any money out of the treasury except in accordance with the provisions of this section.

#### **Subsection A – Appropriation Bills**

(1) Every appropriation bill shall be either a budget bill, or a supplementary appropriation bill, as hereinafter provided.

#### **Subsection B – Budget Bills**

(2) ~~Within ten days after the convening of the regular session of the Legislature in odd numbered years, unless such time shall be extended by the Legislature, On the second Wednesday of February in the year 2021 and every fourth year thereafter and on the second Wednesday of January in even-numbered~~ all other years, unless a later time in any year be fixed by the Legislature, the Governor shall submit to the Legislature a budget for the next ensuing fiscal year. The budget shall contain a complete plan of proposed expenditures and estimated revenues for the fiscal year and shall show the estimated surplus or deficit of revenues at the end of each fiscal year. Accompanying each budget shall be a statement showing: (a) An estimate of the revenues and expenditures for the current fiscal year, including the actual revenues and actual expenditures to the extent available, and the revenues and expenditures for the next preceding fiscal year; (b) the current assets, liabilities, reserves, and surplus or deficit of the state; (c) the debts and funds of the state; (d) an estimate of the state’s financial condition as of the beginning and end of the fiscal

year covered by the budget; and (e) any explanation the Governor may desire to make as to the important features of the budget and any suggestions as to methods for reduction or increase of the state's revenue.

(3) Each budget shall embrace an itemized estimate of the appropriations, in such form and detail as the Governor shall determine or as may be prescribed by law: (a) For the Legislature as certified to the Governor in the manner hereinafter provided; (b) for the executive department; (c) for the judiciary department, as provided by law, certified to the Governor by the Auditor; (d) for payment and discharge of the principal and interest of any debt of the state created in conformity with the constitution, and all laws enacted in pursuance thereof; (e) for the salaries payable by the state under the constitution and laws of the state; and (f) for such other purposes as are set forth in the constitution and in laws made in pursuance thereof.

(4) The Governor shall deliver to the presiding officer of each house the budget and a bill for all the proposed appropriations of the budget clearly itemized and classified, in such form and detail as the Governor shall determine or as may be prescribed by law; and the presiding officer of each house shall promptly cause the bill to be introduced therein, and such bill shall be known as the 'Budget Bill'. The Governor may, with the consent of the Legislature, before final action thereon by the Legislature, amend or supplement the budget to correct an oversight, or to provide funds contingent on passage of pending legislation, and in case of an emergency, he or she may deliver such an amendment or supplement to the presiding officers of both houses; and the amendment or supplement shall thereby become a part of the budget bill as an addition to the items of the bill or as a modification of or a substitute for any item of the bill the amendment or supplement may affect.

(5) The Legislature shall not amend the budget bill so as to create a deficit but may amend the bill by increasing or decreasing any item therein: *Provided*, That ~~no item relating to the~~ total appropriation relating to the judiciary shall not be decreased; by more than ten percent compared to the appropriation for the prior

fiscal year without a separate vote of the Legislature requiring a two-thirds vote of the members elected to each house determined by yeas and nays and entered on the journals: *Provided further*, That such separate vote is not required if the percentage of decrease in the total appropriation relating to the judiciary is equivalent to or less than the percentage of decrease for the entire general revenue budget as compared to the prior fiscal year, and except Except as otherwise provided in this constitution, the salary or compensation of any public officer shall not be increased or decreased during his or her term of office: and *Provided further*, That the Legislature shall not increase the estimate of revenue submitted in the budget without the approval of the Governor.

(6) The Chief Justice of the Supreme Court of Appeals, the Governor, and such representatives of the executive departments, boards, officers, and commissions of the state expending or applying for state moneys as have been designated by the Governor for this purpose, shall have the right, and when requested by either house of the Legislature it shall be their duty, to appear and be heard with respect to any budget bill, and to answer inquiries relative thereto.

### **Subsection C – Supplementary Appropriation Bills**

(7) Neither house shall consider other appropriations until the budget bill has been finally acted upon by both houses, and no such other appropriations shall be valid except: in accordance with the provisions following (a) Every such appropriation shall be embodied in a separate bill limited to some single work, object, or purpose therein stated and called therein a supplementary appropriation bill; (b) each supplementary appropriation bill shall provide the revenue necessary to pay the appropriation thereby made by a tax, direct or indirect, to be laid and collected as ~~shall be~~ directed in the bill unless it appears from such budget that there is sufficient revenue available.

### **Subsection D – General Provisions**

(8) If the budget bill shall not have been finally acted upon by the Legislature three days before the expiration of its regular



session, the governor shall issue a proclamation extending the session for such further period as may, in his or her judgment, be necessary for the passage of the bill; but no matter other than the bill shall be considered during such an extension of a session except the matters detailed in section 14, article VII of this Constitution and a provision for the cost thereof.

(9) For the purpose of making up the budget, the Governor shall have the power and it shall be his or her duty, to require from the proper state officials, including herein all executive departments, all executive and administrative officers, bureaus, boards, commissions, and agencies expending or supervising the expenditure of, and all institutions applying for state moneys and appropriations, such itemized estimates and other information, in such form and at such times as he or she shall direct. The estimates for the legislative department, certified by the presiding officer of each house, and for the judiciary, as provided by law, certified by the Auditor, shall be transmitted to the Governor in such form and at such times as he or she shall direct and shall be included in the budget.

(10) The Governor may provide for public hearings on all estimates and may require the attendance at such hearings of representatives of all agencies and all institutions applying for state moneys. After such public hearings he or she may, in his or her discretion, revise all estimates except those for the legislative and judiciary departments.

(11) Every budget bill or supplementary appropriation bill passed by a majority of the members elected to each house of the Legislature shall, before it becomes a law, be presented to the Governor. The Governor may veto the bill, or he or she may disapprove or reduce items or parts of items contained therein. If he or she approves, he or she shall sign it and thereupon, it shall become a law. The bill, items or parts thereof, disapproved or reduced by the Governor, shall be returned with his or her objections to each house of the Legislature.

Each house shall enter the objections at large upon its journal and proceed to reconsider. If, after reconsideration, two thirds of

the members elected to each house agree to pass the bill, or such items or parts thereof, as were disapproved or reduced, the bill, items or parts thereof, approved by two thirds of such members, shall become law, notwithstanding the objections of the Governor. In all such cases, the vote of each house shall be determined by yeas and nays to be entered on the journal.

A bill, item or part thereof, which is not returned by the Governor within five days (Sundays excepted) after the bill has been presented to him or her shall become a law in like manner as if he or she had signed the bill, unless the Legislature, by adjournment, prevents such return, in which case it shall be filed in the office of the Secretary of State, within five days after such adjournment, and shall become a law; or it shall be so filed within such five days with the objections of the governor, in which case it shall become law to the extent not disapproved by the Governor.

(12) The Legislature may, from time to time, enact such laws, not inconsistent with this section, as may be necessary and proper to carry out its provisions.

(13) In the event of any inconsistency between any of the provisions of this section and any of the other provisions of the constitution, the provisions of this section shall prevail. But nothing herein shall be construed as preventing the Governor from calling extraordinary sessions of the Legislature, as provided by section nineteen of this article, or as preventing the Legislature at such extraordinary sessions from considering any emergency appropriation or appropriations.

(14) If any item of any appropriation bill passed under the provisions of this section shall be held invalid upon any ground, such invalidity shall not affect the legality of the bill or of any other item of such bill or bills.

*Resolved further,* That in accordance with the provisions of article eleven, chapter three of the Code of West Virginia, 1931, as amended, such amendment is hereby numbered ‘Amendment No. 1’ and designated as the ‘Judicial Budget Oversight Amendment’ and the purpose of the proposed amendment is summarized as

follows: ‘Giving the Legislature the authority to reduce items in the budget related to the judiciary, preventing the Legislature from any decrease of the appropriation to the judiciary greater than ten percent without a two-thirds vote of each House of the Legislature; providing that such separate vote is not required if the total budget has been decreased by an equivalent proportion, providing that when requested by the Legislature, the Chief Justice of the Supreme Court of Appeals must appear and be heard and answer inquiries relative any budget bill, and conforming language relating to the introduction of the budget and matters that may be taken up during extended sessions to more recent amendments to the constitution’.”

Delegates Sponaugle and Folk moved to amend the Judiciary Committee amendment on page three, Subsection B, lines fifty through fifty-two, by striking out the colon on line fifty and the subsequent words on lines fifty, fifty-one and fifty-two to appear as follows: “~~:- and *Provided further*, That the Legislature shall not increase the estimate of revenue submitted in the budget without the approval of the Governor~~”;

And,

On page six, Subsection D, line one hundred twenty, following the words “to the judiciary”, by inserting “allowing the Legislature to revise revenue estimates of the Governor” and a comma.

On the adoption of the amendment to the Judiciary Committee amendment, Delegate Sponaugle demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 420**), and there were—yeas 35, nays 63, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Barrett, Bates, Boggs, Brewer, Canestraro, Caputo, Dean, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Hartman, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, McGeehan, Miley, R. Miller, Moye,

Paynter, Pethtel, Pyles, Robinson, Rodighiero, Sponaule, Thompson and Williams.

Absent and Not Voting: Deem.

So, a majority of the members present and voting not having voted in the affirmative, the amendment to the amendment was rejected.

On motion of Delegate Sponaule, the amendment to the Judiciary Committee amendment was adopted, on page three, Subsection B, line forty-seven, by striking out the word "*further*" and inserting in lieu thereof the word "*however*".

The Judiciary Committee amendment, as amended, was then adopted.

The resolution was then ordered to third reading.

**Com. Sub. for S. B. 10**, Relating generally to PSC jurisdiction; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“CHAPTER 8. MUNICIPAL CORPORATIONS.**

**ARTICLE 19. MUNICIPAL AND COUNTY  
WATERWORKS AND ELECTRIC POWER SYSTEMS.**

**PART II. LIMITATIONS ON SALE OR LEASE OF CERTAIN MUNICIPAL  
WATERWORKS.**

**§8-19-2. Contracts for purchase of electric power or energy by  
a municipality; definitions; requirements; payments; rates  
and charges.**

(a) For the purposes of this section:

(1) ‘Contract’ means an agreement entered into by a municipality with any other party for the purchase of electric output, capacity, or energy from a project as defined herein;

(2) ‘Any other party’ means any other legal entity, including, but not limited to, another municipality, political subdivision, public authority, agency, or instrumentality of any state or the United States, a partnership, a limited partnership, a limited liability company, a corporation, an electric cooperative or an investor-owned utility existing under the laws of any state; and

(3) ‘Project’ or ‘projects’ means systems or facilities owned by another party and used for the generation, transmission, transformation, or supply of electric power, or any interest in them, whether an undivided interest as a tenant in common or otherwise, or any right to the output, capacity, or services thereof.

(b) In addition to the general authority to purchase electricity on a wholesale basis for resale to its customers, any municipality that owns and operates an electric power system under the provisions of this article may enter into a contract with any other party for the purchase of electricity from one or more projects located in the United States that provides that the contracting municipality is obligated to make payments required by the contract whether or not a project is completed, operable, or operating and notwithstanding the suspension, interruption, interference, reduction, or curtailment of the output of a project or the power and energy contracted for, and that the payments shall not be subject to any reduction, whether by offset or otherwise, and shall not be conditioned upon performance or nonperformance by any other party. The contract may provide that, in the event of a default by the municipality or any other party to the contract in the performance of each entity’s obligations under the contract, any nondefaulting municipality or any other party to the contract shall on a pro rata basis succeed to the rights and interests of, and assume the obligations of, the defaulting party.

(c) Notwithstanding any other provisions of law, ordinance or charter provision to the contrary, a contract under §8-19-2(b) of this code may extend for more than 50 years or 50 years from the

date a project is estimated to be placed into normal continuous operation and the execution and effectiveness of the contract is not subject to any authorizations or approvals by the state or any agency, commission, instrumentality, or political subdivision thereof except as otherwise specifically required by law.

(d) A contract §8-19-2(b) of this code may provide that payments by the municipality are made solely from and may be secured by a pledge of and lien upon revenues derived by the municipality from ownership and operation and that payments shall constitute an operating expense of the electric power system. No obligation under the contract shall constitute a legal or equitable pledge, charge, lien, or encumbrance upon any property of the municipality or upon any of its income, receipts, or revenues, except the revenues of the municipality's electric power system. Neither the faith and credit nor the taxing power of the municipality shall be pledged for the payment of any obligation under the contract.

(e) A municipality contracting under the provisions of §8-19-2(b) of this code is obligated to fix, charge, and collect rents, rates, fees, and charges for electric power and energy and other services it sells, furnishes, or supplies through its electric power system in an amount sufficient to provide revenues adequate to meet its obligations under the contract and to pay any and all other amounts payable from or constituting a charge and lien upon the revenues, including the amounts necessary to pay the principal and interest on any municipal bonds issued related to its electric power system: *Provided*, That any change in the rates and charges of the municipality to the customers of the electric power system under the provisions of this section are subject to the provisions and requirements of ~~section four-b, article two, chapter twenty-four~~ §8-19-2a of this code and the obligations of the municipality under the contract are costs of providing electric service within the meaning of that section.

**§8-19-2a. Procedure for changing rates of municipal electric power systems; legislative findings.**

All rates, fees, and charges set by municipal electric power systems shall be just, reasonable, applied without unjust discrimination between or preference for any customer or class of customer, and based primarily on the costs of providing these services. All rates and charges shall be based upon the measured or reasonably estimated cost of service and the equitable sharing of those costs between customers based upon the cost of providing the service received by the customer, including a reasonable slant-in-service depreciation expense. The rates and charges shall be adopted by the power system's governing board by municipal ordinance to be effective not sooner than 45 days after adoption. The 45-day waiting period may be waived by public vote of the governing body if that body finds and declares the public utility that is a political subdivision of the state to be in financial distress, such that the 45-day waiting period would be detrimental to the ability of the utility to deliver continued and compliant public services: *Provided*, That notice of intent to effect a rate change shall be specified on the monthly billing statement of the customers of the utility for the month next preceding the month in which the rate change is to become effective, and the governing body shall give its customers other reasonable notices as will allow filing of timely objections to the proposed rate change and full participation in municipal rate legislation through the provision of a public forum in which customers may comment upon the proposed rate change prior to an enactment vote. Notwithstanding the exclusion of municipal power systems' rates, fees, charges, and rate-making process from the jurisdiction of the Public Service Commission, municipal power systems shall submit information regarding their rates, fees, and charges to the commission as set forth in §24-2-9 of this code.

**§8-19-2b. Right of appeal by customers.**

Customers may appeal a rate increase to the circuit court of the county in which the municipality is located on the grounds that the rate ordinance or its passage does not comply with the provisions of this article by filing a petition, signed by at least 750 customers or 25 percent of the customers served by the municipal electric utility, whichever is fewer. Any petition challenging the ordinance

must be filed within 30 days following the adoption of the rate ordinance.

## **CHAPTER 16. PUBLIC HEALTH.**

### **ARTICLE 13A. PUBLIC SERVICE DISTRICTS.**

#### **§16-13A-9. Rules; service rates and charges; discontinuance of service; required water and sewer connections; lien for delinquent fees**

(a) (1) The board may make, enact and enforce all needful rules in connection with the acquisition, construction, improvement, extension, management, maintenance, operation, care, protection, and the use of any public service properties owned or controlled by the district. The board shall establish, in accordance with this article, rates, fees and charges for the services and facilities it furnishes, which shall be sufficient at all times, notwithstanding the provisions of any other law or laws, to pay the cost of maintenance, operation and depreciation of the public service properties and principal of and interest on all bonds issued, other obligations incurred under the provisions of this article and all reserve or other payments provided for in the proceedings which authorized the issuance of any bonds under this article. The schedule of the rates, fees and charges may be based upon:

(A) The consumption of water or gas on premises connected with the facilities, taking into consideration domestic, commercial, industrial and public use of water and gas;

(B) The number and kind of fixtures connected with the facilities located on the various premises;

(C) The number of persons served by the facilities;

(D) Any combination of paragraphs (A), (B) and (C) of this subdivision; or

(E) Any other basis or classification which the board may determine to be fair and reasonable, taking into consideration the location of the premises served and the nature and extent of the



services and facilities furnished. However, no rates, fees or charges for stormwater services may be assessed against highways, road and drainage easements or stormwater facilities constructed, owned or operated by the West Virginia Division of Highways.

(2) The board of a public service district with at least ~~four thousand five hundred~~ 4,500 customers and annual combined gross revenue of \$3 million dollars or more from its separate or combined water and sewer services may make, enact and enforce all needful rules in connection with the enactment or amendment of rates, fees and charges of the district. At a minimum, these rules shall provide for:

(A) Adequate prior public notice of the contemplated rates, fees and charges by causing a notice of intent to effect such a change to be provided to the customers of the district for the month immediately preceding the month in which the contemplated change is to be considered at a hearing by the board. Such notice shall include a statement that a change in rates, fees and charges is being considered, the time, date and location of the hearing of the board at which the change will be considered and that the proposed rates, fees and charges are on file at the office of the district for review during regular business hours. Such notice shall be printed on, or mailed with, the monthly billing statement, or provided in a separate mailing.

(B) Adequate prior public notice of the contemplated rates, fees and charges by causing to be published, after the first reading and approval of a resolution of the board considering such revised rates, fees and charges but not less than one week prior to the public hearing of the board on such resolution, as a Class I legal advertisement, of the proposed action, in compliance with the provisions of §59-3-1 *et seq.* of this code. The publication area for publication shall be all territory served by the district. If the district provides service in more than one county, publication shall be made in a newspaper of general circulation in each county that the district provides service.

(C) The public notice of the proposed action shall summarize the current rates, fees and charges and the proposed changes to said

rates, fees and charges; the date, time and place of; the public hearing on the resolution approving such revised rates, fees and charges and the place or places within the district where the proposed resolution approving the revised rates, fees and charges may be inspected by the public. A reasonable number of copies of the proposed resolution shall be kept at the place or places and be made available for public inspection. The notice shall also advise that interested parties may appear at the public hearing before the board and be heard with respect to the proposed revised rates, fees and charges.

(D) The resolution proposing the revised rates, fees and charges shall be read at two meetings of the board with at least two weeks intervening between each meeting. The public hearing may be conducted by the board prior to, or at, the meeting at which the resolution is considered for adoption on the second reading.

(E) Rates, fees and charges approved by resolution of the board shall be forwarded in writing to the county commission with the authority to appoint the members of the board. The county commission shall publish notice of the proposed revised rates, fees and charges by a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code. Within 45 days of receipt of the proposed rates, fees and charges, the county commission shall take action to approve, modify, or reject the proposed rates, fees and charges, in its sole discretion. If, after 45 days, the county commission has not taken final action to approve, modify or reject the proposed rates, fees and charges, as presented to the county commission, shall be effective with no further action by the board or county commission. In any event, this 45-day period shall be mandatory unless extended by the official action of both the board proposing the rates, fees and charges, and the appointing county commission.

(F) Enactment of the proposed or modified rates, fees and charges shall follow an affirmative vote by the county commission and shall be effective no sooner than 45 days following action. The 45-day waiting period may be waived by public vote of the county commission only if the commission finds and declares the district to be in financial distress such that the 45-day waiting period would

be detrimental to the ability of the district to deliver continued and compliant public services.

(G) The public service district, or a customer aggrieved by the changed rates or charges who presents to the circuit court a petition signed by at least 750 customers or 25 percent of the customers served by the public service district, whichever is fewer, when dissatisfied by the approval, modification, or rejection by the county commission of the proposed rates, fees and charges under the provisions of this subdivision (2) may file a complaint regarding the rates, fees and charges resulting from the action of, or failure to act by, the county commission in the circuit court of the county in which the county commission sits: *Provided*, That any complaint or petition filed hereunder shall be filed within 30 days of the county commission's final action approving, modifying or rejecting such rates, fees and charges, or the expiration of the 45 day period from the receipt by the county commission, in writing, of the rates, fees and charges approved by resolution of the board, without final action by the county commission to approve, modify or reject such rates, fees and charges, and the circuit court shall resolve said complaint: *Provided, however*, That the rates, fees and charges so fixed by the county commission, or those adopted by the district upon which the county commission failed to act, shall remain in full force and effect, until set aside, altered or amended by the circuit court in an order to be followed in the future.

(3) Where water, sewer, stormwater or gas services, or any combination thereof, are all furnished to any premises, the schedule of charges may be billed as a single amount for the aggregate of the charges. The board shall require all users of services and facilities furnished by the district to designate on every application for service whether the applicant is a tenant or an owner of the premises to be served. If the applicant is a tenant, he or she shall state the name and address of the owner or owners of the premises to be served by the district. Notwithstanding the provisions of §24-3-8 of this code to the contrary, all new applicants for service shall deposit the greater of a sum equal to two twelfths of the average annual usage of the applicant's specific customer class or \$50, with the district to secure the payment of service rates, fees and charges

in the event they become delinquent as provided in this section. If a district provides both water and sewer service, all new applicants for service shall deposit the greater of a sum equal to two twelfths of the average annual usage for water service or \$50 and the greater of a sum equal to two twelfths of the average annual usage for wastewater service of the applicant's specific customer class or \$50. In any case where a deposit is forfeited to pay service rates, fees and charges which were delinquent at the time of disconnection or termination of service, no reconnection or reinstatement of service may be made by the district until another deposit equal to the greater of a sum equal to two twelfths of the average usage for the applicant's specific customer class or \$50 has been remitted to the district. After 12 months of prompt payment history, the district shall return the deposit to the customer or credit the customer's account at a rate as the Public Service Commission may prescribe: *Provided*, That where the customer is a tenant, the district is not required to return the deposit until the time the tenant discontinues service with the district. Whenever any rates, fees, rentals or charges for services or facilities furnished remain unpaid for a period of 20 days after the same become due and payable, the user of the services and facilities provided is delinquent and the user is liable at law until all rates, fees and charges are fully paid. The board may, under reasonable rules promulgated by the Public Service Commission, shut off and discontinue water or gas services to all delinquent users of either water or gas facilities, or both, 10 days after the water or gas services become delinquent: *Provided, however*, That nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the board to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill.

(b) In the event that any publicly or privately owned utility, city, incorporated town, other municipal corporation or other public service district included within the district owns and operates separately water facilities, sewer facilities or storm water facilities and the district owns and operates another kind of facility, either water or sewer, or both, as the case may be, then the district and the publicly or privately owned utility, city, incorporated town or other municipal corporation or other public service district shall

covenant and contract with each other to shut off and discontinue the supplying of water service for the nonpayment of sewer or storm water service fees and charges: *Provided*, That any contracts entered into by a public service district pursuant to this section shall be submitted to the Public Service Commission for approval. Any public service district which provides water and sewer service, water and storm water service or water, sewer and storm water service has the right to terminate water service for delinquency in payment of water, sewer or storm water bills. Where one public service district is providing sewer service and another public service district or a municipality included within the boundaries of the sewer or storm water district is providing water service and the district providing sewer or storm water service experiences a delinquency in payment, the district or the municipality included within the boundaries of the sewer or storm water district that is providing water service, upon the request of the district providing sewer or storm water service to the delinquent account, shall terminate its water service to the customer having the delinquent sewer or storm water account: *Provided, however*, That any termination of water service must comply with all rules and orders of the Public Service Commission: *Provided further*, That nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the public service districts to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill.

(c) Any district furnishing sewer facilities within the district may require or may, by petition to the circuit court of the county in which the property is located, compel or may require the ~~Division of Health~~ Bureau for Public Health to compel all owners, tenants or occupants of any houses, dwellings and buildings located near any sewer facilities where sewage will flow by gravity or be transported by other methods approved by the ~~Division of Health~~ Bureau for Public Health, including, but not limited to, vacuum and pressure systems, approved under the provisions of §16-1-9 of this code, from the houses, dwellings or buildings into the sewer facilities, to connect with and use the sewer facilities and to cease the use of all other means for the collection, treatment and disposal of sewage and waste matters from the houses, dwellings and

buildings where there is gravity flow or transportation by any other methods approved by the ~~Division of Health~~ Bureau for Public Health, including, but not limited to, vacuum and pressure systems, approved under the provisions of §16-1-9 of this code and the houses, dwellings and buildings can be adequately served by the sewer facilities of the district and it is declared that the mandatory use of the sewer facilities provided for in this subsection is necessary and essential for the health and welfare of the inhabitants and residents of the districts and of the state. If the public service district requires the property owner to connect with the sewer facilities even when sewage from dwellings may not flow to the main line by gravity and the property owner incurs costs for any changes in the existing dwellings' exterior plumbing in order to connect to the main sewer line, the public service district board shall authorize the district to pay all reasonable costs for the changes in the exterior plumbing, including, but not limited to, installation, operation, maintenance and purchase of a pump or any other method approved by the ~~Division of Health~~ Bureau for Public Health. Maintenance and operation costs for the extra installation should be reflected in the users charge for approval of the Public Service Commission. The circuit court shall adjudicate the merits of the petition by summary hearing to be held not later than 30 days after service of petition to the appropriate owners, tenants or occupants.

(d) Whenever any district has made available sewer facilities to any owner, tenant or occupant of any house, dwelling or building located near the sewer facility and the engineer for the district has certified that the sewer facilities are available to and are adequate to serve the owner, tenant or occupant and sewage will flow by gravity or be transported by other methods approved by the ~~Division of Health~~ Bureau for Public Health from the house, dwelling or building into the sewer facilities, the district may charge, and the owner, tenant or occupant shall pay, the rates and charges for services established under this article only after 30 days' notice of the availability of the facilities has been received by the owner, tenant or occupant. Rates and charges for sewage services shall be based upon actual water consumption or the

average monthly water consumption based upon the owner's, tenant's or occupant's specific customer class.

(e) The owner, tenant or occupant of any real property may be determined and declared to be served by a storm water system only after each of the following conditions is met: (1) The district has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community, as defined in 40 C. F. R. §122.26; (2) the district's authority has been properly expanded to operate and maintain a storm water system; (3) the district has made available a storm water system where storm water from the real property affects or drains into the storm water system; and (4) the real property is located in the Municipal Separate Storm Sewer System's designated service area. It is further hereby found, determined and declared that the mandatory use of the storm water system is necessary and essential for the health and welfare of the inhabitants and residents of the district and of the state. The district may charge and the owner, tenant or occupant shall pay the rates, fees and charges for storm water services established under this article only after 30 days' notice of the availability of the storm water system has been received by the owner. An entity providing storm water service shall provide a tenant a report of the storm water fee charged for the entire property and, if appropriate, that portion of the fee to be assessed to the tenant.

(f) All delinquent fees, rates and charges of the district for either water facilities, sewer facilities, gas facilities or storm water systems or storm water management programs are liens on the premises served of equal dignity, rank and priority with the lien on the premises of state, county, school and municipal taxes. Nothing contained within the rules of the Public Service Commission shall be deemed to require any agents or employees of the public service districts to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill. In addition to the other remedies provided in this section, public service districts are granted a deferral of filing fees or other fees and costs incidental to the bringing and maintenance of an action in magistrate court for the collection of delinquent water, sewer, storm water or gas bills.

If the district collects the delinquent account, plus reasonable costs, from its customer or other responsible party, the district shall pay to the magistrate the normal filing fee and reasonable costs which were previously deferred. In addition, each public service district may exchange with other public service districts a list of delinquent accounts: *Provided*, That an owner of real property may not be held liable for the delinquent rates or charges for services or facilities of a tenant, nor may any lien attach to real property for the reason of delinquent rates or charges for services or facilities of a tenant of the real property unless the owner has contracted directly with the public service district to purchase the services or facilities.

(g) Anything in this section to the contrary notwithstanding, any establishment, as defined in §22-11-3 of this code, now or hereafter operating its own sewage disposal system pursuant to a permit issued by the Department of Environmental Protection, as prescribed by §22-11-11 of this code, is exempt from the provisions of this section.

(h) A public service district which has been designated by the Environmental Protection Agency as an entity to serve a West Virginia Separate Storm Sewer System community shall prepare an annual report detailing the collection and expenditure of rates, fees or charges and make it available for public review at the place of business of the governing body and the storm water utility main office.

(i) Notwithstanding any code provision to the contrary, a public service district may accept payment for all fees and charges due, in the form of a payment by a credit or check card transaction or a direct withdrawal from a bank account. The public service district may set a fee to be added to each transaction equal to the charge paid by the public service district for use of the credit or check card or direct withdrawal by the payor. The amount of such fee shall be disclosed to the payor prior to the transaction and no other fees for the use of a credit or check card or direct withdrawal may be imposed upon the payor and the whole of such charge or convenience fee shall be borne by the payor: *Provided*, That, to the extent a public service district desires to accept payments in the forms described in this subsection and does not have access to the



equipment or receive the services necessary to do so, the public service district shall first obtain three bids for services and equipment necessary to affect the forms of transactions described in this subsection and use the lowest qualified bid received. Acceptance of a credit or check card or direct withdrawal as a form of payment shall comport with the rules and requirements set forth by the credit or check card provider or banking institution.

## **CHAPTER 24. PUBLIC SERVICE COMMISSION.**

### **ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.**

#### **§24-2-1. Jurisdiction of commission; waiver of jurisdiction.**

(a) The jurisdiction of the commission shall extend to all public utilities in this state and shall include any utility engaged in any of the following public services:

Common carriage of passengers or goods, whether by air, railroad, street railroad, motor or otherwise, by express or otherwise, by land, water or air, whether wholly or partly by land, water or air; transportation of oil, gas or water by pipeline; transportation of coal and its derivatives and all mixtures and combinations thereof with other substances by pipeline; sleeping car or parlor car services; transmission of messages by telephone, telegraph or radio; generation and transmission of electrical energy by hydroelectric or other utilities for service to the public, whether directly or through a distributing utility; supplying water, gas or electricity by municipalities or others; sewer systems servicing ~~twenty five~~ 25 or more persons or firms other than the owner of the sewer systems: *Provided*, That if a public utility other than a political subdivision intends to provide sewer service by an innovative, alternative method, as defined by the federal Environmental Protection Agency, the innovative, alternative method is a public utility function and subject to the jurisdiction of the Public Service Commission regardless of the number of customers served by the innovative, alternative method; any public service district created under the provisions of ~~article thirteen a, chapter sixteen~~ §16-13A-1, et seq. of this code, except that the

Public Service Commission will have no jurisdiction over the provision of stormwater services by a public service district; toll bridges, wharves, ferries; solid waste facilities; and any other public service: *Provided, however*, That natural gas producers who provide natural gas service to not more than ~~twenty-five~~ 25 residential customers are exempt from the jurisdiction of the commission with regard to the provisions of such residential service: *Provided further*, That upon request of any of the customers of such natural gas producers, the commission may, upon good cause being shown, exercise such authority as the commission may deem appropriate over the operation, rates and charges of such producer and for such length of time as the commission may consider to be proper.

(b) The jurisdiction of the commission over political subdivisions of this state providing separate or combined water and/or sewer services and having at least ~~four thousand five hundred~~ 4,500 customers and annual combined gross revenues of \$3 million dollars or more that are political subdivisions of the state is limited to:

(1) General supervision of public utilities, as granted and described in ~~section five~~ §24-2-5 of this ~~article~~ Code;

(2) Regulation of measurements, practices, acts or services, as granted and described in ~~section seven~~ §24-2-7 of this ~~article~~ Code;

(3) Regulation of a system of accounts to be kept by a public utility that is a political subdivision of the state, as granted and described in ~~section eight~~ §24-2-8 of this ~~article~~ Code;

(4) Submission of information to the commission regarding rates, tolls, charges or practices, as granted and described in ~~section nine~~ §24-2-9 of this ~~article~~ Code;

(5) Authority to subpoena witnesses, take testimony and administer oaths to any witness in any proceeding before or conducted by the commission, as granted and described in ~~section ten~~ §24-2-10 of this ~~article~~ Code; and

(6) Investigation and resolution of disputes between a political subdivision of the state providing wholesale water and/or wastewater treatment or other services, whether by contract or through a tariff, and its customer or customers, including, but not limited to, rates, fees and charges, service areas and contested utility combinations. Provided, that any request for an investigation related to such a dispute that is based on the act or omission of the political subdivision shall be filed within 30 days of the act or omission of the political subdivision and the commission shall resolve said dispute within 120 days of filing. The ~~one hundred-twenty~~ 120-day period for resolution of the dispute may be tolled by the Commission until the necessary information showing the basis of the rates, fees and charges or other information as the commission considers necessary is filed. Provided ~~further~~ however, That the disputed rates, fees and charges so fixed by the political subdivision providing separate or combined water and/or sewer services shall remain in full force and effect until set aside, altered or, amended by the commission in an order to be followed in the future.

(7) Customers of water and sewer utilities operated by a political subdivision of the state may bring formal or informal complaints regarding the commission's exercise of the powers enumerated in this section and the commission shall resolve these complaints.

(8) In the event that a political subdivision has a deficiency in either its bond revenue or bond reserve accounts, or is otherwise in breach of a bond covenant, any bond holder may petition the Public Service Commission for such redress as will bring the accounts to current status or otherwise resolve the breached covenant, and the commission shall have jurisdiction to fully resolve the alleged deficiency or breach.

(c) The commission may, upon application, waive its jurisdiction and allow a utility operating in an adjoining state to provide service in West Virginia when:

(1) An area of West Virginia cannot be practicably and economically served by a utility licensed to operate within the State of West Virginia;

(2) Said area can be provided with utility service by a utility which operates in a state adjoining West Virginia;

(3) The utility operating in the adjoining state is regulated by a regulatory agency or commission of the adjoining state; and

(4) The number of customers to be served is not substantial. The rates the out-of-state utility charges West Virginia customers shall be the same as the rate the utility is duly authorized to charge in the adjoining jurisdiction. The commission, in the case of any such utility, may revoke its waiver of jurisdiction for good cause.

(d) Any other provisions of this chapter to the contrary notwithstanding:

(1) An owner or operator of an electric generating facility located or to be located in this state that has been designated as an exempt wholesale generator under applicable federal law, or will be so designated prior to commercial operation of the facility, and for which such facility the owner or operator holds a certificate of public convenience and necessity issued by the commission on or before July 1, 2003, shall be subject to ~~subsections (e), (f), (g), (h), (i) and (j), section eleven-e~~ §24-2-11c(e) through §24-2-11c(j) of this ~~article~~ Code as if the certificate of public convenience and necessity for such facility were a siting certificate issued under ~~said section §24-2-11c~~ §24-2-11c of this Code and shall not otherwise be subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such facility except for the making or constructing of a material modification thereof as provided in ~~subdivision (5) §24-2-1(d)(5)~~ of this subsection Code.

(2) Any person, corporation or other entity that intends to construct or construct and operate an electric generating facility to be located in this state that has been designated as an exempt wholesale generator under applicable federal law, or will be so designated prior to commercial operation of the facility, and for

which facility the owner or operator does not hold a certificate of public convenience and necessity issued by the commission on or before July 1, 2003, shall, prior to commencement of construction of the facility, obtain a siting certificate from the commission pursuant to the provisions of ~~section eleven-e~~ §24-2-11c of this ~~article~~ Code in lieu of a certificate of public convenience and necessity pursuant to the provisions of ~~section eleven~~ §24-2-11 of this ~~article~~ Code. An owner or operator of an electric generating facility as is described in this subdivision for which a siting certificate has been issued by the commission shall be subject to ~~subsections (e), (f), (g), (h), (i) and (j), section eleven-e~~ §24-2-11c(e) through §24-2-11c(j) of this ~~article~~ Code and shall not otherwise be subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such facility except for the making or constructing of a material modification thereof as provided in ~~subdivision (5)~~ §24-2-1(d)(5) of this ~~subsection~~ Code.

(3) An owner or operator of an electric generating facility located in this state that had not been designated as an exempt wholesale generator under applicable federal law prior to commercial operation of the facility that generates electric energy solely for sale at retail outside this state or solely for sale at wholesale in accordance with any applicable federal law that preempts state law or solely for both such sales at retail and such sales at wholesale and that had been constructed and had engaged in commercial operation on or before July 1, 2003, shall not be subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such facility, regardless of whether such facility subsequent to its construction has been or will be designated as an exempt wholesale generator under applicable federal law: *Provided*, That such owner or operator shall be subject to in ~~subdivision (5)~~ §24-2-1(d)(5) of this ~~subsection~~ Code if a material modification of such facility is made or constructed.

(4) Any person, corporation or other entity that intends to construct or construct and operate an electric generating facility to be located in this state that has not been or will not be designated as an exempt wholesale generator under applicable federal law prior to commercial operation of the facility that will generate

electric energy solely for sale at retail outside this state or solely for sale at wholesale in accordance with any applicable federal law that preempts state law or solely for both such sales at retail and such sales at wholesale and that had not been constructed and had not been engaged in commercial operation on or before July 1, 2003, shall, prior to commencement of construction of the facility, obtain a siting certificate from the commission pursuant to the provisions of ~~section eleven e~~ §24-2-11c of this ~~article Code~~ Code in lieu of a certificate of public convenience and necessity pursuant to the provisions of section eleven of this article. An owner or operator of an electric generating facility as is described in this subdivision for which a siting certificate has been issued by the commission shall be subject to ~~subsections (e), (f), (g), (h), (i) and (j), section eleven e~~ §24-2-11c(e) through §24-2-11c(j) of this ~~article Code~~ Code and shall not otherwise be subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such facility except for the making or constructing of a material modification thereof as provided in ~~subdivision (5) §24-2-1(d)(5)~~ of this ~~subsection Code~~ Code.

(5) An owner or operator of an electric generating facility described in this subsection shall, before making or constructing a material modification of the facility that is not within the terms of any certificate of public convenience and necessity or siting certificate previously issued for the facility or an earlier material modification thereof, obtain a siting certificate for the modification from the commission pursuant to the provisions of ~~section eleven e~~ §24-2-11c of this ~~article Code~~ Code in lieu of a certificate of public convenience and necessity for the modification pursuant to the provisions of ~~section eleven~~ §24-2-11 of this ~~article Code~~ Code and, except for the provisions of ~~section eleven e~~ §24-2-11c of this ~~article Code~~ Code, shall not otherwise be subject to the jurisdiction of the commission or to the provisions of this chapter with respect to such modification.

(6) The commission shall consider an application for a certificate of public convenience and necessity filed pursuant to ~~section eleven~~ §24-2-11 of this ~~article Code~~ Code to construct an electric generating facility described in this subsection or to make or

construct a material modification of such electric generating facility as an application for a siting certificate pursuant to ~~section eleven-e~~ §24-2-11c of this ~~article~~ Code if the application for the certificate of public convenience and necessity was filed with the commission prior to July 1, 2003, and if the commission has not issued a final order thereon as of that date.

(7) The limitations on the jurisdiction of the commission over, and on the applicability of the provisions of this chapter to, the owner or operator of an electric generating facility as imposed by and described in this subsection shall not be deemed to affect or limit the commission's jurisdiction over contracts or arrangements between the owner or operator of such facility and any affiliated public utility subject to the provisions of this chapter.

(e) The commission shall not have jurisdiction of Internet protocol-enabled service or voice-over Internet protocol-enabled service. As used in this subsection:

(1) 'Internet protocol-enabled service' means any service, capability, functionality or application provided using Internet protocol, or any successor protocol, that enables an end user to send or receive a communication in Internet protocol format, or any successor format, regardless of whether the communication is voice, data or video.

(2) 'Voice-over Internet protocol service' means any service that:

(i) Enables real-time two-way voice communications that originate or terminate from the user's location using Internet protocol or a successor protocol; and

(ii) Uses a broadband connection from the user's location.

(3) The term 'voice-over Internet protocol service' includes any service that permits users to receive calls that originate on the public-switched telephone network and to terminate calls on the public-switched telephone network.

(f) Notwithstanding any other provisions of this article, the commission shall not have jurisdiction to review or approve any transaction involving a telephone company otherwise subject to ~~sections twelve §24-2-12 and twelve a, article two, chapter twenty-four §24-2-12a~~ of this code if all entities involved in the transaction are under common ownership.

(g) The Legislature finds that the rates, fees, charges, and ratemaking of municipal power systems are most fairly and effectively regulated by the local governing body. Therefore, notwithstanding any other provisions of this article, the commission shall not have jurisdiction over the setting or adjustment of rates, fees, and charges of municipal power systems. Further, the jurisdiction of the Public Service Commission over municipal power systems is limited to that granted specifically in this code.

#### **§24-2-2. General power of commission to regulate public utilities.**

(a) The commission ~~is hereby given power to~~ may investigate all rates, methods, and practices of public utilities subject to the provisions of this chapter; to require them to conform to the laws of this state and to all rules, regulations and orders of the commission not contrary to law; and to require copies of all reports, rates, classifications, schedules, and timetables in effect and used by the public utility or other person to be filed with the commission, and all other information desired by the commission relating to the investigation and requirements, including inventories of all property in ~~such the~~ such the form and detail as the commission ~~may prescribe~~ prescribes. The commission may compel obedience to its lawful orders by mandamus or injunction or other proper proceedings in the name of the state in any circuit court having jurisdiction of the parties or of the subject matter, or the Supreme Court of Appeals directly, and the proceedings shall have priority over all pending cases. The commission may change any intrastate rate, charge, or toll which is unjust or unreasonable or any interstate charge with respect to matters of a purely local nature which have not been regulated, by or pursuant to, an act of Congress and may prescribe a rate, charge, or toll that is just and



reasonable, and change or prohibit any practice, device, or method of service in order to prevent undue discrimination or favoritism between persons and between localities and between commodities for a like and contemporaneous service. But in no case ~~shall~~ may the rate, toll, or charge be more than the service is reasonably worth, considering the cost of the service. Every order entered by the commission shall continue in force until the expiration of the time, if any, named by the commission in the order, or until revoked or modified by the commission, unless the order is suspended, modified, or revoked by order or decree of a court of competent jurisdiction: *Provided*, That in the case of utilities used by emergency shelter providers, the commission shall prescribe ~~such~~ rates, charges or tolls that are the lowest available. 'Emergency shelter provider' means any nonprofit entity which provides temporary emergency housing and services to the homeless or to victims of domestic violence or other abuse.

(b) Notwithstanding any other provision of this code to the contrary, rates are not discriminatory if, when considering the debt costs associated with a future water or sewer project which would not benefit existing customers, the commission establishes rates which ensure that the future customers to be served by the new project are solely responsible for the debt costs associated with the project.

(c) Notwithstanding any other provision of this code to the contrary, the jurisdiction of the commission over water and/or sewer utilities that are political subdivisions of the state providing a separate or combined services and having at least ~~four thousand five hundred~~ 4,500 customers and annual combined gross revenues of \$3 million dollars or more ~~shall be~~ is limited to those powers enumerated in §24-2-1(b) of this code.

(d) Notwithstanding any other provision of this code to the contrary, the jurisdiction of the commission does not extend over the setting or adjustment of rates, fees, and charges of municipal power systems. The rates, fees, charges and rate-making process of municipal power systems is governed by the provisions of §8-19-2a of this code.

**§24-2-3. General power of commission with respect to rates.**

(a) The commission ~~shall have power to~~ may enforce, originate, establish, change, and promulgate tariffs, rates, joint rates, tolls, and schedules for all public utilities except for municipal power systems and water and/or sewer utilities that are political subdivisions of this state providing a separate or combined services and having at least ~~four thousand five hundred~~ 4,500 customers and annual combined gross revenues of \$3 million dollars or more *Provided*, That the commission may exercise such rate authority over municipally owned ~~electric or~~ natural gas utilities or a municipally owned water and/or sewer utility having less than ~~four thousand five hundred~~ 4,500 customers or annual combined gross revenues of less than \$3 million dollars only under the circumstances and limitations set forth in §24-2-4b of this code, and subject to the provisions set forth in §24-2-3(b) of this code. And whenever the commission ~~shall~~, after hearing, ~~find~~ finds any existing rates, tolls, tariffs, joint rates or schedules enacted or maintained by a utility regulated under the provisions of this section to be unjust, unreasonable, insufficient, or unjustly discriminatory or otherwise in violation of any of the provisions of this chapter, the commission shall by an order fix reasonable rates, joint rates, tariffs, tolls, or schedules to be followed in the future in lieu of those found to be unjust, unreasonable, insufficient, or unjustly discriminatory or otherwise in violation of any provisions of law, and the ~~said~~ commission, in fixing the rate of any railroad company, may fix a fair, reasonable and just rate to be charged on any branch line thereof, independent of the rate charged on the main line of ~~such~~ that railroad.

(b) Any complaint filed with the commission by a resale or wholesale customer of a municipally owned water and/or sewer utility having less than ~~four thousand five hundred~~ 4,500 customers or annual combined gross revenue of less than \$3 million dollars concerning rates, fees, or charges applicable to such resale or wholesale customer shall be filed within 30 days of the enactment by the governing body of the political subdivision of an ordinance changing rates, fees, or charges for such service. The commission shall resolve said complaint within 120 days of filing. The 120-day

period for resolution of the complaint may be tolled by the commission until the necessary information showing the basis of the rates, fees, charges, and other information as the commission considers necessary is filed: *Provided*, That rates, fees, and charges so fixed by the political subdivision providing separate or combined water and/or sewer services shall remain in full force and effect until set aside, altered, or amended by the commission in an order to be followed in the future: *Provided, however*, That the commission shall have no authority to order refunds for amounts collected during the pendency of the complaint proceeding unless the rates, fees, or charges so enacted by the governing body were enacted subject to refund under the provisions of §24-2-4b(d)(2) or §24-2-4b(g) of this code.

(c) In determining just and reasonable rates, the commission may audit and investigate management practices and policies, or have performed an audit and investigation of such practices and policies, in order to determine whether the utility is operating with efficiency and is utilizing sound management practices. The commission shall adopt rules and regulations setting forth the scope, frequency, and application of such audits and investigations to the various utilities subject to its jurisdiction. The commission may include the cost of conducting the management audit in the cost of service of the utility.

(d) In determining just and reasonable rates, the commission shall investigate and review transactions between utilities and affiliates. The commission shall limit the total return of the utility to a level which, when considered with the level of profit or return the affiliate earns on transactions with the utility, is just and reasonable.

**§24-2-4b. Procedures for changing rates of electric and natural gas cooperatives, local exchange services of telephone cooperatives, and municipally operated public utilities.**

(a) The rates and charges of electric cooperatives, natural gas cooperatives and municipal water and/or sewer utilities that are political subdivisions of the state—having less than ~~four thousand five hundred~~ 4,500 customers or annual combined gross revenues

of less than \$3 million-dollars, except for municipally operated commercial solid waste facilities as defined in §22-15-2 of this code, and the rates and charges for local exchange services provided by telephone cooperatives are not subject to the rate approval provisions of 24-2-4 or §24-2-4a of this code, but are subject to the limited rate provisions of this section.

(b) All rates and charges set by electric cooperatives, natural gas cooperatives, and municipally operated public utilities that are political subdivisions of the state providing water, sewer, ~~electric~~ and/or natural gas services that are subject to the provisions of this section and all rates and charges for local exchange services set by telephone cooperatives shall be just, reasonable, applied without unjust discrimination between or preference for any customer or class of customer and based primarily on the costs of providing these services. All rates and charges shall be based upon the measured or reasonably estimated cost of service and the equitable sharing of those costs between customers based upon the cost of providing the service received by the customer, including a reasonable plant-in-service depreciation expense. The rates and charges shall be adopted by the electric, natural gas, telephone cooperative, or political subdivision's governing board or body and, in the case of the municipally operated public utility, by municipal ordinance to be effective not sooner than 45 days after adoption. The 45-day waiting period may be waived by public vote of the governing body if that body finds and declares the public utility that is a political subdivision of the state to be in financial distress such that the 45-day waiting period would be detrimental to the ability of the utility to deliver continued and compliant public services: *Provided*, That notice of intent to effect a rate change shall be specified on the monthly billing statement of the customers of the utility for the month next preceding the month in which the rate change is to become effective and the utility governing body shall give its customers and, in the case of a cooperative, its customers, members, and stockholders, other reasonable notices as will allow filing of timely objections to the proposed rate change and full participation in municipal rate legislation through the provision of a public forum in which customers may comment upon the proposed rate change prior to an enactment vote. The rates

and charges or ordinance shall be filed with the commission, together with any information showing the basis of the rates and charges and other information as the commission considers necessary. Any change in the rates and charges with updated information shall be filed with the commission. If a petition, as set out in §24-2-4b(c)(1), §24-2-4b(c)(2), or §24-2-4b(c)(3) of this code, is received and the electric cooperative, natural gas cooperative or telephone cooperative or municipality has failed to file with the commission the rates and charges with information showing the basis of rates and charges and other information as the commission considers necessary, the suspension period limitation of 120 days and the 100-day period limitation for issuance of an order by a hearing examiner, as contained in §24-2-4b(d) and §24-2-4b(e) of this code, is tolled until the necessary information is filed. The electric cooperative, natural gas cooperative, telephone cooperative or municipality shall set the date when any new rate or charge is to go into effect.

(c) The commission shall review and approve or modify the rates and charges of electric cooperatives, natural gas cooperatives, telephone cooperatives, or municipal ~~electric or~~ natural gas utilities and municipally owned water and/or sewer utilities that are political subdivisions of the state and having less than ~~four thousand five hundred~~ 4,500 customers or annual combined revenues of less than \$3 million dollars upon the filing of a petition within 30 days of the adoption of the ordinance or resolution changing the rates or charges by:

(1) Any customer aggrieved by the changed rates or charges who presents to the commission a petition signed by not less than 25 percent of the customers served by the municipally operated ~~electric or~~ natural gas public utility or municipally owned water and/or sewer utility or 25 percent of the membership of the electric, natural gas or telephone cooperative residing within the state;

(2) Any customer who is served by a municipally owned ~~electric or~~ natural gas public utility and who resides outside the corporate limits and who is affected by the change in the rates or charges and who presents to the commission a petition alleging discrimination between customers within and without the

municipal boundaries. The petition shall be accompanied by evidence of discrimination; or

(3) Any customer or group of customers of the municipally owned ~~electric or~~ natural gas public utility who is affected by the change in rates who reside within the municipal boundaries and who present a petition to the commission alleging discrimination between a customer or group of customers and other customers of the municipal utility. The petition shall be accompanied by evidence of discrimination.

(d) (1) The filing of a petition with the commission signed by not less than 25 percent of the customers served by the municipally owned ~~electric or~~ natural gas public utility or a municipally owned water and/or sewer utility having less than ~~four thousand five hundred~~ 4,500 customers or annual combined gross revenues of less than \$3 million dollars or 25 percent of the membership of the electric, natural gas, or telephone cooperative residing within the state under §24-2-4b(c) of this code shall suspend the adoption of the rate change contained in the ordinance or resolution for a period of 120 days from the date the rates or charges would otherwise go into effect or until an order is issued as provided herein.

(2) Upon sufficient showing of discrimination by customers outside the municipal boundaries or a customer or a group of customers within the municipal boundaries under a petition filed under §24-2-4b(c)(2) or §24-2-4b(c)(3) of this code, the commission shall suspend the adoption of the rate change contained in the ordinance for a period of 120 days from the date the rates or charges would otherwise go into effect or until an order is issued as provided herein. A municipal rate ordinance enacted pursuant to the provisions of this section and municipal charter or state code that establishes or proposes a rate increase that results in an increase of less than 25 percent of the gross revenue of the utility shall be presumed valid and rates shall be allowed to go into effect, subject to refund, upon the date stated in that ordinance. Any refund determined to be due and owing as a result of any difference between any final rates approved by the commission and the rates placed into effect subject to refund shall be refunded as a credit against each customer's account for a period of up to six months

after entry of the commission's final order. Any remaining balance which is not fully credited by credit within six months after entry of the commission's final order shall be directly refunded to the customer by check. In the case of rates established or proposed that increase by more than 25 percent of the gross revenue of the municipally operated public utility, the utility may apply for, and the commission may grant, a waiver of the suspension period and allow rates to be effective upon enactment.

(e) The commission shall forthwith appoint a hearing examiner from its staff to review the grievances raised by the petitioners. The hearing examiner shall conduct a public hearing and shall, within 100 days from the date the rates or charges would otherwise go into effect, unless otherwise tolled as provided in §24-2-4b(b) of this code, issue an order approving, disapproving, or modifying, in whole or in part, the rates or charges imposed by the electric, natural gas or telephone cooperative or by the municipally operated public utility pursuant to this section.

(f) Upon receipt of a petition for review of the rates under the provisions of §24-2-4b(c) of this code, the commission may exercise the power granted to it under the provisions of §24-2-3 of this code, consistent with the applicable rate provisions of §8-19-4 of this code, and §16-13-16 of this code. The commission may determine the method by which the rates are reviewed and may grant and conduct a de novo hearing on the matter if the customer, electric, natural gas, or telephone cooperative or municipality requests a hearing.

(g) The commission may, upon petition by an electric, natural gas or telephone cooperative or municipal ~~electric or natural gas~~ public utility or a municipally owned water and/or sewer utility, having less than ~~four thousand five hundred~~ 4,500 customers or annual combined gross revenues of less than \$3 million dollars allow an interim or emergency rate to take effect, subject to refund or future modification, if it is determined that the interim or emergency rate is necessary to protect the municipality from financial hardship attributable to the purchase of the utility commodity sold, or the commission determines that a temporary or interim rate increase is necessary for the utility to avoid financial

distress. In such cases, the commission shall waive the 45-day waiting period provided for in §24-2-4b(b) of this code and the 120-day suspension period provided for in §24-2-4b(d) of this code.

(h) The commission shall, upon written request of the governing body of a political subdivision, provide technical assistance to the governing body in its deliberations regarding a proposed rate increase.

(i) Notwithstanding any other provision, the commission has no authority or responsibility with regard to the regulation of rates, income, services or contracts by municipally operated public utilities for services which are transmitted and sold outside of the State of West Virginia.

(j) Notwithstanding any other provision of this code to the contrary, the jurisdiction of the commission over water and/or sewer utilities that are political subdivisions of the state and ~~having~~ at least ~~four thousand five hundred~~ 4,500 customers and annual gross combined revenues of \$3 million dollars or more shall be limited to those powers enumerated in §24-2-1(b) of this code.

(k) Notwithstanding any other provision of this code to the contrary, the jurisdiction of the commission does not extend over the setting and adjustment of the rates, fees, and charges of municipal power systems. The rates, fees, charges and ratemaking process of municipal power systems shall be governed by the provisions of §8-19-2a of this code.”

The bill was then ordered to third reading.

**Com. Sub. for S. B. 82**, Including rebuttable presumptions in certain cases for firefighters with regard to workers' compensation; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 141**, Expanding county assessment and collection of head tax on breeding cows; on second reading, coming up in regular order, was read a second time.



An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page one, section six-e, line ten, before the word “taxes”, by inserting the word “the”.

And,

On page two, section six-e, lines twenty-three through twenty-seven, by striking out subsection (e) in its entirety and inserting in lieu thereof a new subsection (e), to read as follows:

“(e) If a cow owner elects to participate in the Coyote Control Program, within 30 days of such election, the cow owner shall provide written notice of his or her participation in the Program to any landowner from whom the cow owner leases property to graze cattle and whose property may be affected by the cow owner’s participation in the Program.”

The bill was then ordered to third reading.

**Com. Sub. for S. B. 230**, Authorizing Department of Commerce promulgate legislative rules; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page two, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 10. AUTHORIZATION FOR DEPARTMENT OF COMMERCE TO PROMULGATE LEGISLATIVE RULES.**

**§64-10-1. Division of Natural Resources.**

(a) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §20-1A-1 of this code, relating to the Division of Natural Resources (controlling the public land corporation’s sale, lease, exchange, or transfer of land or minerals, 58 CSR 2), is authorized.

(b) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §20-1-7 of this code, modified by the Division of Natural Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 18, 2017, relating to the Division of Natural Resources (hunting, fishing, and other outfitters and guides, 58 CSR 11), is authorized.

(c) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §20-1-7 of this code, relating to the Division of Natural Resources (general hunting, 58 CSR 49), is authorized.

(d) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §20-1-7 of this code, relating to the Division of Natural Resources (special migratory game bird hunting, 58 CSR 56), is authorized.

(e) The legislative rule filed in the State Register on July 28, 2017, authorized under the authority of §20-1-7 of this code, relating to the Division of Natural Resources (miscellaneous permits and licenses, 58 CSR 64), is authorized.

#### **§64-10-2. Division of Labor.**

(a) The legislative rule filed in the State Register on July 27, 2017, authorized under the authority of §21-15-6 of this code, relating to the Division of Labor (Zipline and Canopy Tour Responsibility Act, 42 CSR 10), is authorized.

(b) The legislative rule filed in the State Register on July 27, 2017, authorized under the authority of §47-1A-15 of this code, relating to the Division of Labor (bedding and upholstered furniture, 42 CSR 12), is authorized.

(c) The legislative rule filed in the State Register on July 27, 2017, authorized under the authority of §21-10-3 of this code, relating to the Division of Labor (Amusement Rides and Amusement Attractions Safety Act, 42 CSR 17), is authorized.

(d) The legislative rule filed in the State Register on July 27, 2017, authorized under the authority of §21-3C-11 of this code, relating to the Division of Labor (Elevator Safety Act, 42 CSR 21), is authorized, with the amendments set forth below:

On page 5, subsection 8 to read as follows:

~~7.3.a.~~ 8.1. The fee for ~~the an~~ inspection of ~~each an~~ elevator by ~~the a~~ Division inspector is shall be \$100.00.

~~7.3.b.~~ 8.2. The Division's fee for the inspection of more than one elevator in a building is \$100.00 for the first elevator inspected and \$25.00 for each additional elevator inspected.

~~7.3.c.~~ 8.3. If changes or repairs are required prior to the issuance of a certificate of operation, the Division shall not charge an inspection fee ~~will not be charged by the Division~~ for the first follow-up inspection.

~~7.3.d.~~ 8.4. If subsequent follow-up inspections are required because of the owner's or operator's failure to make the required repairs or changes, the Division's inspection fees shall be charged ~~at~~ the same rates as set forth in subdivisions subsections ~~7.3.a. 8.1 and 7.3.b. 8.2~~ of this rule for each subsequent follow-up inspection.

~~7.3.3.~~ 8.5. If an owner or operator fails ~~The failure~~ to pay the required inspection fee, is sufficient grounds for the Division ~~Commissioner shall to~~ withhold the issuance of a certificate of operation until the fee is paid.

(e) The legislative rule filed in the State Register on July 27, 2017, authorized under the authority of §21-5-13 of this code, relating to the Division of Labor (employer wage bonds, 42 CSR 33), is authorized.

(f) The legislative rule filed in the State Register on July 27, 2017, authorized under the authority of §47-1-3 of this code, relating to the Division of Labor (registration of service persons and service agencies, 42 CSR 35), is authorized, with the amendments set forth below:

On page one, subsection 1.1 to read as follows:

1.1. Scope. – This rule governs the voluntary registration of service persons and service agencies, and the issuance of certificates of registration.

On page one, subsection 3.2 to read as follows:

3.2. ‘Certificate of registration’ means the document issued by the Division of Labor upon receipt of a complete application from a service person or service agency.

On page four, subsection 6.1. to read as follows:

6.1. A service person desiring to register with the Division shall submit a written application requesting that he or she be registered, and shall provide all information as the Commissioner may require on a form supplied by the Division, and shall include the documentation required in section 7 of this rule.

On page four, subsection 6.2. to read as follows:

6.2. A service agency desiring to register with the Division shall submit a written application requesting that the agency be registered, and shall provide all information as the Commissioner may require on a form supplied by the Division, including the documentation required in section 7 of this rule, and a sample security seal required in section 8 of this rule.

On page four, striking subsection 6.3. in its entirety, and renumbering the remaining subsections.

And,

On page five, striking section 7 in its entirety, and renumbering the remaining sections.

(g) The legislative rule filed in the State Register on July 27, 2017, authorized under the authority of §47-1-3 of this code, modified by the Division of Labor to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 8, 2017, relating to the Division of

Labor (registration of weighing and measuring devices used by businesses in commercial transactions, 42 CSR 36), is authorized, with the amendments set forth below:

On page 1, subsection 1.1. to read as follows:

1.1. Scope. — This rule governs the registration of weighing and measuring devices used by businesses in commercial transactions, and the issuance of certificates of device registration.

On page one, subsection 3.1., striking the words “and payment of the required fee for each weighing or measuring device used in commercial transactions”.

On page two, subsection 5.1., striking the words “and shall pay the applicable registration fee as prescribed in section 6 of this rule”.

On page two, striking subsection 5.3. in its entirety, and renumbering the remaining subsections.

On page two, striking section 6 in its entirety, and renumbering the remaining section.

On page three, striking Appendix A in its entirety.

And,

On page four, striking Appendix B in its entirety.

### **§64-10-3. Office of Miners’ Health, Safety and Training.**

The legislative rule filed in the State Register on July 27, 2017, authorized under the authority of §22A-2A-308 of this code, relating to the Office of Miners’ Health, Safety and Training (operating diesel equipment in underground mines in West Virginia, 56 CSR 23), is authorized.

### **§64-10-4. Division of Energy.**

The legislative rule effective on July 1, 2010, authorized under the authority of §5B-2A-12 of this code, relating to the Division of

Energy (community development assessment and real property valuation procedures for office of coalfield community development, 207 CSR 1), is repealed.”

The bill was then ordered to third reading.

**Com. Sub. for S. B. 244**, Specifying conditions for unlawful possession of firearm at school-sponsored activities; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“**ARTICLE 7. DANGEROUS WEAPONS.**

**§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver’s license; possessing deadly weapons on premises housing courts of law and family law courts.**

(a) The Legislature finds that the safety and welfare of the citizens of this state are inextricably dependent upon assurances of safety for children attending and persons employed by schools in this state and for persons employed by the judicial department of this state. It is for the purpose of providing assurances of safety that §61-7-11a(b), §61-7-11a(g), and §61-7-11a(h), of this code and §61-7-11a(b)(2)(I) of this code are enacted as a reasonable regulation of the manner in which citizens may exercise the rights accorded to them pursuant to section 22, article III of the Constitution of the State of West Virginia.

(b) ~~(1) It is unlawful for a person to possess a firearm or other deadly weapon on a school bus as defined in §17A-1-1 of this code or in or on a public primary or secondary education building, structure, facility, or grounds including a vocational education building, structure, facility, or grounds where secondary vocational education programs are conducted or at a school sponsored function or in or on a private primary or secondary education building, structure, or facility: *Provided*, That it shall not be~~

~~unlawful to possess a firearm or other deadly weapon on or in a private primary or secondary education building, structure, or facility when such institution has adopted written policies allowing for possession of firearms on or in the institution's buildings, structures, or facilities.~~ (1) It is unlawful to possess a firearm or other deadly weapon:

(A) On a school bus as defined in §17A-1-1 of this code;

(B) In or on the grounds of any primary or secondary educational facility of any type: *Provided*, That it shall not be unlawful to possess a firearm or other deadly weapon in or on the grounds of any private primary or secondary school, if such institution has adopted a written policy allowing for possession of firearms or other deadly weapons in the facility or on the grounds thereof;

(C) At a school-sponsored function that is taking place in a specific area that is owned, rented, leased, or utilized by the West Virginia Department of Education, the West Virginia Secondary Schools Activities Commission, a county school board ,or local public school for the actual period of time the function is occurring. *Provided*, That the specific area where the school-sponsored function shall be conspicuously posted with appropriate signage informing the public of the prohibition of possessing a firearm or other deadly weapon within such specific area; or

(D) At a municipally owned recreation facility as defined in §8-12-5a(2) of this code.

(2) This subsection does not apply to:

(A) A law-enforcement officer employed by a federal, state, county, or municipal law- enforcement agency;

(B) Any probation officer appointed pursuant to §62-12-5 or chapter 49 of this code in the performance of his or her duties;

~~(C) A retired law enforcement officer who:~~

~~(i) Is employed by a state, county or municipal law enforcement agency;~~

~~(ii) Is covered for liability purposes by his or her employer;~~

~~(iii) Is authorized by a county board of education and the school principal to serve as security for a school;~~

~~(iv) Meets all the requirements to carry a firearm as a qualified retired law enforcement officer under the Law Enforcement Officer Safety Act of 2004, as amended, pursuant to 18 U. S. C. §926C(e); and~~

~~(v) Meets all of the requirements for handling and using a firearm established by his or her employer and has qualified with his or her firearm to those requirements;~~

(C) A retired law-enforcement officer who meets all the requirements to carry a firearm as a qualified retired law-enforcement officer under the Law-Enforcement Officer Safety Act of 2004, as amended, pursuant to 18 U.S.C. §926C(e), carries that firearm in a concealed manner, and has on their person official identification in accordance with that act;

(D) A person, other than a student, specifically authorized by the board of education of the county or principal of the school where the property is located to conduct programs with valid educational purposes;

(E) A person who, as otherwise permitted by the provisions of this article, possesses an unloaded firearm or deadly weapon in a motor vehicle or leaves an unloaded firearm or deadly weapon in a locked motor vehicle;

(F) Programs or raffles conducted with the approval of the county board of education or school which include the display of unloaded firearms;

(G) The official mascot of West Virginia University, commonly known as the Mountaineer, acting in his or her official capacity;



(H) The official mascot of Parkersburg South High School, commonly known as the Patriot, acting in his or her official capacity; or

(I) Any person, 21 years old or older, and who may lawfully carry a handgun may possess a concealed handgun while in a motor vehicle in a parking lot, traffic circle, or other areas of vehicular ingress or egress to a public school: *Provided, That:*

(i) When he or she is occupying the vehicle the person stores the handgun out of view from persons outside the vehicle; or

(ii) When he or she is not occupying the vehicle the person stores the handgun out of view from persons outside the vehicle, the vehicle is locked, and the handgun is in a ~~locked trunk, glove box or other interior compartment~~ glove box or other interior compartment, or in a locked trunk, or in a locked container securely fixed to the vehicle.

(3) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.

(c) A school principal subject to the authority of the State Board of Education who discovers a violation of §61-7-11a(b) of this code shall report the violation as soon as possible to:

(1) The State Superintendent of Schools. The State Board of Education shall keep and maintain these reports and may prescribe rules establishing policy and procedures for making and delivering the reports as required by this subsection; and

(2) The appropriate local office of the State Police, county sheriff or municipal police agency.

(d) In addition to the methods of disposition provided by §49-5-1 *et seq.* of this code, a court which adjudicates a person who is 14 years of age or older as delinquent for a violation of §61-7-11a(b) of this code may order the Division of Motor Vehicles to

suspend a driver's license or instruction permit issued to the person for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. If the person has not been issued a driver's license or instruction permit by this state, a court may order the Division of Motor Vehicles to deny the person's application for a license or permit for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. A suspension ordered by the court pursuant to this subsection is effective upon the date of entry of the order. Where the court orders the suspension of a driver's license or instruction permit pursuant to this subsection, the court shall confiscate any driver's license or instruction permit in the adjudicated person's possession and forward to the Division of Motor Vehicles.

(e)(1) If a person 18 years of age or older is convicted of violating §61-7-11a(b) of this code and if the person does not act to appeal the conviction within the time periods described in §61-7-11a(e)(2) of this code, the person's license or privilege to operate a motor vehicle in this state shall be revoked in accordance with the provisions of this section.

(2) The clerk of the court in which the person is convicted as described in §61-7-11a(e)(1) of this code shall forward to the commissioner a transcript of the judgment of conviction. If the conviction is the judgment of a magistrate court, the magistrate court clerk shall forward the transcript when the person convicted has not requested an appeal within 20 days of the sentencing for the conviction. If the conviction is the judgment of a circuit court, the circuit clerk shall forward a transcript of the judgment of conviction when the person convicted has not filed a notice of intent to file a petition for appeal or writ of error within 30 days after the judgment was entered.

(3) If, upon examination of the transcript of the judgment of conviction, the commissioner determines that the person was convicted as described in §61-7-11a(e)(1) of this code, the commissioner shall make and enter an order revoking the person's license or privilege to operate a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled in a secondary school, for a period of one year or until the person's

twentieth birthday, whichever is the greater period. The order shall contain the reasons for the revocation and the revocation period. The order of suspension shall advise the person that because of the receipt of the court's transcript, a presumption exists that the person named in the order of suspension is the same person named in the transcript. The commissioner may grant an administrative hearing which substantially complies with the requirements of the provisions of §17C-5A-2 of this code upon a preliminary showing that a possibility exists that the person named in the notice of conviction is not the same person whose license is being suspended. The request for hearing shall be made within 10 days after receipt of a copy of the order of suspension. The sole purpose of this hearing is for the person requesting the hearing to present evidence that he or she is not the person named in the notice. If the commissioner grants an administrative hearing, the commissioner shall stay the license suspension pending the commissioner's order resulting from the hearing.

(4) For the purposes of this subsection, a person is convicted when he or she enters a plea of guilty or is found guilty by a court or jury.

(f)(1) It is unlawful for a parent, guardian, or custodian of a person less than 18 years of age who knows that the person is in violation of §61-7-11a(b) of this code or has reasonable cause to believe that the person's violation of §61-7-11a(b) of this code is imminent to fail to immediately report his or her knowledge or belief to the appropriate school or law-enforcement officials.

(2) A person violating this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or shall be confined in jail not more than one year, or both fined and confined.

(g)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts.

(2) This subsection does not apply to:

(A) A law-enforcement officer acting in his or her official capacity; and

(B) A person exempted from the provisions of this subsection by order of record entered by a court with jurisdiction over the premises or offices.

(3) A person violating this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or shall be confined in jail not more than one year, or both fined and confined.

(h)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts, with the intent to commit a crime.

(2) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.

(i) Nothing in this section may be construed to be in conflict with the provisions of federal law.”

Whereupon,

Delegate Shott asked and obtained unanimous consent that the Judiciary amendment be withdrawn.

On motion of Delegate Shott, the bill was amended on page three, section eleven-a, line forty-eight, after the word “person”, by inserting a comma and the following words “other than a student of a primary or secondary facility” and inserting a comma.

Delegates Pushkin and Lane moved to amend the bill on page two, section eleven-a, line twenty-eight, by striking out the period, inserting a semi-colon, and the following:

“(D) At a municipally owned recreation facility at which school-sponsored activities occur during the times and at the areas

set forth in a lease or other similar authorized agreement between a municipality and the West Virginia Department of Education, the West Virginia Secondary Schools Activities Commission, a county school board, or a local public or private primary or secondary school: *Provided*, That it shall not be unlawful under this subsection to possess a firearm or other deadly weapon at a municipally owned recreational facility at which school-sponsored activities occur if the lease or other similar authorized agreement giving rise to application of this subsection is between a municipality and a private primary or secondary school that has adopted a written policy allowing for possession of firearms or other deadly weapons at the facility or grounds of the private primary or secondary school as permitted by subsection (a)(1)(B) of this section.”

On the adoption of the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 421**), and there were—yeas 18, nays 79, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Bates, Byrd, Campbell, Caputo, Diserio, Fleischauer, Hanshaw, Hornbuckle, Lane, Longstreth, Lynch, Miley, Pushkin, Pyles, Robinson, Rowe, Shott and Williams.

Absent and Not Voting: Deem and Kelly.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

The bill was then ordered to third reading.

**Com. Sub. for S. B. 271**, Creating centralized Shared Services Section of Department of Administration; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page five, section three, lines thirty-one and thirty-two, by striking out

the words “§5A-2B-3(a) of this code” and inserting in lieu thereof the words “subsection (a) of this section”.

The bill was then ordered to third reading.

**Com. Sub. for S. B. 283**, Relating generally to procurement by state agencies; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk on page three, section one, line twenty-four, by striking out the word “is” and inserting in lieu thereof the word “are”.

The Committee on Finance moves to amend the bill on page three, section one, line twenty-four, by striking out the word “is” and inserting in lieu thereof the word “are”.

On page three, section one, line twenty-five, by striking out the word “is” and inserting in lieu thereof the word “are”.

On page three, section one, line twenty-nine, by striking out “\$1 million” and inserting in lieu thereof “\$500,000”.

On page three, section one, line thirty-four, by striking out the word “though” and inserting in lieu thereof the word “through”.

On page nine, section ten-c, line forty-three, by striking out the word “who” and inserting in lieu thereof the word “that”.

And,

On page fifteen, by striking out the section caption and inserting in lieu thereof a new section caption, to read as follows:

**~~“§5A-3-37. Preference for resident vendors; preference for vendors employing state residents; preference for veteran residents; exceptions Reciprocal preference; preference for resident vendors for motor vehicle contracts.”~~**

On page nineteen, by striking out section thirty-seven in its entirety and inserting in lieu thereof the following:

“(a) For purposes of this section, a vendor shall be deemed to be a resident of this state if such vendor:

(1) Is registered in accordance with §11-12-1 et seq. of this code to transact business within the State of West Virginia;

(2) Maintains its headquarters or principal place of business in the state;

(3) Has actually paid, and not just applied to pay, personal property taxes imposed by chapter 11 of this code on equipment used in the regular course of supplying services or commodities of the general type offered; and

(4) Has actually paid, and not just applied to pay, all required business taxes imposed by chapter 11 of this code.

(b) Except as provided in subsection (c) of this section, in any instance that a purchase of commodities or printing by the director or by a state spending unit is required under the provisions of this article to be made upon competitive bids, preference shall be given to resident vendors of West Virginia against a nonresident vendor from any state that gives or requires a preference to bidders from that state. The amount of the preference shall be equal to the amount of the preference given or required by the state of the nonresident vendor for that particular supply.

(c)(1) In any instance that a purchase of motor vehicles by the director or by a state department is required under the provisions of this article to be made upon competitive bids, the successful bid shall be determined as provided in this subsection. The Purchasing Division shall promulgate any rules necessary to: (A) Determine that vendors have met the residence requirements described in this section; (B) establish the procedure for vendors to certify the residency requirements at the time of submitting their bids; (C) establish a procedure to audit bids which make a claim for preference permitted by this section and to reject noncomplying bids; and (D) otherwise accomplish the objectives of this subsection.

(2) For purposes of this subsection, a successful bid shall be determined and accepted as follows:

(A) From an individual resident vendor who has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted or from a partnership, association, corporation resident vendor, or from a corporation nonresident vendor which has an affiliate or subsidiary which employs a minimum of one hundred state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for four years immediately preceding the date on which the bid is submitted, if the vendor's bid does not exceed the lowest qualified bid from a nonresident vendor by more than two and one-half percent of the latter bid, and if the vendor has made written claim for the preference at the time the bid was submitted: *Provided*, That for purposes of this paragraph, any partnership, association or corporation resident vendor of this state, which does not meet the requirements of this paragraph solely because of the continuous four-year residence requirement, shall be considered to meet the requirement if at least eighty percent of the ownership interest of the resident vendor is held by another individual, partnership, association or corporation resident vendor who otherwise meets the requirements of this paragraph, including the continuous four-year residency requirement: *Provided, however*, That the Purchasing Division shall promulgate rules relating to attribution of ownership among several resident vendors for purposes of determining the eighty percent ownership requirement; or

(B) From a resident vendor, if, for purposes of producing or distributing the motor vehicles which are the subject of the vendor's bid and continuously over the entire term of the contract, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years, and the vendor's bid does not exceed the lowest qualified bid from a nonresident vendor by more than two and one-half percent of the latter bid, and if the vendor has certified the residency requirements



of this paragraph and made written claim for the preference, at the time the bid was submitted; or

(C) From a nonresident vendor, which employs a minimum of one hundred state residents or a nonresident vendor which has an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia and which employs a minimum of one hundred state residents, if, for purposes of producing or distributing the motor vehicles which are the subject of the vendor's bid and continuously over the entire term of the contract, on average at least seventy-five percent of the vendor's employees or the vendor's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years and the vendor's bid does not exceed the lowest qualified bid from a nonresident vendor by more than two and one-half percent of the latter bid, and if the vendor has certified the residency requirements of this paragraph and made written claim for the preference, at the time the bid was submitted; or

(D) From a vendor who meets either the requirements of both paragraphs (A) and (B) of this subdivision or paragraphs (A) and (C) of this subdivision, if the bid does not exceed the lowest qualified bid from a nonresident vendor by more than five percent of the latter bid, and if the vendor has certified the residency requirements above and made written claim for the preference at the time the bid was submitted; or

(E) From an individual resident vendor who is a veteran of the United States Armed Forces, the Reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted, if the vendor's bid does not exceed the lowest qualified bid from a nonresident vendor by more than three and one-half percent of the latter bid, and if the vendor has made written claim for the preference at the time the bid was submitted; or

(F) From a resident vendor who is a veteran of the United States Armed Forces, the Reserves or the National Guard, if, for purposes of producing or distributing motor vehicles which are the subject

of the vendor's bid and continuously over the entire term of the contract, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years and the vendor's bid does not exceed the lowest qualified bid from a nonresident vendor by more than three and one-half percent of the latter bid, and if the vendor has certified the residency requirements of this paragraph and made written claim for the preference, at the time the bid was submitted; or

(G) Notwithstanding any provisions of paragraphs (A), (B), (C), (D), (E) or (F) of this subdivision to the contrary, if any nonresident vendor that is bidding on the purchase of motor vehicles by the director or by a state department is also certified as a small, women or minority-owned business pursuant to §5A-3-59, the nonresident vendor shall be provided the same preference made available to any resident vendor under the provisions of this subdivision.

(2) If any of the requirements or provisions set forth in this section jeopardize the receipt of federal funds, then the requirement or provisions are void and of no force and effect for that specific project.

(d) If the Purchasing Division determines under any audit procedure that a vendor who received a preference under this section fails to continue to meet the requirements for the preference at any time during the term of the contract for which the preference was received the Purchasing Division may: (1) Reject the vendor's bid; or (2) assess a penalty against the vendor of not more than five percent of the vendor's bid on the contract.

(e) Political subdivisions of the state including county boards of education may grant the same preferences to any vendor of this state who has made a written claim for the preference at the time a bid is submitted, but for the purposes of this subsection, in determining the lowest bid, any political subdivision shall exclude from the bid the amount of business occupation taxes which must be paid by a resident vendor to any municipality within the county comprising or located within the political subdivision as a result of

being awarded the contract which is the object of the bid; in the case of a bid received by a municipality, the municipality shall exclude only the business and occupation taxes as will be paid to the municipality: *Provided*, That prior to soliciting any competitive bids, any political subdivision may, by majority vote of all its members in a public meeting where all the votes are recorded, elect not to exclude from the bid the amount of business and occupation taxes as provided in this subsection.”

On page twenty-seven, section three, line one, before the word “In” by inserting “(a)”.

And,

On page twenty-nine, section three, after line thirty-eight, by inserting a new subsection, designated subsection (b), to read as follows:

“(b) The Division of Highways may procure the services of architectural and engineering firms under the provisions of this section in an amount not to exceed \$750,000 for the services per project.”The Finance Committee amendment, as amended, was then adopted.

The bill was then ordered to third reading.

**Com. Sub. for S. B. 288**, Regulating cremation, embalming and directing of funeral service; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk on page two, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 6. BOARD OF FUNERAL SERVICE EXAMINERS AND CREMATORY SERVICES.**

**§30-6-1. License or certificate required to practice.**

The practice of preparing dead human bodies for burial or cremation and the subsequent burial or cremation thereof has

serious public health and safety considerations and should only be practiced by a person who has specific training in those fields.

Therefore, the Legislature hereby finds that to protect the public interest a person must have a license or certificate, as provided in this article, to provide funeral services and practice embalming, funeral directing and cremation and to operate a funeral establishment ~~and~~ or crematory in the State of West Virginia.

**§30-6-2. Short title Definitions.**

~~This article shall be known and may be cited as the ‘West Virginia Funeral Service Examiners Act’.~~

(a) ‘Apprentice’ means a person who is preparing to become a funeral services licensee and is learning the practice of embalming, funeral directing, or cremation under the direct supervision and personal instruction of a funeral services license holder.

(b) ‘Board’ means the West Virginia Board of Funeral Service Examiners.

(c) ‘Certificate’ means the authorization to perform crematory services pursuant to this article.

(d) ‘Cremains’ means all human remains, including foreign matter cremated with the human, recovered after the completion of cremation.

(e) ‘Cremation’ means the mechanical or thermal process whereby a dead human body is reduced to ashes and bone fragments and then further reduced by additional pulverization or recremating when necessary.

(f) ‘Crematory’ means a licensed place of business where a deceased human body is reduced to ashes and bone fragments and includes a crematory that stands alone or is part of or associated with a funeral establishment.

(g) 'Crematory operator' means a person certified by the secretary to operate a crematory.

(h) 'Crematory operator in charge' means a certified crematory operator who accepts responsibility for the operation of a crematory.

(i) 'Deceased' means a dead human being for which a death certificate is required.

(j) 'Embalming' means the practice of introducing chemical substances, fluids, or gases used for the purpose of preservation or disinfection into the vascular system or hollow organs of a dead human body by arterial or hypodermic injection for the restoration of the physical appearance of a deceased.

(k) 'Funeral' means a service, ceremony, or rites performed for the deceased with a body present.

(l) 'Funeral directing' means the business of engaging in the following:

(1) The shelter, custody, or care of a deceased;

(2) The preparation of a deceased for burial or other disposition;

(3) The arranging or supervising of a funeral or memorial service for a deceased; and

(4) The maintenance of a funeral establishment for the preparation, care, or disposition of a deceased.

(m) 'Funeral director' means a person licensed to practice funeral directing.

(n) 'Funeral establishment' means a licensed place of business devoted to: The care, preparation, and arrangements for the transporting, embalming, funeral, burial, or other disposition of a deceased. A funeral establishment can include a licensed crematory.

(o) 'Funeral service licensee' means a person licensed to practice embalming and funeral directing.

(p) 'License' means a license, which is not transferable or assignable, to:

(1) Practice embalming and funeral directing; or

(2) Operate a funeral establishment.

'Licensee' means a person holding a license issued under the provisions of this article.

(q)'Licensee in charge' means the holder of a funeral services license who accepts responsibility for the operation of a funeral establishment.

(r) 'Memorial service' means a service, ceremony, or rites performed for the deceased without a body present.

(s) 'Person' means an individual, partnership, association, corporation, not-for-profit organization, or any other organization.

(t) 'Registration' means a registration to be an apprentice to learn the practice of embalming, funeral directing, or cremation.

**§30-6-3. Definitions Termination of West Virginia Board of Funeral Service Examiners; transfer of functions and responsibilities to Secretary of State.**

As used in this article, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

~~(a) 'Apprentice' means a person who is preparing to become a licensed funeral director and embalmer and is learning the practice of embalming, funeral directing or cremation under the direct supervision and personal instruction of a duly licensed embalmer or funeral director.~~

~~(b) 'Authorized representative' means a person legally authorized or entitled to order the cremation of the deceased, as~~

~~established by rule. An authorized representative may include in the following order of precedence:~~

~~(1) The deceased, who has expressed his or her wishes regarding the disposal of their remains through a last will and testament, an advance directive or preneed funeral contract, as defined in section two, article fourteen, chapter forty five of this code;~~

~~(2) The surviving spouse of the deceased, unless a petition to dissolve the marriage was pending at the time of decedent's death;~~

~~(3) An individual previously designated by the deceased as the person with the right to control disposition of the deceased's remains in a writing signed and notarized by the deceased: *Provided*, That no person may be designated to serve in such capacity for more than one nonrelative at any one time;~~

~~(4) The deceased's next of kin;~~

~~(5) A court order;~~

~~(6) A public official who is charged with arranging the final disposition of an indigent deceased; or~~

~~(7) A representative of an institution who is charged with arranging the final disposition of a deceased who donated his or her body to science.~~

~~(c) 'Board' means the West Virginia Board of Funeral Service Examiners.~~

~~(d) 'Certificate' means a certification by the board to be a crematory operator.~~

~~(e) 'Courtesy card holder' means a person who only practices funeral directing periodically in West Virginia and is a licensed embalmer and funeral director in a state which borders West Virginia.~~

~~(f) 'Cremated remains' or 'cremains' means all human remains, including foreign matter cremated with the human, recovered after the completion of cremation.~~

~~(g) 'Cremation' means the mechanical or thermal process whereby a dead human body is reduced to ashes and bone fragments and then further reduced by additional pulverization, burning or re cremating when necessary.~~

~~(h) 'Crematory' means a licensed place of business where a deceased human body is reduced to ashes and bone fragments and includes a crematory that stands alone or is part of or associated with a funeral establishment.~~

~~(i) 'Crematory operator' means a person certified by the board to operate a crematory.~~

~~(j) 'Crematory operator in charge' means a certified crematory operator who accepts responsibility for the operation of a crematory.~~

~~(k) 'Deceased' means a dead human being for which a death certificate is required.~~

~~(l) 'Embalmer' means a person licensed to practice embalming.~~

~~(m) 'Embalming' means the practice of introducing chemical substances, fluids or gases used for the purpose of preservation or disinfection into the vascular system or hollow organs of a dead human body by arterial or hypodermic injection for the restoration of the physical appearance of a deceased.~~

~~(n) 'Funeral' means a service, ceremony or rites performed for the deceased with a body present.~~

~~(o) 'Funeral directing' means the business of engaging in the following:~~

~~(1) The shelter, custody or care of a deceased;~~

~~(2) The preparation of a deceased for burial or other disposition;~~



~~(3) The arranging or supervising of a funeral or memorial service for a deceased; and~~

~~(4) The maintenance of a funeral establishment for the preparation, care or disposition of a deceased.~~

~~(p) 'Funeral director' means a person licensed to practice funeral directing.~~

~~(q) 'Funeral establishment' means a licensed place of business devoted to: the care, preparation and arrangements for the transporting, embalming, funeral, burial or other disposition of a deceased. A funeral establishment can include a licensed crematory.~~

~~(r) 'Funeral service licensee' means a person licensed after July 1, 2003, to practice embalming and funeral directing.~~

~~(s) 'License' means a license, which is not transferable or assignable, to:~~

~~(1) Practice embalming and funeral directing;~~

~~(2) Operate a crematory or a funeral establishment.~~

~~(t) 'Licensee' means a person holding a license issued under the provisions of this article.~~

~~(u) 'Licensee in charge' means a licensed embalmer and funeral director who accepts responsibility for the operation of a funeral establishment.~~

~~(v) 'Memorial service' means a service, ceremony or rites performed for the deceased without a body present.~~

~~(w) 'Mortuary' means a licensed place of business devoted solely to the shelter, care and embalming of the deceased.~~

~~(x) 'Person' means an individual, partnership, association, corporation, not for profit organization or any other organization.~~

~~(y) 'Registration' means a registration issued by the board to be an apprentice to learn the practice of embalming, funeral directing or cremation.~~

~~(z) 'State' means the State of West Virginia.~~

(a) The West Virginia Board of Funeral Service Examiners, previously established under this article, shall terminate on June 30, 2018. Any license, certificate, or registration issued by that board prior to July 1, 2018 shall remain in effect for the period specified at the time the license, certificate, or registration was issued.

(b) Prior to July 1, 2018, the board may continue to receive applications for licenses, certificates, and registrations and for renewal of the same as previously required by law. The board and its staff shall continue to act on those applications and, up until the date of termination, issue licenses, certificates, and registrations to applicants providing complete and sufficient applications, as appropriate.

(c) Upon the effective date of the enactment of amendments to this section during the 2018 regular session of the Legislature, and prior to the termination of the board, complaints alleging unprofessional conduct against any licensee, certificate holder, or registrant shall be submitted to the Secretary of State for investigation.

(d) Prior to July 1, 2018, the board and its staff shall take all reasonable and necessary measures to terminate the board's existing contracts and leases effective June 30, 2018, under the terms of those contracts, or, in coordination with the Secretary of State, arrange for the transfer of those contracts and leases to the Secretary of State. The board and its staff shall arrange for all records, data, equipment, and other tangible property owned by the board to be transferred to the Secretary of State prior to July 1, 2018.

(e) On July 1, 2018, the Secretary of State shall assume all powers, functions, and duties of the former board, as detailed in this article.

(f) All licenses, certificates, or registrations issued by the board after the effective date of the amendment of this section in the 2018 regular session of the Legislature, but prior to the termination of the board, shall be valid if signed both by the executive director of the board and by any member of the board or, in the absence of any available member of the board, by the Secretary of State.

(1) If, due to resignation or retirement of its staff, the board is unable to complete the review of applications for renewal of licenses or other authorizations to practice by June 30, 2018, as provided under this article, the Secretary of State may grant temporary authorizations to applicants to continue to practice for up to 60 days while the applications are reviewed by the secretary.

(2) If, due to resignation or retirement of the board's staff, and in the absence of any members of the board, the board ceases to fulfill its statutory functions, the Secretary of State may ask the State Auditor to find that no spending officer exists to authorize expenditures from fund 8504, known as the Funeral Service Examiners Operating Fund. If the State Auditor makes this finding in writing, the Secretary of State shall then be authorized to expend money from that fund to carry out the requirements of this article until there is a transfer of moneys to the new special revenue account created pursuant to §30-6-5 of this code.

(g) The Secretary of State shall educate members of the public concerning the transfer of responsibilities from the Board of Funeral Service Examiners to the Secretary of State, including the manner in which complaints alleging violations of this article or misconduct by licensees under this article may be submitted to the Secretary of State.

**§30-6-4. Board of funeral service examiners Rule-making authority; carryover of existing rules; authorization for emergency rules.**

~~(a) The 'West Virginia Board of Embalmers and Funeral Directors' is hereby continued and shall, after June 30, 2002, be known as the 'West Virginia Board of Funeral Service Examiners'. The members of the board in office on July 1, 2002 shall, unless sooner removed, continue to serve until their respective terms expire and until their successors have been appointed and qualified.~~

~~(b) Commencing with the board terms beginning July 1, 2002, the board shall consist of seven members appointed for terms of four years by the Governor, by and with the advice and consent of the Senate. Five members must be licensed embalmers and funeral directors, and one member must be a citizen member who is not licensed, certified or registered under the provisions of this article and who is not a person who performs any services related to the practice of embalming or funeral directing. Commencing with the board terms beginning July 1, 2002, the Governor shall appoint, by and with the advice and consent of the Senate, one person who operates a crematory in West Virginia which person shall replace the current board member whose term ended on June 30, 2002. The crematory operator who is appointed for the term commencing July 1, 2002, shall register and be certified, pursuant to the provisions of this article. Any crematory operator appointed thereafter shall be certified, pursuant to the provisions of this article.~~

~~(c) Each licensed member of the board, at the time of his or her appointment, must have held a license in this state for a period of not less than five years immediately preceding the appointment and each member must be a resident of this state during the appointment term. Each certified member must abide by the provisions of subsection (b) of this section. Board members must represent at least four different geographic regions of the state.~~

~~(d) No member may serve more than two consecutive full terms and any member having served two full terms may not be appointed for one year after completion of his or her second full term. A member shall continue to serve until his or her successor has been appointed and qualified.~~

~~(e) The Governor may remove any member from the board for neglect of duty, incompetency or official misconduct.~~

~~(f) Any member of the board immediately and automatically forfeits his or her membership if he or she has his or her license or certificate to practice suspended or revoked by the board, is convicted of a felony under the laws of any state or the United States or becomes a nonresident of this state.~~

~~(g) The board shall annually elect one of its members as president and one of its members as secretary.~~

~~(h) Each member of the board shall receive compensation and expense reimbursement in accordance with section eleven, article one of this chapter.~~

(a) The Secretary of State shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to implement the provisions of this article including, but not limited to, the following:

(1) The general practice of embalming, funeral directing, and cremating, and operating a funeral establishment and crematory;

(2) The issuing and renewing of licenses, certificates, and courtesy cards, including establishing a staggered biennial renewal schedule;

(3) The requirements for inactive licensees;

(4) The registration and regulation of apprentices;

(5) Establish a cremation procedure and crematory requirements;

(6) Establish inspection requirements for funeral establishments and crematories, including an inspection of a new facility and annual inspections of existing facilities;

(7) Establish inspector and investigator requirements;

(8) Setting the fees charged under the provisions of this article;

(9) Setting the fines assessed under the provisions of this article;

(10) Setting requirements for continuing education for licensees;

(11) Denying, suspending, revoking, reinstating, or limiting the practice of a licensee or certificate of qualification;

(12) The investigation and resolution of complaints against persons licensed, certified, or registered under this article;

(13) Establish advertising standards; and

(14) Propose any other rules necessary to effectuate the provisions of this article.

(b) All rules promulgated by the West Virginia Board of Funeral Service Examiners and in effect on the effective date of the amendments to this article enacted during the 2018 regular session of the Legislature shall remain in effect and may be applied or enforced by the Secretary of State until the secretary proposes new rules to supersede the rules currently in effect: *Provided*, That these rules shall expire on July 1, 2021, if not superseded sooner. The secretary is authorized to request the repeal, pursuant to the provisions of §29A-3-1a(b) of this code, of any rules previously promulgated by the West Virginia Board of Funeral Service Examiners.

(c) If the Secretary of State chooses during the 2018 calendar year to propose rules for legislative approval to supersede or update the rules previously promulgated by the West Virginia Board of Funeral Service Examiners, the secretary may initiate the rule-making process with a notice of proposed rulemaking as provided within §29A-3-5 of this code prior to October 1, 2018, and, notwithstanding the time limit specified in §29A-3-12(a) of this code, the Legislative Rule-Making Review Committee shall consider and review the rules for approval for introduction in the 2019 regular session of the Legislature. If the secretary proposes a rule for legislative approval pursuant to this section, the secretary is also authorized to promulgate a corresponding emergency rule pursuant to the provisions of §29A-3-15 of this code.

**§30-6-5. Powers of the board Crematory operator certificate requirements.**

~~The board has all the powers set forth in article one of this chapter and in addition may:~~

~~(1) Sue and be sued in its official name as an agency of this state;~~

~~(2) Hire, fix the compensation of and discharge an executive director;~~

~~(3) Hire, fix the compensation of and discharge the employees necessary to enforce the provisions of this article;~~

~~(4) Set the requirements to be an inspector;~~

~~(5) Examine and determine the qualifications of any applicant for a license;~~

~~(6) Determine the qualifications of any applicant for a certificate;~~

~~(7) Set cremation procedures and requirements;~~

~~(8) Set the fees charged under the provisions of this article;~~

~~(9) Set the fines assessed under the provisions of this article;~~

~~(10) Issue, renew, deny, suspend, revoke or reinstate licenses and certificates and discipline licensees and certificate holders;~~

~~(11) Set the continuing education requirements for licensees and certificate holders;~~

~~(12) Investigate alleged violations of the provisions of this article and the rules promulgated hereunder, and orders and final decisions of the board;~~

~~(13) Conduct hearings upon charges calling for discipline of a licensee or revocation or suspension of a license;~~

~~(14) Propose rules in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the provisions of this article; and~~

~~(15) Take all other actions necessary and proper to effectuate the purposes of this article.~~

In order to operate a crematory lawfully in this state, the operator must be certified by the Secretary of State. The secretary shall issue a certificate to be a crematory operator to an applicant who meets the following requirements:

(1) Has completed a class, authorized by the secretary, on cremation and operating a crematory;

(2) Has paid all the appropriate fees; and

(3) Has completed such other requirements as prescribed by the secretary.

**§30-6-6. Rule-making authority Funeral service license requirements.**

~~(a) The board shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the provisions of this article including, but not limited to, the following:~~

~~(1) The general practice of embalming, funeral directing and cremating, and operating a funeral establishment and crematory. *Provided,* That the board cannot require that an applicant for a license to operate a funeral establishment or crematory have either an embalmer's or funeral director's license, or a certificate to operate a crematory.~~

~~(2) The examinations administered under this article;~~

~~(3) The issuing and renewing of licenses, certificates and courtesy cards, including establishing a staggered biennial renewal schedule;~~

~~(4) The requirements for inactive licensees;~~



~~(5) The registration and regulation of apprentices;~~

~~(6) Establish a cremation procedure and crematory requirements;~~

~~(7) Establish inspection requirements for funeral establishments and crematories, including an inspection of a new facility and annual inspections of existing facilities;~~

~~(8) Establish inspector and investigator requirements;~~

~~(9) Setting the fees charged under the provisions of this article;~~

~~(10) Setting the fines assessed under the provisions of this article;~~

~~(11) Implementing requirements for continuing education for licensees;~~

~~(12) Denying, suspending, revoking, reinstating or limiting the practice of a licensee or certificate of qualification;~~

~~(13) The investigation and resolution of complaints against persons licensed, certified or registered under this article;~~

~~(14) Establish advertising standards; and~~

~~(15) Propose any other rules necessary to effectuate the provisions of this article.~~

~~(b) All rules in effect on the effective date of this article shall remain in effect until they are withdrawn, revoked or amended.~~

The Secretary of State shall issue a license to practice embalming and funeral directing, which license shall be known as a funeral service license, to an applicant who meets the following requirements:

(1) Is of good moral character;

(2) Is 18 years of age or older;

(3) Is a citizen of the United States or is eligible for employment in the United States;

(4) Holds a high school diploma or its equivalent;

(5) Has completed one of the following education requirements, as evidenced by a transcript submitted to the secretary for evaluation:

(A) (i) Has an associate's degree from an accredited college or university, or has successfully completed at least 60 semester hours or 90 quarter hours of academic work in an accredited college or university toward a baccalaureate degree with a declared major field of study; and

(ii) Has graduated from a school of mortuary science, accredited by the American Board of Funeral Service Education, Inc., which requires as a prerequisite to graduation the completion of a course of study of not less than 12 months; or

(B) Has a bachelor's degree in mortuary science from an accredited college or university;

(6) Has completed an apprenticeship established by the Secretary of State pursuant to §30-6-9 of this code; and

(7) Has paid all the appropriate fees.

### **§30-6-7. Fees; special revenue account; administrative fines**

(a) All fees and other moneys, except administrative fines, received by the ~~board~~ Secretary of State shall be deposited in a separate special revenue fund in the state Treasury and be used for the administration of this article. ~~Except as may be provided in section eleven, article one of this chapter, the board shall retain the amounts in the special revenue account from year to year. No compensation or expense incurred under this article is a charge against the General Revenue Fund.~~ The Secretary of State is authorized to expend moneys of the fund from collections to carry out the provisions of this article. No compensation or expense

incurred under this article is a charge against the General Revenue Fund.

(b) Any amounts received as administrative fines imposed pursuant to this article shall be deposited into the General Revenue Fund of the state Treasury.

(c) On June 30, 2019, and each year thereafter, any amounts in the fund created pursuant to this section of the code over \$250,000 shall revert to the General Revenue Fund.

**§30-6-8. Embalmer license requirements Licenses and certificates or equivalent authorizations from another state; courtesy cards.**

~~(a) The board shall issue a license to practice embalming to an applicant who:~~

~~(1) Is of good moral character;~~

~~(2) Is eighteen years of age or over;~~

~~(3) Is a citizen of the United States or is eligible for employment in the United States;~~

~~(4) Has a high school diploma or its equivalent;~~

~~(5) Has completed one of the following education requirements, as evidenced by a transcript submitted to the board for evaluation:~~

~~(A) (i) Has an associate degree from an accredited college or university; or~~

~~(ii) Has successfully completed at least sixty semester hours or ninety quarter hours of academic work in an accredited college or university toward a baccalaureate degree with a declared major field of study; and (iii) Has graduated from a school of mortuary science, accredited by the American Board of Funeral Service Education, Inc., which requires as a prerequisite to graduation the completion of a course of study of not less than twelve months; or~~

~~(B) Has a bachelor degree in mortuary science from an accredited college or university;~~

~~(6) Has completed a one year apprenticeship, under the supervision of a licensed embalmer and funeral director actively and lawfully engaged in the practice of embalming and funeral directing in this state, which apprenticeship consisted of:~~

~~(A) Diligent attention to the work in the course of regular and steady employment and not as a side issue to another employment; and~~

~~(B) The apprentice taking an active part in:~~

~~(i) The operation of embalming not less than thirty five dead human bodies; and~~

~~(ii) Conducting not less than thirty five funeral services;~~

~~(7) Passes, with an average score of not less than seventy five percent, the following examinations:~~

~~(A) The National Conference of Funeral Services examination at a testing site provided by the national conference, which passage is a condition precedent to taking the state law examination;~~

~~(B) The state law examination administered by the board, which examination must be offered at least twice each year; and~~

~~(C) Any other examination required by the board; and~~

~~(8) Has paid all the appropriate fees.~~

~~(b) A license to practice embalming issued by the board prior to July 1, 2012, shall for all purposes be considered a license issued under this section: *Provided*, That a person holding a license issued prior to July 1, 2012, must renew the license pursuant to the provisions of this article.~~

(a) The secretary shall issue a funeral service license or a certificate to be a crematory operator to an applicant of good moral character who holds a valid license or a certificate or its equivalent

to practice from another state or jurisdiction if the applicant demonstrates that:

(1) He or she holds a license or certificate or its equivalent to practice in another state or jurisdiction which was granted after completion of educational requirements substantially equivalent to those required in this state;

(2) He or she holds a license or its equivalent to practice in another state which was granted after passing, in that or another state, an examination that is substantially equivalent to the examination required in this state;

(3) Reciprocal rights are provided by such other state or jurisdiction to holders of funeral services licenses and certificates granted in this state;

(4) He or she is not currently being investigated by a disciplinary authority of another state, does not have charges pending against his or her license or something equivalent to practice and has never had a license or equivalent authorization to practice revoked;

(5) He or she has not previously failed an examination for funeral service license in this state;

(6) He or she has paid the application fee specified by rule; and

(7) He or she has completed such other action as required by rules promulgated by the secretary.

(b) The Secretary of State may enter into reciprocal agreements with funeral services and crematory licensing authorities in other states for the mutual recognition of licenses between states.

(c) The secretary may issue courtesy cards, beginning on July 1, 2018, to funeral services license holders in the states bordering on West Virginia:

(1) A courtesy card may only be issued after the:

(A) Application for a courtesy card is made on a form prescribed by the secretary;

(B) Payment of a fee; and

(C) Adherence to such other requirements as specified by the secretary by rule;

(2) A courtesy card may only be issued under the following conditions:

(A) Holders of courtesy cards shall not be permitted to open or operate a place of business for the purpose of conducting funerals, embalming bodies, or cremating in the State of West Virginia; and

(B) Holders of courtesy cards shall not be permitted to maintain an office or agency in this state for the purpose of conducting funerals, embalming bodies, or cremating in the State of West Virginia;

(3) A violation of §30-6-8(c)(2) of this code shall be sufficient cause for the secretary to immediately revoke or cancel the courtesy card of the violator.

### **§30-6-9. Funeral director license requirements Apprenticeship.**

~~(a) The board shall issue a license to practice funeral directing to an applicant who meets the following requirements:~~

~~(1) Holds an embalmer's license issued by the board; and~~

~~(2) Has paid all the appropriate fees.~~

~~(b) A license to practice funeral directing issued by the board prior to July 1, 2002, shall for all purposes be considered a license issued under this section: *Provided*, That a person holding a license issued prior to July 1, 2002, must renew the license pursuant to the provisions of this article.~~

(a) The Secretary of State shall issue a registration to be an apprentice to a funeral services licensee to an applicant who meets the following requirements:

(1) Is of good moral character and temperate habits;

(2) Is 18 years of age or older;

(3) Is a citizen of the United States or eligible for employment in the United States;

(4) Has a high school diploma or its equivalent;

(5) Has completed one of the education requirements for a funeral service licensee as set out in §30-6-6(5) of this code;

(6) Is not attending school and will not be attending school during the apprenticeship period; and

(7) Has paid the appropriate fees.

(b) The secretary may set the requirements for an apprenticeship, including the manner in which it shall be served and the length of time, which shall not be more than one year.

(c) No funeral services licensee shall be permitted to register or have registered more than five apprentices under his or her license at the same time.

**§30-6-10. Funeral service license requirements Funeral establishment license requirements.**

~~(a) Commencing July 1, 2003, the board shall issue a license to practice embalming and funeral directing, which license shall be known as a funeral service license, to an applicant who meets the following requirements:~~

~~(1) Is of good moral character;~~

~~(2) Is eighteen years of age or over;~~

~~(3) Is a citizen of the United States or is eligible for employment in the United States;~~

~~(4) Holds a high school diploma or its equivalent;~~

~~(5) Has completed one of the education requirements for an embalmer's license, set out in subdivision (5), subsection (a), section eight of this article; and~~

~~(6) Has paid all the appropriate fees.~~

~~(b) A license to practice embalming and funeral directing issued by the board prior to July 1, 2003, shall for all purposes be considered a license issued under this section.~~

~~(c) A person holding a license to practice embalming and funeral directing issued prior to July 1, 2003, must after July 1, 2003, renew his or her license pursuant to the provisions of this section.~~

~~(d) After July 1, 2003, wherever the terms 'license to practice embalming and funeral directing' or 'embalming and funeral directing license' are used in the code, the term 'funeral service license' shall apply.~~

(a) Every funeral establishment in West Virginia shall be licensed prior to opening a funeral establishment for business to the public. The secretary shall issue a license to operate a funeral establishment to an applicant who meets the following requirements:

(1) The place of business has been approved by the secretary as having met all the requirements and qualifications to be a funeral establishment as are required by this article and legislative rules promulgated pursuant thereto;

(2) Notify the secretary, in writing, at least 30 days before the proposed opening date, so there can be an inspection of the funeral establishment;

(3) Show proof that the funeral establishment passed an annual inspection;

(4) Show that the funeral establishment employs a licensee in charge;



(5) Show that the licensee in charge will manage the funeral establishment and be responsible for all business conducted and services performed therein;

(6) Pay all the appropriate fees; and

(7) Complete such other requirements as specified by the secretary.

(b) Every separate funeral establishment shall be operated under the supervision and management of a licensee in charge. Each funeral establishment shall display in all advertising the name of the licensee in charge of the establishment. All funeral establishments shall prominently display within the funeral establishment the license of the licensee in charge.

(c) Each funeral establishment license shall be valid for only one funeral establishment to be located at a specific street address. There shall be a separate license issued and a separate fee assessed to operate additional funeral establishments by the same applicant. The funeral establishment license shall be prominently displayed within the funeral establishment.

(d) The holder of a funeral establishment license who ceases to operate the funeral establishment at the location specified in the application shall, within 20 days thereafter, surrender the funeral establishment license to the secretary, and the license shall be canceled by the secretary. In the event of the death of an individual who was the holder of a funeral establishment license, it shall be the duty of the holder's personal representative to surrender the funeral establishment license within 120 days of qualifying as the personal representative.

(e) If a licensee or certificate holder in charge ceases to be employed by a funeral establishment, then the holder of the funeral establishment license shall notify the secretary within 30 days of the cessation. Within 30 days after such notification, the holder of a funeral establishment license shall execute a new application for a funeral establishment license specifying the name of the new

licensee in charge. A funeral establishment is prohibited from operating more than 30 days without a licensee in charge.

(f) A licensee or certificate holder whose funeral service license has been revoked or a holder of a license or certificate to operate a funeral establishment whose license to operate has been revoked shall not operate, either directly or indirectly, or hold any interest in any funeral establishment or crematory for so long as the funeral service license or license or certificate to operate a funeral establishment is revoked: *Provided*, That a holder of a license or certificate to operate a funeral establishment whose license or certificate to operate has been revoked is not prohibited from leasing any property owned by him or her for use as a funeral establishment, so long as the property owner does not participate in the control or profit of the funeral establishment except as lessor of the premises for a fixed rental not dependent upon earnings.

(g) Failure to comply with any of these provisions shall be grounds for revocation of a funeral establishment license.

### **§30-6-11. Crematory operator certificate requirements.**

~~(a) All crematory operators shall be certified by the board. The board shall issue a certificate to be a crematory operator to an applicant who meets the following requirements:~~

~~(1) Has completed a class, authorized by the board, on cremation and operating a crematory;~~

~~(2) Has paid all the appropriate fees; and~~

~~(3) Has completed such other requirements as prescribed by the board.~~

~~(b) All persons currently operating crematories shall by January 1, 2003, register with the board. By July 1, 2003, all persons currently operating crematories shall obtain a certificate to operate a crematory, pursuant to the provisions of this section.~~

~~(c) All certificates must be renewed biennially upon or before July 1.~~

~~(d) After July 1, 2003, all licensed crematories must have a certified crematory operator in charge.~~

secretary, who shall issue a crematory certificate to an applicant who meets the following requirements:

(1) The place of business has been approved by the secretary as having met all the requirements and qualifications to be a crematory as are required by this article;

(2) The crematory conforms with all local building codes;

(3) The crematory meets all applicable environmental standards;

(4) Notify the secretary, in writing, at least 30 days before the proposed opening date so there can be an inspection of the crematory;

(5) Show proof that the crematory passed the inspection;

(6) Have a certified crematory operator in charge;

(7) Pay all the appropriate fees; and

(8) Complete such other requirements as specified by the secretary.

(b) Every separate crematory shall be operated under the supervision and management of a certificate holder in charge. Each crematory shall display in all advertising the name of the certificate holder in charge of the establishment. All crematories shall prominently display within the funeral establishment the certificate of the certificate holder in charge.

(c) Each crematory certificate shall be valid for only one crematory to be located at a specific street address. There shall be a separate certificate issued and a separate fee assessed to operate additional crematories by the same applicant. The crematory certificate shall be prominently displayed within the crematory.

(d) The holder of a crematory certificate who ceases to operate the crematory at the location specified in the application shall, within 20 days thereafter, surrender the crematory certificate to the secretary, and the license shall be canceled by the secretary. In the event of the death of an individual who was the holder of a crematory certificate the holder's personal representative shall surrender the crematory certificate within 120 days of qualifying as the personal representative.

(e) If a certified crematory operator in charge ceases to be employed by a crematory, then the holder of the crematory certificate shall notify the secretary within 30 days of the cessation. Within 30 days after such notification, the holder of a crematory certificate shall execute a new application for a crematory certificate specifying the name of the new certified crematory operator in charge. A crematory is prohibited from operating more than 30 days without a certified crematory operator in charge.

(f) A holder of a crematory certificate whose certificate to operate has been revoked or a holder of a crematory certificate whose certificate has been revoked shall not operate, either directly or indirectly, or hold any interest in any crematory or funeral establishment: *Provided*, That a holder of a crematory certificate whose certificate has been revoked is not prohibited from leasing any property owned by him or her for use as a crematory, so long as the property owner does not participate in the control or profit of the crematory except as lessor of the premises for a fixed rental not dependent upon earnings.

(g) Failure to comply with any of these provisions shall be grounds for revocation of a crematory license.

**§30-6-12. Licenses or equivalent from another state; license or certificate to practice in this state Inspector and inspection requirements.**

~~The board may issue a license to practice embalming and funeral directing or a certificate to be a crematory operator to an applicant of good moral character who holds a valid license or its~~

~~equivalent to practice from another state if the applicant demonstrates that:~~

~~(1) He or she holds a license or its equivalent to practice in another state which was granted after completion of educational requirements substantially equivalent to those required in this state;~~

~~(2) He or she holds a license or its equivalent to practice in another state which was granted after passing, in that or another state, an examination that is substantially equivalent to the examination required in this state;~~

~~(3) Reciprocal rights are provided by such other state to holders of funeral director's or embalmer's licenses granted in this state. Such reciprocal licenses may be renewed biennially upon payment of the renewal license fee;~~

~~(4) He or she is not currently being investigated by a disciplinary authority of another state, does not have charges pending against his or her license or something equivalent to practice and has never had a license or something equivalent to practice revoked;~~

~~(5) He or she has not previously failed an examination for licensure as an embalmer or funeral director in this state;~~

~~(6) He or she has paid the application fee specified by rule; and~~

~~(7) Has completed such other action as required by the board.~~

(a) The secretary shall appoint one or more persons to serve as inspectors of funeral establishments and crematories.

(b) Each inspector shall inspect a specific region, as designated by the secretary. Any person being employed as an inspector is prohibited from inspecting in the region in which he or she practices.

(c) All inspections shall be conducted in a manner so as not to interfere with the conduct of business within the funeral establishment or crematory. The secretary or an inspector retained

by the secretary has the authority to enter, at all reasonable hours, for the purpose of inspecting the premises in which the business of embalming, funeral directing, or cremating is conducted.

(d) All of an inspector's expenses, per diem, and compensation shall be paid out of the receipts of the secretary, but the allowances shall at no time exceed the receipts of the secretary received pursuant to this article.

(e) The secretary is authorized to set fees for inspections: Provided, That there shall be no fee for an annual inspection.

**§30-6-13. Courtesy cards License, certificate, and courtesy card renewal; conditions of renewal.**

~~(a) The board may issue biennial courtesy cards, on July 1, to licensed funeral directors and licensed embalmers in the states bordering on West Virginia, after the:~~

~~(1) Application for a courtesy card is made on a form prescribed by the board;~~

~~(2) Payment of a fee; and~~

~~(3) Adherence to such other requirements as specified by the board.~~

~~(b) A courtesy card may be issued under the following conditions:~~

~~(1) Holders of courtesy cards shall not be permitted to open or operate a place of business for the purpose of conducting funerals, embalming bodies or cremating in the State of West Virginia; and~~

~~(2) Holders of courtesy cards shall not be permitted to maintain an office or agency in this state for the purpose of conducting funerals, embalming bodies or cremating in the State of West Virginia.~~

~~(c) A violation of this section shall be sufficient cause for the board to immediately revoke or cancel the courtesy card of the violator.~~

(a) The secretary shall biennially on July 1, and pursuant to a staggered schedule, renew a funeral service license or a certificate to be a crematory operator to every licensee or certificate holder desiring to continue in active practice or service.

(b) The secretary shall charge a fee for each renewal and a late fee for nonrenewal of a license or certificate.

(c) The secretary shall require as a condition for the renewal of a funeral service license or a certificate to be a crematory operator that each licensee or certificate holder participate in continuing education.

(1) The secretary shall establish continuing education requirements for each licensee or certificate holder to complete during a license period. The secretary shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to specify the amount and types of education to be completed and the manner in which licensees, certificate holders, and education providers may apply for approval of courses offered.

(2) Hours of continuing education may be obtained by attending and participating in programs, meetings, seminars, or activities approved by the secretary. It is the responsibility of each licensee or certificate holder to finance his or her costs of continuing education.

(3) Any holder of a funeral services license or certificate holder 65 years or older with at least 10 years' experience is entitled to be issued, after payment of a fee, a funeral service license emeritus or a crematory operator certificate emeritus and is exempt from all continuing education requirements. The emeritus license or certificate shall entitle the holder to all the rights and privileges of the license or certificate previously held by the licensee or certificate holder.

(d) Any person holding a funeral service license or certificate to be a crematory operator who does not desire to continue in active practice shall notify the secretary, in a manner specified by the

secretary, and pay a fee, and shall, during such period, be listed by the secretary as being inactive. At such time a person desires to return to active practice, he or she must notify the secretary, in a manner specified by the secretary, and complete all the continuing education requirements.

(e) All funeral establishment licenses and certificates to be a crematory operator shall be renewed biennially, by a staggered schedule, upon or before July 1, and the holder must pay a renewal fee. A holder of a funeral establishment license or certificate that fails to pay fees for either the principal establishment or additional establishments by July 1 of the renewal year is subject to a penalty, a reinstatement fee for each establishment, and the required renewal fee.

(f) All certificates to be a crematory operator must be renewed biennially, by a staggered schedule, upon or before July 1, and the holder must pay a renewal fee. A holder of a crematory certificate that fails to pay fees for either the principal establishment or additional establishments by July 1 of the renewal year is subject to a penalty, a reinstatement fee for each establishment, and the required renewal fee.

(g) Any courtesy card issued pursuant to this article must be renewed annually.

**§30-6-14. License and certificate renewal; conditions of renewal Requirements for cremating.**

~~(a) The board shall biennially on July 1, and pursuant to a staggered schedule, renew a license to practice embalming and funeral directing or a certificate to be a crematory operator to every licensee or certificate holder desiring to continue in active practice or service.~~

~~(b) The board shall charge a fee for each renewal and a late fee for nonrenewal of a license or certificate.~~

~~(c) The board shall require as a condition for the renewal of a license to practice embalming and funeral directing or a certificate to be a crematory operator that each licensee participate in~~



~~continuing education: *Provided*, That any licensed embalmer or funeral director sixty-five years or older with at least ten years experience as a licensed embalmer or licensed funeral director, is entitled to be issued, after payment of a fee, a license as an embalmer emeritus or funeral director emeritus and is exempt from all continuing education requirements. The emeritus license shall entitle the holder to all the rights and privileges of the license previously held by the licensee.~~

~~(d) Any person licensed to practice embalming and funeral directing or certified to be a crematory operator who does not desire to continue in active practice shall notify the board, in a manner specified by the board, and pay a fee, and shall, during such period, be listed by the board as being inactive. At such time a person desires to return to active practice, he or she must notify the board, in a manner specified by the board, and complete all the continuing education requirements.~~

(a) A crematory shall obtain written permission prior to cremating a dead human body. The written permission shall be obtained from persons in the following order of precedence:

(1) The deceased, who has expressed his or her wishes regarding the disposal of his or her remains through a last will and testament, an advance directive, or preneed funeral contract, as defined in §47-14-2 of this code;

(2) An individual previously designated by the deceased as the person with the right to control disposition of the deceased's remains in a writing signed and notarized by the deceased; *Provided*, That no person may be designated to serve in such capacity for more than one nonrelative at any one time;

(3) The surviving spouse of the deceased, unless a petition to dissolve the marriage was pending at the time of the decedent's death;

(4) The deceased's next of kin;

(5) A court order;

(6) A public official who is charged with arranging the final disposition of an indigent deceased; or

(7) A representative of an institution who is charged with arranging the final disposition of a deceased who donated his or her body to science.

(b) The written permission shall be on a standard form, prescribed by the secretary, and shall contain the following information:

(1) The identity of the deceased;

(2) The name of the person authorizing the cremation and the relationship, if any, to the deceased;

(3) Permission for the crematory to perform the cremation;

(4) The name of the person who will claim the cremains from the crematory; and

(5) Any other information required by the secretary.

(c) A crematory shall obtain a permit or authorization for cremation from the county medical examiner, the assistant county medical examiner, or the county coroner of the county wherein the death occurred and do such other acts as required by §61-12-9 of this code: *Provided, That a crematory may obtain a permit or authorization for cremation from the chief medical examiner if:*

(1) The crematory is unable to obtain a permit from the county medical examiner, the assistant county medical examiner, or the county coroner of the county wherein the death occurred; or

(2) The crematory has concerns following authorization by county personnel regarding the identity or cause of death of the deceased.

(d) The permit or authorization for cremation shall be on forms prescribed by the chief medical examiner. A permit or authorization for cremation may be done by facsimile.

(e) All crematories shall implement a cremation procedure. The secretary shall, by rule, establish the minimum standards for the cremation procedure, which shall include:

(1) An identification process for bodies;

(2) A tracking process for bodies from the time a body is delivered to a crematory through the time the cremains are claimed by the authorized person;

(3) Obtaining all the required signatures, as specified by the secretary, on the written permission for cremation;

(4) Only cremating one dead human body at a time and prohibiting comingling of cremains;

(5) The specified time period a crematory is required to keep unclaimed cremains;

(6) How to dispose of unclaimed cremains;

(7) A record-keeping process for cremations; and

(8) Any other requirements necessary to effectuate the provisions of this article.

(f) The secretary shall establish requirements for:

(1) The equipment needed to complete the cremation process; and

(2) The containers needed to store the cremains.

**§30-6-15. ~~Continuing education~~ Right of disposition; preneed contract; affidavit on disposition of remains; role of county commission; liability of funeral home.**

~~(a) The board shall conduct annually a school of instruction to apprise funeral directors and embalmers of the most recent scientific knowledge and developments affecting their profession. This school shall qualify as continuing education and shall fulfill as many continuing education required hours as the board specifies.~~

~~Qualified lecturers and demonstrators may be employed by the board for this purpose. The board shall give notice of the time and place at which the school will be held for all licensed funeral directors and embalmers: *Provided*, That the location of any school of continuing education shall accommodate the geographic diversity of the embalmers and funeral directors of this state.~~

~~(b) Hours of continuing education may be obtained by attending and participating in board approved programs, meetings, seminars or activities. It is the responsibility of each licensee to finance his or her costs of continuing education.~~

~~(c) Compliance with the requirements of continuing education, as specified by the board, is a prerequisite for license renewal.~~

(a) Notwithstanding §30-6-14 of this code, a person who is 18 years of age or older and of sound mind, by entering into a preneed funeral contract, as defined in §47-14-2 of this code, may direct the location, manner, and conditions of the disposition of the person's remains and the arrangements for funeral goods and services to be provided upon the person's death. The disposition directions and funeral prearrangements that are contained in a preneed funeral contract are not subject to cancellation to revision unless any resources set aside to fund the preneed funeral contract are insufficient under the terms of the preneed funeral contract to carry out the disposition directions and funeral prearrangements contained in the contract.

(b) As to any matter not addressed in a preneed funeral contract as described in §30-6-15(a) of this code and except as provided in §30-6-15(c) of this code, the right to control the disposition of the remains of a deceased person, the location, manner, and conditions of disposition, and arrangements for funeral goods and services to be provided vests in the following, in the order named, provided that the person is 18 years or older and is of sound mind:

(1) A person designated by the decedent as the person with the right to control the disposition in an affidavit executed by a person who is 18 years of age or older and of sound mind before a notary public in substantially the following form:

I, \_\_\_\_\_, do hereby designate \_\_\_\_\_ with the right to control the disposition of my remains upon my death. I \_\_\_\_\_ have/ \_\_\_\_\_ have not attached specific directions concerning the disposition of my remains with which the designee shall substantially comply, provided that these directions are lawful and there are sufficient resources in my estate to carry out the directions.

\_\_\_\_\_  
Signed

State of \_\_\_\_\_

County of \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public of said County, \_\_\_\_\_ do \_\_\_\_\_ certify \_\_\_\_\_ that \_\_\_\_\_, as principal whose name is signed to the writing above bearing date on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, has this day acknowledged the same before me.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My commission expires \_\_\_\_\_

Notary Public':

(2) The surviving spouse of the decedent;

(3) The sole surviving child of the decedent or, if there is more than one child, the majority of the surviving children. However, fewer than one half of the surviving children shall be vested with the rights under this section if they have used reasonable efforts to notify all other surviving children of their instructions and are not aware of any opposition to those instructions on the part of more than one half of all surviving children;

(4) The surviving parent or parents of the decedent. If one of the surviving parents is absent, the remaining parent shall be vested

with the rights and duties under this section after reasonable efforts have been unsuccessful in locating the absent surviving parent;

(5) The surviving brother or sister of the decedent or, if there is more than one sibling of the decedent, the majority of the surviving siblings. However, less than the majority of surviving siblings shall be vested with the rights and duties under this section if they have used reasonable efforts to notify all other surviving siblings of their instructions and are not aware of any opposition to those instructions on the part of more than one half of all surviving siblings;

(6) The surviving grandparent of the decedent or, if there is more than one surviving grandparent, the majority of the grandparents. However, fewer than the majority of the surviving grandparents shall be vested with the rights and duties under this section if they have used reasonable efforts to notify all other surviving grandparents of their instructions and are not aware of any opposition to those instructions on the part of more than one half of all surviving grandparents;

(7) The guardian of the decedent at the time of the decedent's death if one had been appointed;

(8) The personal representative of the estate of the decedent;

(9) The person in the classes of the next degree of kinship, in descending order, under the laws of descent and distribution to inherit the estate of the decedent. If there is more than one person of the same degree, any person of that degree may exercise the right of disposition;

(10) If the disposition of the remains of the decedent is the responsibility of the state or a political subdivision of the state, the public officer, administrator, or employee responsible for arranging the final disposition of decedent's remains; or

(11) In the absence of any person under §30-6-15(b)(1) through §30-6-15(b)(10) of this code, any other person willing to assume the responsibilities to act and arrange the final disposition of the decedent's remains, including the funeral director with custody of

the body, after attesting in writing that a good faith effort has been made to no avail to contact the individuals under §30-6-15(b)(1) through §30-6-15(b)(10) of this code.

(c) A person entitled under law to the right of disposition forfeits that right, and the right is passed on to the next qualifying person as listed in §30-6-15(b) of this code, in the following circumstances:

(1) Any person charged with murder or voluntary manslaughter in connection with the decedent's death and whose charges are known to the funeral director. However, if the charges against that person are dismissed or if the person is acquitted of the charges, the right of disposition is returned to the person;

(2) Any person who does not exercise his or her right of disposition within two days of notification of the death of decedent or within three days of decedent's death, whichever is earlier;

(3) If the person and the decedent are spouses and a petition to dissolve the marriage was pending at the time of decedent's death.

(d) Any person signing a funeral service agreement, cremation authorization form, or any other authorization for disposition shall be deemed to warrant the truthfulness of any facts set forth therein, including the identity of the decedent whose remains are to be buried, cremated, or otherwise disposed of, and the party's authority to order the disposition. A funeral home has the right to rely on that funeral service agreement or authorization and shall have the authority to carry out the instructions of the person or persons the funeral home reasonably believes holds the right of disposition. The funeral home has no responsibility to independently investigate the existence of any next of kin or relative of the decedent where a means of disposition is fully set forth in a preneed funeral contract or other written directive of the deceased in accordance with this section. If there is more than one person in a class who are equal in priority and the funeral home has no knowledge of any objection by other members of that class, the funeral home may rely on and act according to the instructions of the first person in the class to make funeral and disposition

arrangements, if no other person in that class provides written objections to the funeral home.

(e) No funeral establishment or funeral director who relies in good faith upon the instructions of a preneed funeral contract, written directive of the deceased, or an individual claiming the right of disposition in accordance with this section shall be subject to criminal or civil liability or subject to disciplinary action under this section for carrying out the disposition of the remains in accordance with those instructions.

**§30-6-16. Inspector and inspection requirements—Review of applications by Secretary of State; refusal to issue or renew; suspension or revocation of license; disciplinary action.**

~~(a) All inspectors employed by the board to inspect funeral establishments and crematories, pursuant to the provisions of this article, shall have a West Virginia embalmer's license and a West Virginia funeral director's license.~~

~~(b) Each inspector shall inspect a specific region, as designated by the board. Any person being employed as an inspector is prohibited from inspecting in the region in which he or she practices. If there is only one inspector, a board member, who is not from the region where the inspector practices, is authorized to inspect the facilities in the region where the inspector practices.~~

~~(c) All inspections shall be conducted in a manner so as not to interfere with the conduct of business within the funeral establishment or crematory. The board has the authority to enter, at all reasonable hours, for the purpose of inspecting the premises in which the business of embalming, funeral directing or cremating is conducted.~~

~~(d) All of an inspector's expenses, per diem and compensation shall be paid out of the receipts of the board, but the allowances shall at no time exceed the receipts of the board.~~

~~(e) The board is authorized to set fees for inspections: *Provided*, That there shall be no fee for an annual inspection.~~



(a) The secretary shall refuse to issue or renew a license, certificate, or registration if the applicant fails to satisfy any of the requirements set forth for licensure, certification, or registration in this article.

(b) The secretary may refuse to issue, refuse to renew, suspend, revoke, or limit any license, certificate, registration or practice privilege of a licensee, certificate or registration holder for any of the following reasons:

(1) Fraud or deceit in obtaining or maintaining a license or certificate;

(2) Failure by any licensee, or certificate, or registration holder to maintain compliance with requirements for issuance or renewal of a license, certificate, or registration or to timely notify the secretary as required in this article;

(3) Dishonesty, fraud, professional negligence in the performance of services, or a willful departure from accepted standards and professional conduct;

(4) Violation of any provision of this article or any rule, including the violation of any professional standard or rule of professional conduct, or public health laws;

(5) Conviction of a felony or any crime of dishonesty or fraud under the laws of the United States or this state, or conviction of any similar crime under the laws of any other state if the underlying act or omission involved would have constituted a crime under the laws of this state;

(6) Any conduct adversely affecting upon the licensee's or certificate or registration holder's fitness to perform professional services;

(7) The use of false, misleading, or unethical advertising by any licensee, or certificate or registration holder, or applicant for a license or certificate of registration;

(8) Upon satisfactory proof that a funeral services licensee, or a certified crematory operator has taken undue advantage of his or her patrons or has committed a fraudulent act in the conduct of business;

(9) Solicitation of business by the licensee, or certificate or registration holder, or any agents, assistants, or employees, whether such solicitation occurs after death or while death is impending, as specified by the secretary: *Provided*, That this subdivision does not prohibit proper advertising;

(10) If a licensee, or certificate or registration holder, knowingly permits a person not licensed, not certified, or not registered to engage in the profession of embalming, funeral directing, or cremation;

(11) If a licensee, or certificate or registration holder, knowingly permits a person not licensed, not certified, or not registered to use his or her license number or numbers for the purpose of practicing, or discharging any of the duties of the professions of embalming, funeral directing, or cremation;

(12) Employment by the licensee or certificate holder of persons as cappers, steerers, or solicitors, or other such persons to obtain funeral or cremation business;

(13) Employment, directly or indirectly, of any apprentice, agent, assistant, embalmer, employee or other person, on part or full time, or on commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral director, funeral establishment, or crematory;

(14) The buying of business by the licensee, or certificate or registration holder, or any agents, assistants, or employees, or the direct or indirect payment or offer of payment of a commission by the licensee, or certificate or registration holder, or any agent, assistants, or employees, for the purpose of securing business;

(15) Gross immorality; and

(16) Chronic or persistent inebriety or addiction to alcohol, narcotics, or other substance.

**§30-6-17. Apprenticeship—Written complaint procedure; notice; requirement to investigate.**

~~(a) After January 1, 2003, the board shall issue a registration to be an apprentice funeral director or apprentice embalmer to an applicant who meets the following requirements:~~

~~(1) Is of good moral character and temperate habits;~~

~~(2) Is eighteen years of age or over;~~

~~(3) A citizen of the United States or be eligible for employment in the United States;~~

~~(4) Has a high school diploma or its equivalent;~~

~~(5) Has completed one of the education requirements for an embalmer's license, as set out in subdivision (5), subsection (a), section eight of this article;~~

~~(6) Is not attending school and will not be attending school during the apprenticeship period; and~~

~~(7) Has paid the appropriate fees.~~

~~(b) Any person that commences an apprenticeship prior to January 1, 2003, may continue to serve such apprenticeship and is not subject to the requirements set forth in this section, but is subject to board approval.~~

~~(c) The board may set the requirements for an apprenticeship, including the manner in which it shall be served and the length of time, which shall not be more than one year.~~

~~(d) No licensed funeral director or licensed embalmer shall be permitted to register or have registered more than five apprentices under his or her license at the same time.~~

(a) The Secretary of State shall establish a means for members of the public to submit complaints concerning persons or establishments licensed or certified by the Secretary of State pursuant to the provisions of this article. Those means shall include, but not be limited to, electronic, written, and telephonic means.

(b) Upon receipt of a written complaint filed against any licensee, or certificate or registration holder, the secretary shall provide a copy of the complaint to the licensee, or certificate or registration holder, who shall be given a reasonable opportunity to submit a written response to the allegations. Prior to a determination that probable cause exists, the secretary may withhold the name of the complaining party.

(c) The secretary shall investigate the complaint and may initiate the investigation without waiting until receiving a response from the party identified in the complaint. If the secretary finds upon investigation that probable cause exists that the licensee, or certificate or registration holder, has violated any provision of this article or the rules promulgated hereunder, then the secretary shall serve the licensee or registration holder, with a written statement of charges and a notice specifying the date, time, and place of the hearing.

**§30-6-18. ~~Funeral establishment license requirements~~ Hearing procedure.**

~~(a) Every funeral establishment in West Virginia shall be licensed prior to opening a funeral establishment for business to the public. The board shall issue a license to operate a funeral establishment to an applicant who meets the following requirements:~~

~~(1) The place of business has been approved by the board as having met all the requirements and qualifications to be a funeral establishment as are required by this article;~~

~~(2) Notify the board, in writing, at least thirty days before the proposed opening date, so there can be an inspection of the funeral establishment;~~

~~(3) Show proof that the funeral establishment passed the inspection;~~

~~(4) Show that the funeral establishment has employed a licensee in charge;~~

~~(5) Show that the licensee in charge is a licensed funeral director;~~

~~(6) Show that the licensee in charge will manage the funeral establishment and be responsible for all business conducted and services performed therein;~~

~~(7) Pay all the appropriate fees; and~~

~~(8) Complete such other requirements as specified by the board.~~

~~(b) All funeral establishment licenses must be renewed biennially, by a staggered schedule, upon or before July 1, and pay a renewal fee.~~

~~(c) Each funeral establishment license shall be valid for only one funeral establishment to be located at a specific street address. There shall be a separate license issued and a separate fee assessed to operate additional funeral establishments by the same applicant.~~

~~(d) A holder of a funeral establishment license that fails to pay fees for either the principal establishment or additional establishments by July 1, of the renewal year is subject to a penalty, a reinstatement fee for each establishment and the required renewal fee.~~

~~(e) The holder of a funeral establishment license who ceases to operate the funeral establishment at the location specified in the application shall, within twenty days thereafter, surrender the funeral establishment license to the board and the license shall be~~

~~canceled by the board. In the event of the death of an individual who was the holder of a funeral establishment license, it shall be the duty of the holder's personal representative to surrender the funeral establishment license within one hundred twenty days of qualifying as the personal representative.~~

~~(f) If a licensee in charge ceases to be employed by a funeral establishment, then the holder of the funeral establishment license shall notify the board within thirty days of the cessation. Within thirty days after such notification, the holder of a funeral establishment license shall execute a new application for a funeral establishment license specifying the name of the new licensee in charge. A funeral establishment is prohibited from operating more than thirty days without a licensee in charge.~~

~~(g) A licensee whose embalmer's or funeral director's license has been revoked or a holder of a license to operate a funeral establishment whose license to operate has been revoked shall not operate, either directly or indirectly, or hold any interest in any funeral establishment or crematory: *Provided*, That a holder of a license to operate a funeral establishment whose license to operate has been revoked is not prohibited from leasing any property owned by him or her for use as a funeral establishment, so long as the property owner does not participate in the control or profit of the funeral establishment except as lessor of the premises for a fixed rental not dependent upon earnings.~~

~~(h) Failure to comply with any of these provisions shall be grounds for revocation of a funeral establishment license.~~

~~(i) A license to operate a funeral establishment issued by the board prior to July 1, 2002, shall for all purposes be considered a license issued under this section: *Provided*, That a funeral establishment holding a license issued prior to July 1, 2002, must renew the license pursuant to this section.~~

(a) The Secretary of State shall afford any applicant an opportunity to be heard in person or by counsel when a determination is made to deny, revoke, or suspend an applicant's license, certificate or application for license or certificate.

including a renewal of a license or certificate. The applicant has 15 days from the date of receiving written notice of the Secretary of State's adverse determination to request a hearing on the matter of denial, suspension, or revocation. The action of the Secretary of State in granting, renewing, or in refusing to grant or to renew a license or certificate is subject to review by the Circuit Court of Kanawha County or other court of competent jurisdiction.

(b) If the secretary proposes to suspend, revoke, limit, take other disciplinary action, or refuse to renew any license, certificate, or registration, the secretary shall give written notice of the action, including a statement of charges setting forth the reasons for the action, and notice of the date, time, and place for a hearing.

(c) The secretary may, without first holding a hearing, act under the following circumstances:

(1) The secretary is authorized to suspend or revoke a certificate, license, registration, or authority to practice prior to a hearing if the person's continuation in practice constitutes an immediate danger to the public; or

(2) After due diligence, if the secretary cannot locate a person licensed or certified under the provisions of this chapter within 60 days of a complaint being filed against the licensee or certificate holder, then the secretary may suspend the license, certificate, registration or authority of the person without holding a hearing. If, after additional due diligence and 30 days after the suspension of the person's license, certificate, registration, or authority, the secretary still cannot locate the person licensed under the provisions of this article, then the secretary may revoke the license, certificate, registration, or authority of the person without holding a hearing.

(d) The secretary shall have authority to issue subpoenas for the attendance of witnesses and the production of records and tangible evidence, administer oaths, and preside at hearings, and to employ, or contract for, an administrative hearing examiner to carry out these functions on the secretary's behalf.

(e) A hearing on a statement of charges shall be held in accordance with the provisions for hearing set forth in §29A-5-1 et seq. of this code and procedures specified by rule by the secretary.

(f) No sanction may be imposed against a licensee or certificate holder and no license or certificate may be revoked, suspended, or subject to sanction unless the secretary finds by a preponderance of evidence, after hearing or by consent of the licensee or certificate holder, that the licensee or certificate holder has engaged in conduct prohibited by the provisions of this article.

(g) Following a hearing, the Secretary of State shall issue his or her decision, which shall be in writing and shall set forth the reasons for the decision.

(h) Disciplinary action includes, but is not limited to, a reprimand, censure, probation, suspension of license, administrative fine not to exceed \$1,000 per day per violation, and mandatory attendance at continuing education seminars. In addition to other sanctions imposed, the secretary may require a licensee, or certificate or registration holder to pay the costs of the proceeding if the licensee, or certificate or registration holder is in violation of any provision of this article or the rules promulgated hereunder.

(i) Any licensee, or certificate or registration holder, adversely affected by any decision of the secretary entered after a hearing, may obtain judicial review of the decision in accordance with §29A-5-4 of this code and may appeal any ruling resulting from judicial review in accordance with §29A-5-4 of this code.

(j) Pursuant to the provisions of §29A-5-1 of this code, the secretary may enter into informal disposition of any contested case or investigation by stipulation, agreed settlement, consent order, or default. Further, the secretary may suspend a final determination and place a licensee on probation if the secretary has found the licensee to be in violation of standards of practice or provisions of this article.



(k) If the secretary has suspended, revoked, or refused to renew a license, certificate, or registration, the licensee, or certificate or registration holder, shall be afforded an opportunity to demonstrate the qualifications to resume practice. The application for reinstatement shall be in writing and subject to the procedures specified by the secretary by rule.

**§30-6-19. ~~Funeral establishment to be managed by a licensee in charge; license displayed~~ Unlawful acts.**

~~(a) Every separate funeral establishment in this state offering the services set forth in this article shall be operated under the supervision and management of a licensee in charge who is licensed as a funeral director in this state.~~

~~(b) Each separate funeral establishment in this state offering the services set forth in this article shall have its own license, which license shall be prominently displayed within the funeral establishment.~~

~~(c) All funeral establishments shall display in all advertising the name of the licensee in charge of the establishment.~~

~~(d) All funeral establishments shall prominently display within the funeral establishment the license of the licensee in charge.~~

~~(e) A licensee in charge shall supervise each separate establishment.~~

(a) It is unlawful for any person not licensed or certified under the provisions of this article to practice or offer to practice embalming, funeral directing, cremation, or to operate a funeral establishment or crematory in this state.

(b) Any person who knowingly violates any provision of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$2,500 or confined in the county or regional jail not more than one year, or both fined and imprisoned.

**§30-6-20. ~~Crematory license requirements~~ Injunction; criminal proceedings.**

~~(a) Every crematory shall be licensed in West Virginia. The board shall issue a crematory license to an applicant who meets the following requirements:~~

~~(1) The place of business has been approved by the board as having met all the requirements and qualifications to be a crematory as are required by this article;~~

~~(2) The crematory conforms with all local building codes;~~

~~(3) The crematory meets all applicable environmental standards;~~

~~(4) Notify the board, in writing, at least thirty days before the proposed opening date so there can be an inspection of the crematory;~~

~~(5) Show proof that the crematory passed the inspection;~~

~~(6) Have a certified crematory operator in charge;~~

~~(7) Pay all the appropriate fees; and~~

~~(8) Complete such other requirements as specified by the board.~~

~~(b) All crematory licenses must be renewed biennially, by a staggered schedule, upon or before July 1, and pay a renewal fee.~~

~~(c) Each crematory license shall be valid for only one crematory to be located at a specific street address. There shall be a separate license issued and a separate fee assessed to operate additional crematories by the same applicant.~~

~~(d) A holder of a crematory license that fails to pay fees for either the principal crematory or additional crematories by July 1, of the renewal year is subject to a penalty, a reinstatement fee for each crematory and the required renewal fee.~~

~~(e) The holder of a crematory license who ceases to operate the crematory at the location specified in the application shall, within twenty days thereafter, surrender the crematory license to the board~~

~~and the license shall be canceled by the board. In the event of the death of an individual who was the holder of a crematory license, it shall be the duty of the holder's personal representative to surrender the crematory license within one hundred twenty days of qualifying as the personal representative.~~

~~(f) A holder of a certificate to operate a crematory whose certificate to operate has been revoked or a holder of a crematory license whose license has been revoked shall not operate, either directly or indirectly, or hold any interest in any crematory or funeral establishment: *Provided*, That a holder of a crematory license whose license has been revoked is not prohibited from leasing any property owned by him or her for use as a crematory, so long as the property owner does not participate in the control or profit of the crematory except as lessor of the premises for a fixed rental not dependent upon earnings.~~

~~(g) Failure to comply with any of these provisions shall be grounds for revocation of a crematory license.~~

~~(h) All persons that operate crematories shall by January 1, 2003, register with the board. By July 1, 2003, all persons that operate crematories shall obtain a crematory license, pursuant to the provisions of this section.~~

~~(i) All crematory licenses must be renewed biennially upon or before July 1.~~

~~(j) After July 1, 2003, all licensed crematories must have a certified crematory operator in charge.~~

~~(k) If a certified crematory operator in charge ceases to be employed by a crematory, then the holder of the crematory license shall notify the board within thirty days of the cessation. Within thirty days after such notification, the holder of a crematory license shall execute a new application for a crematory license specifying the name of the new certified crematory operator in charge. A crematory is prohibited from operating more than thirty days without a certified crematory operator in charge.~~

(a) When, as a result of an investigation under this article or otherwise, the secretary or any other interested person believes that any person: (1) Has engaged, is engaging, or is about to engage in the practice of embalming, funeral directing, or cremating without a license or certificate; (2) has operated, is operating, or is about to operate a funeral establishment or crematory; or (3) is in violation of any of the provisions of this article, the secretary or any other interested person may make application to any court of competent jurisdiction for an order enjoining the acts or practices and, upon a showing that the person has engaged or is about to engage in any act or practice, an injunction, restraining order, or another appropriate order may be granted by the court without bond.

(b) When, as a result of an investigation under this article or otherwise, the secretary has reason to believe that a person has knowingly violated the provisions of this article, the secretary may bring its information to the attention of the Attorney General, United States Attorney, local prosecuting attorney, or other appropriate law-enforcement officer. Appropriate criminal proceedings may thereafter be instituted by the Attorney General, in coordination with the local prosecuting attorney, the United States Attorney, or the law-enforcement officer.

**§30-6-21. Requirements for cremating Single act evidence of practice.**

~~(a) A crematory shall obtain written permission prior to cremating a dead human body. The written permission shall be obtained from persons authorized by the board as specified in rules.~~

~~(b) The written permission shall be on a standard form, prescribed by the board, and shall contain the following information:~~

~~(1) The identity of the deceased;~~

~~(2) The name of the person authorizing the cremation and the relationship, if any, to the deceased;~~

~~(3) Permission for the crematory to perform the cremation;~~

~~(4) The name of the person who will claim the cremains from the crematory; and~~

~~(5) Any other information required by the board.~~

~~(c) A crematory shall obtain a permit or authorization for cremation from the county medical examiner, the assistant county medical examiner or the county coroner of the county wherein the death occurred and do such other acts as required by section nine, article twelve, chapter sixty one of this code: *Provided*, That a crematory may obtain a permit or authorization for cremation from the chief medical examiner if:~~

~~(1) The crematory is unable to obtain a permit from the county medical examiner, the assistant county medical examiner or the county coroner of the county wherein the death occurred; or~~

~~(2) The crematory has concerns following authorization by county personnel regarding the identity or cause of death of the deceased.~~

~~(d) The permit or authorization for cremation shall be on forms prescribed by the chief medical examiner. A permit or authorization for cremation may be done by facsimile.~~

~~(e) All crematories shall implement a cremation procedure. The board, by rules, shall establish the cremation procedure which shall include:~~

~~(1) An identification process for bodies;~~

~~(2) A tracking process for bodies from the time a body is delivered to a crematory through the time the cremains are claimed by the authorized person;~~

~~(3) Obtaining all the required signatures, as specified by the board, on the written permission for cremation;~~

~~(4) Only cremating one human body at a time and prohibiting comingling of cremains;~~

~~(5) The specified time period a crematory is required to keep unclaimed cremains;~~

~~(6) How to dispose of unclaimed cremains;~~

~~(7) A record keeping process for cremations; and~~

~~(8) Any other requirements necessary to effectuate the provisions of this article.~~

~~(f) The board shall establish requirements for:~~

~~(1) The equipment needed to complete the cremation process; and~~

~~(2) The containers needed to store the cremains.~~

In any action brought or any proceeding initiated under this article, evidence of the commission of a single act prohibited by this article is sufficient to justify a penalty, injunction, restraining order, or conviction without evidence of a general course of conduct.

**§30-6-22. Disposition of body of deceased person; penalty inapplicability of article.**

~~(a) No public officer, employee, physician or surgeon, or other person having a professional relationship with the deceased, shall send, or cause to be sent to an embalmer, funeral director or crematory operator the body of a deceased without first inquiring the desires of the deceased who has designated his or her wishes regarding the disposal of their remains through a last will and testament, an advance directive or preneed funeral contract, as defined in section two, article fourteen, chapter forty five of this code; the surviving spouse of the deceased, unless a petition to dissolve the marriage was pending at the time of decedent's death; and, an individual previously designated by the deceased as the person with the right to control disposition of the deceased's remains in a writing signed and notarized by the deceased: *Provided*, That no person may be designated to serve in such capacity for more than one nonrelative at any one time. If there is~~

~~no last will and testament, advance directive or preneed funeral contract, surviving spouse, or designated person, then the authority and direction of any next of kin or person who may be chargeable with the funeral expenses of the deceased shall be used as to the disposal of the body of the deceased. The provisions of this subsection are not applicable if the remains of the decedent are subject to disposition pursuant to subsection (b) of this section.~~

~~(b) Notwithstanding any provision of this code to the contrary, a United States Department of Defense Record of Emergency Data Form (DD Form 93) executed by a declarant who dies while serving in a branch of the United States Military as defined in 10 U. S. C. §1481 constitutes a valid form of declaration instrument and governs the disposition of the declarant's remains. The person named in the form as the person authorized to direct disposition of the remains may arrange for the final disposition of the declarant's last remains.~~

~~(c) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500, nor more than \$1,000, or imprisoned not less than ten days nor more than ninety days, or both.~~

The provisions of this article do not apply to or interfere with:

(1) The duties of an officer of any local or state board of health who, in compliance with local or state board of health rules, may be charged with the duty of preparation for burial of a dead human body when death was caused by a virulent, communicable disease;

(2) The duties of an officer of a medical college, county medical society, anatomical association, or other recognized person carrying out his or her responsibilities of dealing with indigent dead human bodies who are held subject for anatomical study; or

(3) The customs or rites of any religious sect in the burial of its dead: *Provided*, That embalming shall only be performed by a funeral services license holder.

**§30-6-22a. Right of disposition; preneed contract; affidavit on disposition of remains; role of county commission; liability of funeral home.**

[Repealed.]

**§30-6-23. Refusal to issue or renew, suspension or revocation of license; disciplinary action.**

[Repealed.]

**§30-6-24. Complaints; investigations.**

[Repealed.]

**§30-6-25. Hearing and judicial review.**

[Repealed.]

**§30-6-26. Reinstatement.**

[Repealed.]

**§30-6-27. Unlawful acts.**

[Repealed.]

**§30-6-28. Injunctions.**

[Repealed.]

**§30-6-29. Criminal proceedings; penalties.**

[Repealed.]

**§30-6-30. Single act evidence of practice.**

[Repealed.]

**§30-6-31. Inapplicability of article.**

[Repealed.]”



On motion of Delegate Nelson, the Finance Committee amendment was amended on page one, following line five, by inserting the following:

**“CHAPTER 9. HUMAN SERVICES.**

**ARTICLE 5. MISCELLANEOUS PROVISIONS.**

**§9-5-9. DIRECT CREMATION OR DIRECT BURIAL EXPENSES FOR INDIGENT PERSONS.**

(a) For the purposes of this section:

‘Direct burial’ means the removal of the remains from the place of death; casket for the deceased and transportation to a West Virginia cemetery.

‘Direct cremation’ includes the removal of the remains from the place of death; container; and crematory fees.

‘Spouse’ means the person to whom the decedent was legally married and who survived the decedent: *Provided*, That a petition for divorce had not been filed by either the decedent or the spouse prior to the decedent’s death.

(b) The Department of Health and Human Resources shall pay for direct cremation or direct burial for indigent persons in an amount not to exceed the actual cost of the direct cremation or direct burial service provided, or \$1000 whichever is less.

(c) Prior to paying for direct cremation or direct burial, the department shall determine the financial assets of a deceased person and whether or not the deceased’s estate or any of his or her relatives who are liable for the direct cremation or direct burial expenses pursuant to subsection (d) of this section is financially able to pay, alone or in conjunction, for the direct cremation or direct burial expenses. The Department of Health and Human Resources shall require that an affidavit be filed with the department, in a form provided by and determined in accordance with the income guidelines as set forth by the department, as well as any other supporting financial information the department may

require, including, but not limited to, bank statements and income tax information of the deceased person and the relatives of the deceased person who are liable for the direct cremation or direct burial expenses pursuant to section nine of this article. The affidavit must be:

(1) Signed by the heir or heirs-at-law and state that the estate of the deceased person is unable to pay the costs associated with direct cremation or direct burial and that the sole or combined assets of the heir or heirs-at-law are not sufficient to pay for the direct cremation or direct burial of the deceased person; or

(2) Signed by the county coroner or the county health officer, the attending physician or other person signing the death certificate or the state medical examiner stating that the deceased person has no heirs or that heirs have not been located after a reasonable search and that the deceased person had no estate or the estate is pecuniarily unable to pay the costs associated with direct cremation or direct burial.

(d) The relatives of an indigent person, who are of sufficient ability, shall be liable to pay the direct cremation or direct burial expenses in the following order:

(1) The spouse.

(2) The children.

(3) The parents.

(4) The brothers and sisters.

(e) The Department of Health and Human Resources may proceed by motion in the circuit court of the county in which the indigent person may be, against one or more of the relatives liable.

(f) If a relative so liable does not reside in this state and has no estate or debts due him or her within the state by means of which the liability can be enforced against him or her, the other relatives shall be liable as provided by this section.

(g) The liability of the relative of an indigent person for funeral service expenses is limited to the amount paid by the Department of Health and Human Resources.

(h) Payment for direct burials or direct cremations for indigents shall be made by the Department of Health and Human Resources to the West Virginia funeral director licensed pursuant to §30-6-6 of this code or a crematory operator certificated pursuant to §30-6-11 of this code that provided the direct burial or direct cremation, as the department may determine, pursuant to appropriations for expenditures made by the Legislature. Nothing in this section shall prohibit a family from holding a memorial service for the indigent person: *Provided*, That payment under this section is limited to direct burial and direct cremation and may not include payment for a memorial service.

(i) In the event that no family members can be found, or refuse to participate, an application for payment of direct cremation or direct burial for indigent persons may be submitted to the Department of Health and Human Resources by the provider of such services.

(j) A direct cremation may not be made of the decedent if objectionable pursuant to decedent's religion or otherwise prohibited by federal law, state law or regulation, in which case, alternate funeral service expenses shall be substituted. In the absence of a religious objection or prohibition by federal law, state law or regulation, an indigent for which payment under this section is authorized shall be cremated.

(k) A person who knowingly swears falsely in an affidavit required by this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or confined in jail for a period of not more than six months, or both fined and confined.

### **CHAPTER 30. PROFESSIONS AND OCCUPATIONS.”**

The Finance Committee amendment, as amended, was then adopted.

The bill was then ordered to third reading.

**Com. Sub. for S. B. 313**, Waiving occupational fees and licensing requirements for certain low-income individuals, military families, and young workers; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page one, section twenty-two, line one, after the word “all” by inserting the word “initial”.

On page one, section twenty-two, line three, by striking out the words “*Low income individuals*. — This includes individuals” and inserting in lieu thereof the words “Low income individuals means individuals in the local labor market as defined in §21-1C-2 of this code”.

On page one, section twenty-two, line eight, by striking out the words “*Military families*. — This includes” and inserting in lieu thereof the words “Military families means”.

And,

On page one, section twenty-two, line twelve, by striking out the words “*Young workers*. — This includes individuals” and inserting in lieu thereof the words “Young workers means individuals in the local labor market as defined in §21-1C-2 of this code”.

The bill was then ordered to third reading.

**S. B. 339**, Relating to WV Retirement Health Benefit Trust Fund within PEIA; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 16D. WEST VIRGINIA RETIREMENT  
HEALTH BENEFIT TRUST FUND.**

**§5-16D-1. Definitions.**

As used in this article, the term:

~~(a)~~ ~~‘Actuarial accrued liability’ means that portion, as determined by a particular actuarial cost method, of the actuarial present value of fund obligations and administrative expenses which is not provided by future normal costs~~

~~(b)~~ (a) ‘Actuarial cost method’ means a method for determining the actuarial present value of the obligations and administrative expenses of the fund and for developing an actuarially equivalent allocation of the value to time periods, usually in the form of a normal cost and ~~an actuarial accrued liability~~ a total other post-employment benefits liability. Acceptable actuarial methods are the aggregate, attained age, entry age, frozen attained age, frozen entry age and projected unit credit methods.

~~(c)~~ (b) ‘Actuarially sound’ means that calculated contributions to the fund are sufficient to pay the full actuarial cost of the fund. The full actuarial cost includes both the normal cost of providing for fund obligations as they accrue in the future and the cost of amortizing the unfunded ~~actuarial accrued liability~~ total other post-employment benefits liability over a period of no more than 30 years.

~~(d)~~ (c) ‘Actuarial present value of total projected benefits’ means the present value, at the valuation date, of the cost to finance benefits payable in the future, discounted to reflect the expected effects of the time value of money and the probability of payment.

~~(e)~~ (d) ‘Actuarial assumptions’ means assumptions regarding the occurrence of future events affecting the fund such as mortality, withdrawal, disability and retirement; changes in compensation and offered post-employment benefits; rates of investment earnings and other asset appreciation or depreciation; procedures used to determine the actuarial value of assets; and other relevant items.

~~(f)~~ (e) 'Actuarial valuation' means the determination, as of a valuation date, of the normal cost, ~~actuarial accrued liability total~~ other post-employment benefits liability, actuarial value of assets and related actuarial present values for the fund.

~~(g)~~ (f) 'Administrative expenses' means all expenses incurred in the operation of the fund, including all investment expenses.

~~(h)~~ 'Annual required contribution' means the amount employers must contribute in a given year to fully fund the trust, as determined by the actuarial valuation in accordance with requirements of generally accepted accounting principles. This amount shall represent a level of funding that if paid on an ongoing basis is projected to cover the normal cost each year and amortize any unfunded actuarial liabilities of the plan over a period not to exceed thirty years

(i) (g) 'Board' means the Public Employees Insurance Agency Finance Board created in §5-16-4 of this code.

(h) 'Collective net other post-employment benefits liability' means for any actuarial valuation, the excess of the plan's total other post-employment benefits liability over the actuarial value of the assets of the fund under an actuarial cost method used by the fund for funding purposes.

(j) (i) 'Cost-sharing multiple employer plan' means a single plan with pooling (cost-sharing) arrangements for the participating employers. All risk, rewards, and costs, including benefit costs, are shared and not attributed individually to the employers. A single actuarial valuation covers all plan members and the same contribution rate applies for each employer.

~~(k)~~ (j) 'Covered health care expenses' means all actual health care expenses paid by the health plan on behalf of fund beneficiaries. Actual health care expenses include claims payments to providers and premiums paid to intermediary entities and health care providers by the health plan.

(~~h~~) (k) 'Employer' means any employer as defined by §5-16-2 of this code which has or will have retired employees in any Public Employees Insurance Agency health plan.

~~(m)~~ 'Employer annual required contribution' means the portion of the annual required contribution which is the responsibility of that particular employer

(~~n~~) (l) 'Fund' means the West Virginia Retiree Health Benefit Trust Fund established under this article.

(~~o~~) (m) 'Fund beneficiaries' means all persons receiving post-employment health care benefits through the health plan.

(~~p~~) (n) 'Health plan' means the health insurance plan or plans established under §5-16-1 *et seq.* of this code.

(~~q~~) (o) 'Minimum annual employer payment' means the annual amount paid by employers which, when combined with the retirees' contributions on their premiums that year, provide sufficient funds such that the annual finance plan of the finance board will cover all projected retiree covered health care expenses and related administrative costs for that year. The finance board shall develop the minimum annual employer payment as part of its financial plan each year as addressed in §5-16-5 of this code.

(~~r~~) (p) 'Normal cost' means that portion of the actuarial present value of the fund obligations and expenses which is allocated to a valuation year by the actuarial cost method used for the fund.

(~~s~~) (q) 'Obligations' means the administrative expenses of the fund and the cost of covered health care expenses incurred on behalf of fund beneficiaries.

(~~t~~) (r) 'Other post-employment benefits' or 'retiree post-employment health care benefits' means those benefits as addressed by governmental accounting standards board statement no. 43 or any subsequent governmental standards board statement that may be applicable to the fund.

~~(u)~~ (s) 'Plan for other post-employment benefits' means the fiscal funding plan for retiree post-employment health care benefits as it relates to governmental accounting standards board statement no. 43 or any subsequent governmental accounting standards board statements that may be applicable to the fund.

(t) 'Proportionate share' means the portion of the collective net other post-employment benefits liability that is attributed to, and the responsibility of, a particular employer.

~~(v)~~ (u) 'Retiree' means retired employee as defined by §5-16-2 of this code.

~~(w)~~ (v) 'Retirement system' or 'system' means the West Virginia Consolidated Public Retirement Board created and established by §5-10-1 *et seq.* of this code and includes any retirement systems or funds administered or overseen by the Consolidated Public Retirement Board.

(w) 'Total other post-employment benefits liability' means that portion, as determined by a particular actuarial cost method, of the actuarial present value of fund obligations and administrative expenses which is not provided by future normal costs.

~~(x) 'Unfunded actuarial accrued liability' means for any actuarial valuation the excess of the actuarial accrued liability over the actuarial value of the assets of the fund under an actuarial cost method used by the fund for funding purposes~~

### **§5-16D-3. Operation of trust fund.**

(a) Responsibility for the rules and policies for the proper operation of the fund is vested in the board.

(b) The board shall adopt actuarial assumptions as it deems necessary and prudent.

(c) The board shall determine the ~~annual required~~ contribution rates in an actuarially sound manner and each employer's proportionate share sufficient to maintain the fund in accordance with the state plan for other post-employment benefits.



(d) The board may promulgate, in accordance with §29A-1-1 *et seq.* of this code, any rules it finds necessary to properly administer the fund. The board may promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code.

(e) The Public Employees Insurance Agency shall furnish reports to the board at each of the board's regularly scheduled meetings. The reports shall contain the most recent information reasonably available to the Public Employees Insurance Agency reflecting the obligations of the fund, earnings on investments, and such other information as the board deems necessary and appropriate.

(f) The Secretary of the Department of Administration, as ~~chairman~~ chair of the board, shall cause to be employed within the Public Employees Insurance Agency such personnel as may be needed to carry out the provisions of this article. The pro rata share of the costs to the Public Employees Insurance Agency of operating the fund shall be part of the administrative costs of the fund and shall be reimbursed to the Public Employees Insurance Agency.

(g) The Public Employees Insurance Agency, on the board's behalf, shall be responsible for the day-to-day operation of the fund and may employ or contract for the services of actuaries and other professionals as required to carry out the duties established by this article.

(h) The board shall contract with the West Virginia Investment Management Board for any necessary services with respect to fund investments.

(i) The Public Employees Insurance Agency, on the board's behalf, shall maintain all necessary records regarding the fund in accordance with generally accepted accounting principles.

(j) The Public Employees Insurance Agency, on the board's behalf, shall collect all moneys due to the fund and shall pay current post-employment healthcare costs and any administrative expenses necessary and appropriate for the operation of the fund from the fund. The fund's assets shall be maintained and accounted for in

state funds. The state funds shall be: (1) The Other Post-Employment Benefit Contribution Accumulation Fund; (2) the Other Post-Employment Benefit Investment Fund; and (3) the Other Post-Employment Benefit Expense Fund. These funds will be maintained by the Public Employees Insurance Agency on the board's behalf.

(k) The Public Employees Insurance Agency, on the board's behalf, shall prepare an annual report of fund activities. ~~Such~~ The report shall include, but not be limited to, independently audited financial statements in accordance with generally accepted accounting principles. The financial statements must be independently audited in accordance with auditing standards generally accepted in the United States and the standards applicable to financial audits contained in government auditing standards as issued by the Comptroller General of the United States.

(l) Notwithstanding any other provision of law to the contrary, the Public Employees Insurance Agency shall be entitled to request and receive any information that it deems necessary and appropriate from any relevant retirement system in order that the provisions of this article may be carried out.

#### **§5-16D-4. Actuary.**

(a) The actuary employed or retained by the Public Employees Insurance Agency shall provide technical advice to the Public Employees Insurance Agency and to the board regarding the operation of the fund.

(b) Using the actuarial assumptions most recently adopted by the board, the actuary shall, on a biannual basis, or as frequently as the board or generally accepted accounting principles deems ~~determines~~ necessary, set actuarial valuations of normal cost, actuarial liability, actuarial value of assets, and related actuarial present values for the state plan for other post-employment benefits.

**§5-16D-6. Mandatory employer contributions.**

(a) The board shall annually set the ~~total annual required contribution~~ minimum annual employer payment sufficient to maintain the fund in an actuarially sound manner in accordance with generally accepted accounting principles and the annual finance plan.

(b) The board shall annually allocate to the respective employers the employer's ~~portion of the annual required contribution, which allocated amount is the 'employer annual required contribution'~~ proportionate share of the collective net other post-employment liability as determined by the actuarial valuation in accordance with generally accepted accounting principles.

(c) ~~The board may apportion the annual required contribution into various components. These components may include the amortized unfunded actuarial accrued liability, the total normal cost, the employer annual required contribution and the lesser included minimum annual employer payment. In the board's annual apportionment of the annual required contribution, any amounts of the minimum annual employer payment apportioned to reduce the amortized unfunded actuarial accrued liability shall not be treated as premium by the board in the finance plan but, rather, shall be treated as contributions to prefund other post-employment benefits~~

(d) ~~(c)~~ Employers shall make annual contributions to the fund in, at least, the amount of the minimum annual employer payment rates established by the board.

(e) ~~(d)~~ The Public Employees Insurance Agency shall bill each employer for the ~~employer annual required contribution and the included~~ minimum annual employer payment. The Public Employees Insurance Agency shall annually collect the minimum annual employer payment. ~~The Public Employees Insurance Agency shall, in addition to the minimum annual employer payment, collect any amounts the employer elects to pay toward the employer annual required contribution.~~ Any employer annual

required contribution employer's proportionate share of the collective net other post-employment amount not satisfied by the respective employer shall remain the liability of that employer until fully paid or otherwise amortized."

The bill was then ordered to third reading.

**Com. Sub. for S. B. 355**, Dissolving IS&C Division under Office of Technology; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page two, section four, line seven, immediately after the word "design", by underlining the comma.

On page five, section four, line seventy-nine, by striking out the words "chapter 29A" and inserting in lieu thereof "*§29A-1-1 et seq.*".

On page six, section four, line ninety-five, after the word "agencies" by inserting a comma.

On page six, section four, line one hundred fifteen, after "~~2007.~~" by inserting the following: "The Chief Technology Officer shall provide an annual report to the Governor and the Joint Committee on Government and Finance on the status of the plan on or before each December 31, with goals and objectives for the ensuing year."

On page seven, section four, line one hundred thirty-two, by striking out the words "government to government" and inserting in lieu thereof the words "government-to-government".

On page twelve, section four-e, line eleven, by striking out "~~§11-2B-1~~" and inserting in lieu thereof "~~§11B-2-1~~".

On page twelve, section eight, line one, after the word "judiciary", by inserting the words "or any state Constitutional officer designated in §6-7-2 of this code".

On page thirteen, section eight, line six, after the word “to”, by inserting the word “the”.

And,

On page thirteen, section eight, line seven, by striking out the words “telecommunications services provided pursuant to §5A-6-4d of this code or the”.

The bill was then ordered to third reading.

**Com. Sub. for S. B. 375**, Relating to farmers markets; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page six, section five, after line twenty-seven, by adding a new subsection, designated subsection (f), to read as follows:

“(f) The Department of Agriculture shall consult with the Department of Health and Human Resources to promulgate any rules deemed necessary by the Commissioner of Agriculture to ensure the health, sanitation, and safety of the products produced and sold pursuant to this section.”

The bill was then ordered to third reading.

**Com. Sub. for S. B. 401**, Requiring specified coverage in health benefit plans for treatment of substance abuse disorders; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“**ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.**

**§33-15-4p. Substance use disorder.**

(a) As used in this section, the following words have the following meaning:

(1) ‘Concurrent review’ means inpatient care is reviewed as it is provided. Medically qualified reviewers monitor appropriateness of the care, the setting, and patient progress, and, as appropriate, the discharge plans.

(2) ‘Covered person’ means an individual, other than a Medicaid recipient, for whom coverage has been provided pursuant to the provisions of this article.

(3) ‘Insurance Commissioner’ means the person appointed pursuant to the provisions §33-2-1 *et seq.* of this code.

(4) ‘Insurer’ means the same as that term is defined in §33-15-2 of this code.

(5) ‘Physician’ or ‘psychiatrist’ means a person licensed pursuant to the provisions of either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code.

(6) ‘Psychologist’ means a person licensed pursuant to the provisions of §30-21-1 *et seq.* of this code.

(7) ‘Substance use disorder’ means the same as that term is defined by the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, and shall include substance use withdrawal.

(b) An accident and sickness policy that provides hospital or medical expense benefits and is delivered, issued, executed, or renewed in this state, or approved for issuance or renewal by the Insurance Commissioner, on or after January 1, 2019, shall provide benefits for inpatient and outpatient treatment of substance use disorder at in-network facilities at the same level as other medical services offered by the accident and sickness policy.

(c) The services for the treatment of substance use disorder shall be:

(1) Prescribed by a physician or psychiatrist licensed pursuant to the provisions of §30-3-1 et seq. or §30-14-1 et seq. of this code or recommended by a psychologist licensed pursuant to the provisions of §30-21-1 et seq. of this code; and

(2) Provided by licensed health care professionals or licensed or certified substance use disorder providers in licensed or otherwise state-approved facilities, as required by this code.

(d) The inpatient and outpatient treatment of substance use disorders shall be provided when determined medically necessary by the covered person's physician, psychologist, or psychiatrist. The facility shall notify the insurer of both the admission and the initial treatment plan within 48 hours of the admission or initiation of treatment. If there is no in-network facility immediately available for a covered person, an accident and sickness policy shall provide necessary exceptions to its network to ensure admission in a treatment facility within 72 hours. If a covered person is being treated at an out-of-network facility and an in-network facility becomes available during the course of the treatment plan, an insurer may transfer the covered person to the in-network facility.

(e) Providers of treatment for substance use disorders to persons covered under a covered contract shall not require prepayment of medical expenses during this 180 days in excess of applicable copayment, deductible, or coinsurance as provided in the contract.

(f) The benefits for outpatient visits may be subject to concurrent or retrospective review of medical necessity or any other utilization management review.

(g)(1) If an insurer determines that continued inpatient care in a facility is no longer medically necessary, the insurer shall, within 72 hours, provide written notice to the covered person and the covered person's physician of its decision and the right to file for an expedited review of an adverse decision.

(2) The insurer shall review and make a determination with respect to the internal appeal within 72 hours and communicate that determination to the covered person and the covered person's physician.

(3) If the determination is to uphold the denial, the covered person and the covered person's physician have the right to file an expedited external appeal with an independent review organization. An independent utilization review organization shall make a determination within 72 hours.

(4) If the insurer's determination is upheld and it is determined continued inpatient care is not medically necessary, the insurer remains responsible to provide benefits for the inpatient care through the day following the date the determination is made and the covered person is only responsible for any applicable copayment, deductible, and coinsurance for the stay through that date as applicable under the contract.

(5) The covered person shall not be discharged or released from the inpatient facility until all internal appeals and independent utilization review organization appeals are exhausted. For any costs incurred after the day following the date of determination until the day of discharge, the covered person is only responsible for any applicable cost-sharing, and any additional charges shall be paid by the facility or provider.

(h) The Insurance Commissioner shall propose rules in accordance with the provisions of §29A-3-1 *et seq.* of this code to develop a procedure for an expedited review of an adverse decision as set forth in this section. The Legislature finds that for the purposes of §20A-3-15 of this code, an emergency exists requiring the promulgation of an emergency rule to respond to the growing need in our state for substance abuse treatment.

(i)(1) The benefits for the first five days of intensive outpatient or partial hospitalization services shall be provided without any retrospective review of medical necessity, and



medical necessity shall be determined by the covered person's physician.

(2) The benefits beginning day six and every six days thereafter of intensive outpatient or partial hospitalization services is subject to a concurrent review of the medical necessity of the services.

(j) Medical necessity review shall use an evidence-based and peer-reviewed clinical review tool. This tool shall be developed by the Insurance Commissioner. Rules shall ensure that the tool is based on appropriate evidence-based criteria that has been peer reviewed. The Insurance Commissioner shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code to develop the tool.

(k) The benefits for outpatient prescription drugs to treat substance use disorder shall be provided when determined medically necessary by the covered person's physician or psychiatrist without the imposition of any prior authorization or other prospective utilization management requirements.

(l) The days per plan year of benefits shall be computed based on inpatient days. One or more unused inpatient days may be exchanged for two outpatient visits. All extended outpatient services such as partial hospitalization and intensive outpatient, shall be considered inpatient days for the purpose of the visit-to-day exchange provided in this subsection.

(m) Except as provided in this section, the benefits and cost-sharing shall be provided to the same extent as for any other medical condition covered under the contract.

(n) The benefits required by this section are to be provided to all covered persons with a diagnosis of substance use disorder. The presence of additional related or unrelated diagnoses shall not be a basis to reduce or deny the benefits required by this section.

(o) The provisions of this section apply to all insurance contracts in which the insurer has reserved the right to change the premium.

## **ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.**

### **§33-16-3bb. Substance use disorder.**

(a) As used in this section, the following words have the following meaning:

(1) ‘Concurrent review’ means inpatient care is reviewed as it is provided. Medically qualified reviewers monitor appropriateness of the care, the setting, and patient progress, and, as appropriate, the discharge plans.

(2) ‘Covered person’ means an individual, other than a Medicaid recipient, for whom coverage has been provided pursuant to the provisions of this article.

(3) ‘Health insurer’ means the same as that term is defined in §33-16-1a of this code.

(4) ‘Insurance Commissioner’ means the person appointed pursuant to the provisions of §33-2-1 *et seq.* of this code.

(5) ‘Physician’ or ‘psychiatrist’ means a person licensed pursuant to the provisions of either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code.

(6) ‘Psychologist’ means a person licensed pursuant to the provisions of §30-21-1 *et seq.* of this code.

(7) ‘Substance use disorder’ means the same as that term is defined by the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, and shall include substance use withdrawal.

(b) A group accident and sickness policy that provides hospital or medical expense benefits and is delivered, issued, executed, or renewed in this state, or approved for issuance or

renewal by the Insurance Commissioner, on or after January 1, 2019, shall provide benefits for inpatient and outpatient treatment of substance use disorder at in-network facilities at the same level as other medical services offered by the group accident and sickness policy.

(c) The services for the treatment of substance use disorder shall be:

(1) Prescribed by a physician or psychiatrist licensed pursuant to the provisions of §30-3-1 et seq. or §30-14-1 et seq. of this code or recommended by a psychologist licensed pursuant to the provisions of §30-21-1 et seq. of this code; and

(2) Provided by licensed health care professionals or licensed or certified substance use disorder providers in licensed or otherwise state-approved facilities, as required by this code.

(d) The inpatient and outpatient treatment of substance use disorders shall be provided when determined medically necessary by the covered person's physician, psychologist, or psychiatrist. The facility shall notify the health insurer of both the admission and the initial treatment plan within 48 hours of the admission or initiation of treatment. If there is no in-network facility immediately available for a covered person, a group accident and sickness policy shall provide necessary exceptions to its network to ensure admission in a treatment facility within 72 hours. If a covered person is being treated at an out-of-network facility and an in-network facility becomes available during the course of the treatment plan, an insurer may transfer the covered person to the in-network facility.

(e) Providers of treatment for substance use disorders to persons covered under a covered contract shall not require prepayment of medical expenses during this 180 days in excess of applicable copayment, deductible, or coinsurance as provided in the contract.

(f) The benefits for outpatient visits may be subject to concurrent or retrospective review of medical necessity or any other utilization management review.

(g)(1) If a health insurer determines that continued inpatient care in a facility is no longer medically necessary, the health insurer shall within 72 hours provide written notice to the covered person and the covered person's physician of its decision and the right to file for an expedited review of an adverse decision.

(2) The health insurer shall review and make a determination with respect to the internal appeal within 72 hours and communicate the determination to the covered person and the covered person's physician.

(3) If the determination is to uphold the denial, the covered person and the covered person's physician have the right to file an expedited external appeal with an independent review organization. An independent utilization review organization shall make a determination within 72 hours.

(4) If the health insurer's determination is upheld and it is determined continued inpatient care is not medically necessary, the health insurer remains responsible to provide benefits for the inpatient care through the day following the date the determination is made and the covered person is only responsible for any applicable copayment, deductible, and coinsurance for the stay through that date as applicable under the contract.

(5) The covered person shall not be discharged or released from the inpatient facility until all internal appeals and independent utilization review organization appeals are exhausted. For any costs incurred after the day following the date of determination until the day of discharge, the covered person is only responsible for any applicable cost-sharing, and any additional charges shall be paid by the facility or provider.

(h) The Insurance Commissioner shall propose rules in accordance with the provisions of §29A-3-1 et seq. of this code to develop a procedure for an expedited review of an adverse decision as set forth in this section. The Legislature finds that for the purposes of §29A-3-15 of this code, an emergency exists requiring the promulgation of an emergency rule to respond to the growing need in our state for substance abuse treatment.

(i)(1) The benefits for the first five days of intensive outpatient or partial hospitalization services shall be provided without any retrospective review of medical necessity, and medical necessity shall be determined by the covered person's physician.

(2) The benefits beginning day six and every six days thereafter of intensive outpatient or partial hospitalization services are subject to a concurrent review of the medical necessity of the services.

(j) Medical necessity review shall use an evidence-based and peer-reviewed clinical review tool. This tool shall be developed by the Insurance Commissioner. The Insurance Commissioner shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code to develop the tool.

(k) The benefits for outpatient prescription drugs to treat substance use disorder shall be provided when determined medically necessary by the covered person's physician or psychiatrist without the imposition of any prior authorization or other prospective utilization management requirements.

(l) The days per plan year of benefits shall be computed based on inpatient days. One or more unused inpatient days may be exchanged for two outpatient visits. All extended outpatient services such as partial hospitalization and intensive outpatient, shall be considered inpatient days for the purpose of the visit-to-day exchange provided in this subsection.

(m) Except as provided in this section, the benefits and cost-sharing shall be provided to the same extent as for any other medical condition covered under the contract.

(n) The benefits required by this section are to be provided to all covered persons with a diagnosis of substance use disorder. The presence of additional related or unrelated diagnoses shall not be a basis to reduce or deny the benefits required by this section.

(o) The provisions of this section apply to all insurance contracts in which the health insurer has reserved the right to change the premium.

**ARTICLE 24. HOSPITAL SERVICE CORPORATIONS,  
MEDICAL SERVICE CORPORATIONS, DENTAL  
SERVICE CORPORATIONS, AND HEALTH SERVICE  
CORPORATIONS.**

**§33-24-7q. Substance use disorder.**

(a) As used in this section, the following words have the following meaning:

(1) ‘Concurrent review’ means inpatient care is reviewed as it is provided. Medically qualified reviewers monitor appropriateness of the care, the setting, and patient progress, and, as appropriate, the discharge plans.

(2) ‘Covered person’ means an individual, other than a Medicaid recipient, for whom coverage has been provided pursuant to the provisions of this article.

(3) ‘Insurance Commissioner’ means the person appointed pursuant to the provisions of §33-2-1 of this code.

(4) ‘Health benefit plan’ means the same as that term is defined in §33-24-7p of this code.

(5) ‘Health plan issuer’ means the same as that term is defined in §33-24-7p of this code.

(6) ‘Physician’ or ‘psychiatrist’ means a person licensed pursuant to the provisions of either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code.

(7) ‘Psychologist’ means a person licensed pursuant to the provisions of §30-21-1 *et seq.* of this code.

(8) ‘Substance use disorder’ means the same as that term is defined by the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, and shall include substance use withdrawal.

(b) A health benefit plan offered by a health plan issuer that provides hospital or medical expense benefits and is delivered, issued, executed, or renewed in this state, or approved for issuance or renewal by the Insurance Commissioner, on or after January 1, 2019, shall provide benefits for inpatient and outpatient treatment of substance use disorder at in-network facilities at the same level as other medical services offered by the health benefit plan.

(c) The services for the treatment of substance use disorder shall be:

(1) Prescribed by a physician or psychiatrist licensed pursuant to the provisions of §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code or recommended by a psychologist licensed pursuant to the provisions of §30-21-1 *et seq.* of this code; and

(2) Provided by licensed health care professionals or licensed or certified substance use disorder providers in licensed or otherwise state-approved facilities, as required by this code.

(d) The inpatient and outpatient treatment of substance use disorders shall be provided when determined medically necessary by the covered person’s physician, psychologist, or psychiatrist. The facility shall notify the insurer of both the admission and the initial treatment plan within 48 hours of the admission or initiation of treatment. If there is no in-network facility immediately available for a covered person, a health benefit plan offered by a health plan issuer shall provide

necessary exceptions to its network to ensure admission in a treatment facility within 72 hours. A health benefit plan may transfer a covered person to an in-network facility if one becomes available during the course of the treatment plan. If a covered person is being treated at an out-of-network facility and an in-network facility becomes available during the course of the treatment plan, an insurer may transfer the covered person to the in-network facility.

(e) Providers of treatment for substance use disorders to persons covered under a covered contract shall not require prepayment of medical expenses during this 180 days in excess of applicable copayment, deductible, or coinsurance as provided in the contract.

(f) The benefits for outpatient visits may be subject to concurrent or retrospective review of medical necessity or any other utilization management review.

(g)(1) If an insurer determines that continued inpatient care in a facility is no longer medically necessary, the insurer shall within 72 hours provide written notice to the covered person and the covered person's physician of its decision and the right to file for an expedited review of an adverse decision.

(2) The insurer shall review and make a determination with respect to the internal appeal within 72 hours and communicate the determination to the covered person and the covered person's physician.

(3) If the determination is to uphold the denial, the covered person and the covered person's physician have the right to file an expedited external appeal with an independent review organization. An independent utilization review organization shall make a determination within 72 hours.

(4) If the insurer's determination is upheld and it is determined continued inpatient care is not medically necessary, the insurer remains responsible to provide benefits for the inpatient care through the day following the date the



determination is made and the covered person is only responsible for any applicable copayment, deductible, and coinsurance for the stay through that date as applicable under the contract.

(5) The covered person shall not be discharged or released from the inpatient facility until all internal appeals and independent utilization review organization appeals are exhausted. For any costs incurred after the day following the date of determination until the day of discharge, the covered person is only responsible for any applicable cost-sharing, and any additional charges shall be paid by the facility or provider.

(h) The Insurance Commissioner shall propose rules in accordance with the provisions of §29A-3-1 *et seq.* of this code to develop a procedure for an expedited review of an adverse decision as set forth in this section. The Legislature finds that for the purposes of §29A-3-15 of this code, an emergency exists requiring the promulgation of an emergency rule to respond to the growing need in our state for substance abuse treatment.

(i)(1) The benefits for the first five days of intensive outpatient or partial hospitalization services shall be provided without any retrospective review of medical necessity, and medical necessity shall be determined by the covered person's physician.

(2) The benefits beginning day six and every six days thereafter of intensive outpatient or partial hospitalization services are subject to a concurrent review of the medical necessity of the services.

(j) Medical necessity review shall use an evidence-based and peer-reviewed clinical review tool. This tool shall be developed by the Insurance Commissioner. The Insurance Commissioner shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to develop the tool.

(k) The benefits for outpatient prescription drugs to treat substance use disorder shall be provided when determined medically necessary by the covered person's physician or psychiatrist without the imposition of any prior authorization or other prospective utilization management requirements.

(l) The days per plan year of benefits shall be computed based on inpatient days. One or more unused inpatient days may be exchanged for two outpatient visits. All extended outpatient services such as partial hospitalization and intensive outpatient, shall be considered inpatient days for the purpose of the visit-to-day exchange provided in this subsection.

(m) Except as provided in this section, the benefits and cost-sharing shall be provided to the same extent as for any other medical condition covered under the contract.

(n) The benefits required by this section are to be provided to all covered persons with a diagnosis of substance use disorder. The presence of additional related or unrelated diagnoses shall not be a basis to reduce or deny the benefits required by this section.

(o) The provisions of this section apply to all insurance contracts in which the insurer has reserved the right to change the premium.

## **ARTICLE 25. HEALTH CARE CORPORATIONS**

### **§33-25-8n. Substance use disorder.**

(a) As used in this section, the following words have the following meaning:

(1) 'Concurrent review' means inpatient care is reviewed as it is provided. Medically qualified reviewers monitor appropriateness of the care, the setting, and patient progress, and, as appropriate, the discharge plans.

(2) ‘Covered person’ means an individual, other than a Medicaid recipient, for whom coverage has been provided pursuant to the provisions of this article.

(3) ‘Insurance Commissioner’ means the person appointed pursuant to the provisions of §33-2-1 of this code.

(4) ‘Health benefit plan’ means the same as that term is defined in §33-25-8m of this code.

(5) ‘Health plan issuer’ means the same as that term is defined in §33-25-8m of this code.

(6) ‘Physician’ or ‘psychiatrist’ means a person licensed pursuant to the provisions of either §30-3-1 *et seq.* or §30-3-14 *et seq.* of this code.

(7) ‘Psychologist’ means a person licensed pursuant to the provisions of article §30-21-1 *et seq.* of this code.

(8) ‘Substance use disorder’ means the same as that term is defined by the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, and shall include substance use withdrawal.

(b) A health benefit plan offered by a health plan issuer that provides hospital or medical expense benefits and is delivered, issued, executed, or renewed in this state, or approved for issuance or renewal by the Insurance Commissioner, on or after January 1, 2019, shall provide benefits for inpatient and outpatient treatment of substance use disorder at in-network facilities at the same level as other medical services offered by the health benefit plan offered by a health plan issuer.

(c) The services for the treatment of substance use disorder shall be:

(1) Prescribed by a physician or psychiatrist licensed pursuant to the provisions of §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code or recommended by a psychologist licensed pursuant to the provisions of §30-21-1 *et seq.* of this code; and

(2) Provided by licensed health care professionals or licensed or certified substance use disorder providers in licensed or otherwise state-approved facilities, as required by this code.

(d) The inpatient and outpatient treatment of substance use disorders shall be provided when determined medically necessary by the covered person's physician, psychologist, or psychiatrist. The facility shall notify the insurer of both the admission and the initial treatment plan within 48 hours of the admission or initiation of treatment. If there is no in-network facility immediately available for a covered person, a health benefit plan offered by a health plan issuer shall provide necessary exceptions to its network to ensure admission in a treatment facility within 72 hours. If a covered person is being treated at an out-of-network facility and an in-network facility becomes available during the course of the treatment plan, an insurer may transfer the covered person to the in-network facility.

(e) Providers of treatment for substance use disorders to persons covered under a covered contract shall not require prepayment of medical expenses during this 180 days in excess of applicable copayment, deductible, or coinsurance as provided in the contract.

(f) The benefits for outpatient visits may be subject to concurrent or retrospective review of medical necessity or any other utilization management review.

(g)(1) If an insurer determines that continued inpatient care in a facility is no longer medically necessary, the insurer shall, within 72 hours, provide written notice to the covered person and the covered person's physician of its decision and the right to file for an expedited review of an adverse decision.

(2) The insurer shall review and make a determination with respect to the internal appeal within 72 hours and communicate that determination to the covered person and the covered person's physician.

(3) If the determination is to uphold the denial, the covered person and the covered person's physician have the right to file an expedited external appeal with an independent review organization. An independent utilization review organization shall make a determination within 72 hours.

(4) If the insurer's determination is upheld and it is determined continued inpatient care is not medically necessary, the insurer remains responsible to provide benefits for the inpatient care through the day following the date the determination is made and the covered person is only responsible for any applicable copayment, deductible, and coinsurance for the stay through that date as applicable under the contract.

(5) The covered person shall not be discharged or released from the inpatient facility until all internal appeals and independent utilization review organization appeals are exhausted. For any costs incurred after the day following the date of determination until the day of discharge, the covered person is only responsible for any applicable cost-sharing, and any additional charges shall be paid by the facility or provider.

(h) The Insurance Commissioner shall propose rules in accordance with the provisions of §29A-3-1 *et seq.* of this code to develop a procedure for an expedited review of an adverse decision as set forth in this section. The Legislature finds that for the purposes of section §29A-3-15 of this code, an emergency exists requiring the promulgation of an emergency rule to respond to the growing need in our state for substance abuse treatment.

(i)(1) The benefits for the first five days of intensive outpatient or partial hospitalization services shall be provided without any retrospective review of medical necessity, and medical necessity shall be determined by the covered person's physician.

(2) The benefits beginning day six and every six days thereafter of intensive outpatient or partial hospitalization

services is subject to a concurrent review of the medical necessity of the services.

(j) Medical necessity review shall use an evidence-based and peer-reviewed clinical review tool. This tool shall be developed by the Insurance Commissioner. The Insurance Commissioner shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code to develop the tool.

(k) The benefits for outpatient prescription drugs to treat substance use disorder shall be provided when determined medically necessary by the covered person's physician or psychiatrist without the imposition of any prior authorization or other prospective utilization management requirements.

(l) The days per plan year of benefits shall be computed based on inpatient days. One or more unused inpatient days may be exchanged for two outpatient visits. All extended outpatient services such as partial hospitalization and intensive outpatient, shall be considered inpatient days for the purpose of the visit-to-day exchange provided in this subsection.

(m) Except as provided in this section, the benefits and cost-sharing shall be provided to the same extent as for any other medical condition covered under the contract.

(n) The benefits required by this section are to be provided to all covered persons with a diagnosis of substance use disorder. The presence of additional related or unrelated diagnoses shall not be a basis to reduce or deny the benefits required by this section.

(o) The provisions of this section apply to all insurance contracts in which the insurer has reserved the right to change the premium.

## **ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.**

### **§33-25A-8p. Substance use disorder.**

(a) As used in this section, the following words have the following meaning:

(1) ‘Concurrent review’ means inpatient care is reviewed as it is provided. Medically qualified reviewers monitor appropriateness of the care, the setting, and patient progress, and, as appropriate, the discharge plans.

(2) ‘Covered person’ means an individual, other than a Medicaid recipient, for whom coverage has been provided pursuant to the provisions of this article.

(3) ‘Insurance Commissioner’ means the person appointed pursuant to the provisions of §33-2-1 of this code.

(4) ‘Health benefit plan’ means the same as that term is defined in §33-24-7p of this code.

(5) ‘Health plan issuer’ means the same as that term is defined in §33-24-7p of this code.

(6) ‘Physician’ or ‘psychiatrist’ means a person licensed pursuant to the provisions of either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code.

(7) ‘Psychologist’ means a person licensed pursuant to the provisions of §30-21-1 *et seq.* of this code.

(8) ‘Substance use disorder’ means the same as that term is defined by the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, and shall include substance use withdrawal.

(b) A health benefit plan offered by a health plan issuer that provides hospital or medical expense benefits and is delivered, issued, executed, or renewed in this state, or approved for issuance or renewal by the Insurance Commissioner, on or after January 1, 2019, shall provide benefits for inpatient and outpatient treatment of substance use disorder at in-network facilities at the same level as other medical benefits offered by the health benefit plan offered by a health plan insurer.

(c) The services for the treatment of substance use disorder shall be:

(1) Prescribed by a physician or psychiatrist licensed pursuant to the provisions of §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code or recommended by a psychologist licensed pursuant to the provisions of §30-21-1 *et seq.* of this code; and

(2) Provided by licensed health care professionals or licensed or certified substance use disorder providers in licensed or otherwise state-approved facilities, as required by this code.

(d) The inpatient and outpatient treatment of substance use disorders shall be provided when determined medically necessary by the covered person's physician, psychologist, or psychiatrist. The facility shall notify the insurer of both the admission and the initial treatment plan within 48 hours of the admission or initiation of treatment. If there is no in-network facility immediately available for a covered person, a health benefit plan offered by a health plan issuer shall provide necessary exceptions to its network to ensure admission in a treatment facility within 72 hours. If a covered person is being treated at an out-of-network facility and an in-network facility becomes available during the course of the treatment plan, an insurer may transfer the covered person to the in-network facility.

(e) Providers of treatment for substance use disorders to persons covered under a covered contract shall not require prepayment of medical expenses during this 180 days in excess of applicable copayment, deductible, or coinsurance as provided in the contract.

(f) The benefits for outpatient visits may be subject to concurrent or retrospective review of medical necessity or any other utilization management review.

(g)(1) If an insurer determines that continued inpatient care in a facility is no longer medically necessary, the insurer shall, within 72 hours, provide written notice to the covered person



and the covered person's physician of its decision and the right to file for an expedited review of an adverse decision.

(2) The insurer shall review and make a determination with respect to the internal appeal within 72 hours and communicate that determination to the covered person and the covered person's physician.

(3) If the determination is to uphold the denial, the covered person and the covered person's physician have the right to file an expedited external appeal with an independent review organization. An independent utilization review organization shall make a determination within 72 hours.

(4) If the insurer's determination is upheld and it is determined continued inpatient care is not medically necessary, the insurer remains responsible to provide benefits for the inpatient care through the day following the date the determination is made and the covered person shall only be responsible for any applicable copayment, deductible, and coinsurance for the stay through that date as applicable under the contract.

(5) The covered person shall not be discharged or released from the inpatient facility until all internal appeals and independent utilization review organization appeals are exhausted. For any costs incurred after the day following the date of determination until the day of discharge, the covered person is only responsible for any applicable cost-sharing, and any additional charges shall be paid by the facility or provider.

(h) The Insurance Commissioner shall propose rules in accordance with the provisions of §29A-3-1 *et seq.* of this code to develop a procedure for an expedited review of an adverse decision as set forth in this section. The Legislature finds that for the purposes of §29A-3-15 of this code, an emergency exists requiring the promulgation of an emergency rule to respond to the growing need in our state for substance abuse treatment.

(i)(1) The benefits for the first five days of intensive outpatient or partial hospitalization services shall be provided without any retrospective review of medical necessity, and medical necessity shall be determined by the covered person's physician.

(2) The benefits beginning day six and every six days thereafter of intensive outpatient or partial hospitalization services is subject to a concurrent review of the medical necessity of the services.

(j) Medical necessity review shall use an evidence-based and peer-reviewed clinical review tool. This tool shall be developed by the Insurance Commissioner. The Insurance Commissioner shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to develop the tool.

(k) The benefits for outpatient prescription drugs to treat substance use disorder shall be provided when determined medically necessary by the covered person's physician or psychiatrist without the imposition of any prior authorization or other prospective utilization management requirements.

(l) The days per plan year of benefits shall be computed based on inpatient days. One or more unused inpatient days may be exchanged for two outpatient visits. All extended outpatient services such as partial hospitalization and intensive outpatient, shall be considered inpatient days for the purpose of the visit-to-day exchange provided in this subsection.

(m) Except as provided in this section, the benefits and cost-sharing shall be provided to the same extent as for any other medical condition covered under the contract.

(n) The benefits required by this section are to be provided to all covered persons with a diagnosis of substance use disorder. The presence of additional related or unrelated diagnoses shall not be a basis to reduce or deny the benefits required by this section.

(o) The provisions of this section apply to all insurance contracts in which the insurer has reserved the right to change the premium.”

The bill was then ordered to third reading.

**S. B. 406**, Clarifying that ground emergency medical transportation is eligible for Medicare and Medicaid reimbursement; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page one, section twenty-six, lines one and two, by striking out the words “owned or operated by the state” and inserting in lieu thereof the words “owned, operated by, or providing services under contract to, the state” and a comma.

The bill was then ordered to third reading.

**S. B. 407**, Licensing and approval of child care programs; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 408**, Licensing of nursing homes and assisted living residences; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**S. B. 425**, Removing sunset dates which members of policemen’s or firemen’s pension fund elect to participate in deferred retirement option plan; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 434**, Specifying documents not subject to discovery in certain proceedings; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 3C. HEALTH CARE PEER REVIEW ORGANIZATION PROTECTION.**

**§30-3C-1. Definitions.**

As used in this article:

‘Document’ means any information, data, reports, or records prepared by or on behalf of a health care provider and includes mental impressions, analyses, and/or work product.

~~‘Health care professionals’ means individuals who are licensed to practice in any health care field and individuals, who, because of their education, experience or training participate as members of or consultants to a review organization.~~

‘Health care facility’ means any clinic, hospital, pharmacy, nursing home, assisted living facility, residential care community, end-stage renal disease facility, home health agency, child welfare agency, group residential facility, behavioral health care facility or comprehensive community mental health center, intellectual/developmental disability center or program, or other ambulatory health care facility, in and licensed, regulated, or certified by the State of West Virginia under state or federal law and any state-operated institution or clinic providing health care and any related entity to the health care facility as that term is defined in §55-7B-1 *et seq.* of this code.

‘Health care provider’ means a person, partnership, corporation, professional limited liability company, health care facility, entity or institution licensed by, or certified in, this state or another state, to provide health care or professional health care services, including a physician, osteopathic physician, physician assistant, advanced practice registered nurse, health care facility, dentist, registered or licensed practical nurse, optometrist, podiatrist, chiropractor, physical therapist, speech-language pathologist, audiologist, occupational therapist, psychologist, pharmacist, technician, certified nursing assistant, emergency medical service personnel, emergency medical services authority or agency, any person supervised by or acting under the direction

of a licensed professional, any person taking actions or providing service or treatment pursuant to or in furtherance of a physician's plan of care, a health care facility's plan of care, medical diagnosis or treatment; or an officer, employee or agent of a health care provider acting in the course and scope of the officer's, employee's or agent's employment.

'Peer review' means the procedure for evaluation by health care ~~professionals~~ providers of the quality, delivery, and efficiency of services ordered or performed by other health care professionals, including practice analysis, inpatient hospital and extended care facility utilization review, medical audit, ambulatory care review, claims review and patient safety review, preparation for or simulation of audits or surveys of any kind, and all forms of quality assurance/performance improvement whether or not required by any statute, rule, or regulation applicable to a health care facility or health care provider.

~~'Professional society' includes medical, psychological, nursing, dental, optometric, pharmaceutical, chiropractic and podiatric organizations having as members at least a majority of the eligible licentiates in the area or health care facility or agency served by the particular organization~~

'Review organization' means any committee ~~or~~ organization, individual or group of individuals engaging in peer review, including, without limitation, a hospital utilization review committee, a hospital tissue committee, a medical audit committee, a health insurance review committee, a health maintenance organization review committee, hospital, medical, dental and health service corporation review committee, a hospital plan corporation review committee, a professional health service plan review committee or organization, a dental review committee, a physicians' advisory committee, a podiatry advisory committee, a nursing advisory committee, any committee or organization established pursuant to a medical assistance program, the joint commission on accreditation of health care organizations or similar accrediting body or any entity established by such accrediting body or to fulfill the requirements of such accrediting body, any entity established pursuant to state or federal law for peer review

purposes, and any committee established by one or more state or local professional societies or institutes, to gather and review information relating to the care and treatment of patients for the purposes of: (i) Evaluating and improving the quality of health care rendered; (ii) reducing morbidity or mortality; or (iii) establishing and enforcing guidelines designed to keep within reasonable bounds the cost of health care. It shall also mean any hospital board committee or organization reviewing the professional qualifications or activities of its medical staff or applicants for admission thereto, and any professional standards review organizations established or required under state or federal statutes or regulations.

### **§30-3C-3. Confidentiality of ~~review organization's~~ records.**

~~The proceedings and records of a review organization shall be confidential and privileged and shall not be subject to subpoena or discovery proceedings or be admitted as evidence in any civil action arising out of the matters which are subject to evaluation and review by such organization and no person who was in attendance at a meeting of such organization shall be permitted or required to testify in any such civil action as to any evidence or other matters produced or presented during the proceedings of such organization or as to any findings, recommendations, evaluations, opinions or other actions of such organization or any members thereof: *Provided*, That information, documents or records otherwise available from original sources are not to be construed as immune from discovery or use in any civil action merely because they were presented during proceedings of such organization, nor should any person who testifies before such organization or who is a member of such organization be prevented from testifying as to matters within his knowledge, but the witness shall not be asked about his testimony before such an organization or opinions formed by him as a result of said organization hearings: *Provided, however*, That an individual may execute a valid waiver authorizing the release of the contents of his file pertaining to his own acts or omissions, and such waiver shall remove the confidentiality and privilege of said contents otherwise provided by this section: *Provided further*, That upon further review by any other review organization, upon~~

~~judicial review of any finding or determination of a review organization or in any civil action filed by an individual whose activities have been reviewed, any testimony, documents, proceedings, records and other evidence adduced before any such review organization shall be available to such further review organization, the court and the individual whose activities have been reviewed. The court shall enter such protective orders as may be appropriate to provide for the confidentiality of the records provided the court by a review organization and all papers and records relating to the proceedings had before the reviewing court~~

(a) Any document prepared by or on behalf of a health care provider for the purpose of improving the quality, delivery, or efficiency of health care or for the purpose of credentialing or reviewing health care providers is confidential and shall not be subject to discovery in a civil action or administrative proceeding. Such documents include, without limitation:

(1) Incident or event reports, except reports pertaining to the plaintiff of that civil action, or reports of same or similar incidents within a reasonable timeframe of the events at issue in the civil action, containing only factual information, but excluding personal identification information;

(2) Documents related to review organization proceedings for hiring, disciplining, terminating, credentialing, issuing staff privileges, renewing staff privileges, or alleged misconduct of a health care provider;

(3) Review organization documents;

(4) Quality control and performance improvement documents;

(5) Documents satisfying regulatory obligations related to quality assurance and performance improvement; and

(6) Reviews, audits, and recommendations of consultants or other persons or entities engaged in the performance of peer review.

(b) A person who testifies before a review organization, or who is a member of a review organization shall not be required to testify regarding, or be asked about, his or her testimony before such review organization, deliberations of the review organization, or opinions formed as a result of the review organization's proceedings. A person who testifies before a review organization, or who is a member of such organization, shall not be prevented from testifying in court or an administrative hearing as to matters within his or her personal knowledge.

(c) All peer review proceedings, communications, and documents of a review organization and all records developed or obtained during an investigation conducted pursuant to article 3, 3E, and/or 14 of this chapter shall be confidential and privileged and shall not be subject to discovery in any civil action or administrative proceeding: *Provided*, That an individual may be given access to any document that was used as the basis for an adverse professional review action against him or her, subject to such protective order as may be appropriate to maintain the confidentiality of the information contained therein. Privilege is not deemed to be waived unless the review organization executes a written waiver authorizing the release of such peer review proceedings, communications, or documents.

(d) Nothing in this section shall limit the disclosure of peer review proceedings, communications and documents by a review organization or a health care facility to a medical licensing board pursuant to the provisions of articles 3 and 14 of this chapter.

### **§30-3C-5. Original source; waivers; further proceedings.**

Information available from original sources are not to be construed as immune from discovery or use in any civil action merely because they were included in any report or analysis related to improving the quality, delivery, or efficiency of health care or for the purpose of credentialing or reviewing health care providers. ~~However, no court may compel production of~~ Documents contained in peer review files are not discoverable on the basis that they were not created as part of the peer review process; rather, the document must be produced from the original source. *Provided*,



That if the party seeking production can show that obtaining source documents will be unduly burdensome, the court may, in its discretion, order production of the non-privileged documents contained in the peer review file.”

On motion of Delegates Shott and Lovejoy, the amendment was amended on page two, line thirty-eight, after the word “limitation”, by inserting the words “a hospital medical executive committee and/or subcommittee thereof” and a comma.

On page four, line twenty-seven, after the word “confidential”, by inserting the words “and privileged”.

And,

On page four, line twenty-nine, after “(1)”, by inserting the following, “Nursing home, as referred to in W. Va. Code § 55-7B-6(e)” and a comma.

The Judiciary Committee amendment, as amended, was then adopted.

The bill was then ordered to third reading.

**Com. Sub. for S. B. 438**, Relating to debt service on bonds secured by State Excess Lottery Revenue Fund; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page two, section eighteen-e, lines eighteen and nineteen, by striking out the words “second, if the amount deposited into the State Parks Lottery Revenue Debt Service Fund” and inserting in lieu thereof the words “if the certified debt service requirement”.

And,

On page two, section eighteen-e, lines nineteen and twenty, by striking out the words “such amount deposited in the State Parks Lottery Revenue Debt Service Fund” and inserting in lieu thereof the words “the certified debt service requirement”.

The bill was then ordered to third reading.

**Com. Sub. for S. B. 442**, Establishing universal forms and deadlines when submitting prior authorization electronically; on second reading, coming up in regular order, was read a second time.

On motion of Delegates Nelson, Ellington, Storch and Westfall, the bill was amended on page one, section twenty-two, line nineteen, by striking out the number “24” and inserting in lieu thereof the number “48”.

And,

On page two, section twenty-two, line twenty, by striking out “168 hours” and inserting in lieu thereof the words “7 days”.

The bill was then ordered to third reading.

**Com. Sub. for S. B. 443**, Terminating parental rights when certain conditions are met; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 4. COURT ACTIONS.**

**§49-4-605. When department efforts to terminate parental rights are required.**

(a) Except as provided in subsection (b) of this section, the department shall file or join in a petition or otherwise seek a ruling in any pending proceeding to terminate parental rights:

(1) If a child has been in foster care for 15 of the most recent 22 months as determined by the earlier of the date of the first judicial finding that the child is subjected to abuse or neglect or the date which is 60 days after the child is removed from the home;

(2) If a court has determined the child is abandoned, tortured, sexually abused or chronically abused; ~~or~~

(3) If a court has determined the parent has committed murder or voluntary manslaughter of another of his or her children, another child in the household, or the other parent of his or her children; has attempted or conspired to commit murder or voluntary manslaughter or has been an accessory before or after the fact of either crime; has committed unlawful or malicious wounding resulting in serious bodily injury to the child or to another of his or her children, another child in the household or to the other parent of his or her children; has committed sexual assault or sexual abuse of the child, the child's other parent, guardian or custodian, another child of the parent or any other child residing in the same household or under the temporary or permanent custody of the parent; or the parental rights of the parent to another child have been terminated involuntarily; or

(4) If a parent whose child has been removed from the parent's care, custody, and control by an order of removal voluntarily fails to have contact or attempt to have contact with the child for a period of 18 consecutive months: *Provided*, That failure to have, or attempt to have, contact due to being incarcerated, being in a medical or drug treatment or recovery facility, or being on active military duty shall not be considered voluntary behavior.

(b) The department may determine not to file a petition to terminate parental rights when:

(1) At the option of the department, the child has been placed permanently with a relative by court order;

(2) The department has documented in the case plan made available for court review a compelling reason, including, but not limited to, the child's age and preference regarding termination or the child's placement in custody of the department based on any proceedings initiated under part seven of this article, that filing the petition would not be in the best interests of the child; or

(3) The department has not provided, when reasonable efforts to return a child to the family are required, the services to the child's family as the department deems necessary for the safe return of the child to the home."

The bill was then ordered to third reading.

**Com. Sub. for S. B. 445**, Allowing DOH acquire real or personal property for utility accommodation; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**"CHAPTER 17. ROADS AND HIGHWAYS.**

**ARTICLE 2A. WEST VIRGINIA COMMISSIONER OF HIGHWAYS**

**§17-2A-17A. ACQUISITION OF PROPERTY FOR UTILITY ACCOMMODATION PURPOSES; UTILITY DEFINED.**

(a) The Legislature finds that it is in the public interest for utility facilities to be accommodated on the right-of-way of state highways when such use and occupancy of the highway right-of-way do not adversely affect highway or traffic safety or otherwise impair the highway or its aesthetic quality, and do not conflict with the provisions of federal, state, or local laws, legislative rules, or agency policies. Utilities provide an essential service to the general public and, as a matter of sound economic public policy and law, utilities have used state road rights-of-way for transmitting and distributing their services. Such accommodation of utility facilities on the right-of-way of state highways serves an important public purpose by increasing public access to utility services.

(b) 'Utility' means, for purposes of this chapter, privately, publicly, or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, data,

information, video services, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, stormwater not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, which directly or indirectly serves the public. The term ‘utility’ also includes those similar facilities which are owned or leased by a government agency for its own use, or otherwise dedicated solely to governmental use.

(c) In addition to all other powers given and assigned to the commissioner in this chapter, the commissioner may acquire, either temporarily or permanently, in the name of the Division of Highways, and adjacent to public roadways or highways, all real or personal property, public or private, or any interests or rights therein, including any easement, riparian right, or right of access, determined by the commissioner to be necessary for present or presently foreseeable future utility accommodation purposes.

(d) Notwithstanding any provision of this article, the commissioner may lease real property held by the Division of Highways or any interest or right in the property, including airspace rights, if any, for the purpose of accommodating any utility that has requested a lease if the commissioner finds, in his or her sole discretion, that entering into the lease agreement with the utility is in the public interest. The term of any accommodation lease authorized by this section shall not exceed 30 years. Neither competitive bids nor public solicitations are required prior to entering into a utility accommodation lease. Any utility accommodation lease shall require the utility to pay fair market value for the real property interest as determined by the commissioner using common valuation methods, which shall include consideration of the use of the property for utility accommodation purposes: *Provided*, That amounts paid for property damage by the division in a condemnation case shall not be considered in the commissioner’s determination of fair market value. The commissioner shall have the option to charge and collect a one-time lease payment or fixed installment lease payments from a utility in connection with an accommodation lease. All moneys received from utility accommodation leases

shall be paid into the state Treasury and credited to the State Road Fund. The provisions of this subsection are completely voluntary and shall not be interpreted to require any utility to lease any real property, or any interest or right in the property, from the commissioner.

#### **ARTICLE 4. STATE ROAD SYSTEM.**

##### **§17-4-17b. Relocation of public utility lines on highway construction projects.**

(a) Whenever the division reasonably determines that any public utility line or facility located upon, across, or under any portion of a state highway needs to be removed, relocated, or adjusted in order to accommodate a highway project, the division shall give to the utility reasonable notice in writing as mutually agreed, but not to exceed 18 months, directing it to begin the physical removal, relocation, or adjustment of such utility obstruction or interference at the cost of the utility, including construction inspection costs and in compliance with the rules of the division and the provisions of §29A-3-1 *et seq.* of this code.

(b) If the notice is in conjunction with a highway improvement project, it will be provided at the date of advertisement or award. Prior to the notice directing the physical removal, relocation, or adjustment of a utility line or facility, the utility shall adhere to the division's utility relocation procedures for public road improvements which shall include, but not be limited to, the following:

(1) The division will submit to the utility a letter and a set of plans for the proposed highway improvement project;

(2) The utility must within a reasonable time submit to the division a written confirmation acknowledging receipt of the plans and a declaration of whether or not its facilities are within the proposed project limits and the extent to which the facilities are in conflict with the project;

(3) If the utility is adjusting, locating, or relocating facilities or lines from or into the division's right-of-way, the utility must

submit to the division plans showing existing and proposed locations of utility facilities.

(4) The utility's submission shall include with the plans a work plan demonstrating that the utility adjustment, location, or relocation will be accomplished in a manner and time frame established by the division's written procedures and instructions. The work plan shall specify the order and calendar days for removal, relocation, or adjustment of the utility from or within the project site and any staging property acquisition or other special requirements needed to complete the removal, relocation, or adjustment. The division shall approve the work plan, including any requests for compensation, submitted by a utility for a highway improvement project if it is submitted within the established schedule and does not adversely affect the letting date. The division will review the work plan to ensure compliance with the proposed improvement plans and schedule.

(c) If additional utility removal, relocation, or adjustment work is found necessary after the letting date of the highway improvement project, the utility shall provide a revised work plan within 30 calendar days after receipt of the division's written notification of the additional work. The utility's revised work plan shall be reviewed by the division to ensure compliance with the highway project or improvement. The division shall reimburse the utility for work performed by the utility that must be performed again as the result of a plan change on the part of the division.

(d) Should the utility fail to comply with the notice to remove, relocate, or adjust, the utility is liable to the division for direct contract damages, including costs, fees, penalties, or other contract charges, for which the division is proven to be liable to a contractor caused by the utility's failure to timely remove, relocate, or adjust, unless a written extension is granted by the division. The utility shall not be liable for any delay or other failure to comply with a notice to remove, relocate or adjust that is not solely the fault of the utility, including, but not limited to, the following:

(1) The division has not performed its obligations in accordance with the division's rules;

(2) The division has not obtained all necessary rights-of-way that affect the utility;

(3) The delay or other failure to comply by the utility is due to the division's failure to manage schedules and communicate with the utility;

(4) The division seeks to impose liability on the utility based solely upon oral communications or communications not directed to the utility's designated contact person;

(5) The division changes construction plans in any manner following the notice to remove or relocate and the change affects the utility's facilities; or

(6) Other good cause, beyond the control of and not the fault of the utility, including, but not limited to, labor disputes, unavailability of materials on a national level, act of God, or extreme weather conditions.

(e) In order to avoid construction delays and to create an efficient and effective highway program, the division may schedule program meetings with the public utility on a quarterly basis to assure that schedules are maintained.

(f) If a utility that is required by law to bear all or a portion of its own relocation costs elects to pursue a reimbursement agreement with the division pursuant to this subsection and provides the division with sufficient evidence to demonstrate that the utility is not adequately staffed, equipped, or capitalized to perform such relocation work with its own forces or contractors at a time convenient to and in coordination with the associated highway project, the division may pay for the associated relocation costs, including but not limited to design engineering, design review, construction, and inspection costs, out of the State Road Fund: *Provided*, That the utility shall reimburse the division in full for such portion of the relocation costs that it is required by law to bear within two years of the completion of the highway project. The division shall deduct from the utility's reimbursement amount any costs resulting from work performed as a result of plan changes



made by the division. Before the division may pay any relocation costs, the division and the utility shall enter into a written reimbursement agreement containing terms that are mutually acceptable to the division and the utility seeking the reimbursement agreement.

(1) Preliminary engineering design work associated with utility relocations to be paid for by the division pursuant to a reimbursement agreement shall be completed by any of the following methods:

(A) The division's or the utility's internal forces;

(B) A consultant selected by the division if the contract is administered by the division: *Provided*, That the selected consultant shall be pre-approved by the utility; or

(C) Inclusion as part of the highway construction contract let by the division as agreed to by the utility: *Provided*, That the subcontractor performing the preliminary engineering design work associated with the relocation is pre-approved by the utility.

(2) Utility relocation construction work paid for by the division pursuant to a reimbursement agreement shall be completed by either of the following methods:

(A) A contract awarded by the division to the lowest qualified bidder based on an appropriate competitive solicitation: *Provided*, That the lowest qualified bidder for utility relocation construction work is pre-approved by the utility; or

(B) Inclusion as part of the highway construction contract let by the division as agreed to by the utility: *Provided*, That the subcontractor performing the utility relocation construction work is pre-approved by the utility.

(3) All design and construction work paid for by the division pursuant to a reimbursement agreement is subject to the reasonable inspection and acceptance of the utility, whose acceptance shall not be unreasonably withheld, and shall be performed in accordance with the specifications and standards required by the utility.

(4) All relocation work performed pursuant to a reimbursement agreement shall conform to applicable state and federal laws or regulations.

(5) The provisions of this subsection are completely voluntary and shall not be interpreted to require any utility to enter into a reimbursement agreement with the division or avail itself of the options authorized by this subsection.

(6) The division may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code, and the division may promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code in order to comply with this subsection

**§17-4-17e. Utility relocation on state highway construction projects financed by proceeds of bonds or notes issued before July 1, 2021.**

Subject to the provisions of §17-4-17d of this code, and notwithstanding any other provisions to the contrary, whenever the Commissioner of Highways determines that any utility facility located upon, across, above, or under any portion of a state highway needs to be relocated in order to accommodate a highway project funded, in whole or in part, with proceeds of bonds or notes issued by the division, commissioner, West Virginia Parkways Authority, or the State of West Virginia on or after January 1, 2018, and on or before July 1, 2021, the commissioner shall notify the utility owning or operating the facility, which shall relocate the facility in accordance with this article and in accordance with the cost-sharing provisions of this section. The utility shall bear 85 percent of any such relocation costs, and the Division of Highways shall bear 15 percent of any such relocation costs. The division's share shall be paid out of the State Road Fund or paid with other eligible funds, within two years of completion of the highway project, and shall be considered a cost of the highway project: *Provided*, That nothing in this section shall alter or amend the responsibility of the division to pay for the cost of utility facilities relocation when such costs are incurred to accommodate a highway

project and such utilities maintain pre-existing property rights in their facilities' present location."

The bill was then ordered to third reading.

**Com. Sub. for S. B. 446**, Creating Agritourism Responsibility Act; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Cowles, and by unanimous consent, the bill was advanced to third reading with an amendment pending and with the restricted right to amend jointly by Delegates Hanshaw and Byrd, and the rule was suspended to permit the consideration of amendments on that reading.

The bill was then ordered to third reading.

**S. B. 468**, Changing date and recipients for submission of Auditor's annual report; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the on page one, section seven, line three, by striking out "February 1" and inserting in lieu thereof "January 15".

The bill was then ordered to third reading.

**Com. Sub. for S. B. 469**, Converting Addiction Treatment Pilot Program to permanent program; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Health and Human Resources, was reported by the Clerk on page two, section two, line eight, after the word "use", by inserting the words "in treatment of opioid use disorder or".

On page three, section two, line twenty-eight, by striking out the word "pilot".

On page three, section two, lines thirty-five and thirty-six, by striking out paragraph (E) in its entirety and inserting in lieu thereof a new paragraph (E), to read as follows:

“(E) Provide access to the non-narcotic, long-acting antagonist therapy or FDA-approved, long acting, practitioner-administered medication for the treatment of opioid use disorder included in the program’s medication-assisted treatment; and”.

On page four, section two, lines fifty-seven and fifty-eight, by striking out paragraph (E) in its entirety and inserting in lieu thereof a new paragraph (E), to read as follows:

“(E) Provide access to the non-narcotic, long-acting antagonist therapy or FDA-approved, long acting, practitioner-administered medication for the treatment of opioid use disorder included in the program’s medication-assisted treatment; and”.

On page four, line sixty-four, by striking out the word “pilot”.

On page five, section two, lines seventy-nine and eighty, by striking out paragraph (E) in its entirety and inserting in lieu thereof a new paragraph (E), to read as follows:

“(E) Provide access to the non-narcotic, long-acting antagonist therapy or FDA-approved, long acting, practitioner-administered medication for the treatment of opioid use disorder included in the program’s medication-assisted treatment; and”.

And,

On page five, section two, line eighty-seven, by striking out the word “pilot”.

On the adoption of the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 422**), and there were—yeas 48, nays 49, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Adkins, Ambler, Anderson, Atkinson, Blair, Butler, Cooper, Cowles, Criss, Dean, Ellington, Espinosa, A. Evans, Fast, Foster, Gearheart, Hamilton, Hamrick, Hanshaw, Higginbotham, Hollen, Householder, Howell, Jennings, Kelly, Love, Martin, McGeehan, C. Miller, Nelson, Overington, Phillips, Queen, Rohrbach, C. Romine, R. Romine, Rowan, Sobonya, Statler, Storch, Summers, Sypolt, Upson, Wagner, Westfall, White, Zatezalo and Mr. Speaker, Mr. Armstead.

Absent and Not Voting: Capito and Deem.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

The bill was then ordered to third reading.

**Com. Sub. for S. B. 495**, Designating specific insurance coverages exempt from rate filing requirements; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 20. RATES AND RATING ORGANIZATIONS.**

**§33-20-4. Rate filings.**

(a) (1) Every insurer shall file with the commissioner every manual of classifications, territorial rate areas established pursuant to §33-20-3(c)(2) of this code, rules, and rates, every rating plan, and every modification of any of the foregoing which it proposes to use for casualty insurance to which this article applies.

(2) Every insurer shall file with the commissioner, except as to inland marine risks which, by general custom of the business, are not written according to manual rates or rating plans, every manual, minimum, class rate, rating schedule, or rating plan and every other rating rule and every modification of any of the foregoing which it proposes to use for fire and marine insurance to which this article

applies. Specific inland marine rates on risks specially rated, made by a rating organization, shall be filed with the commissioner.

(3) Subject to subdivisions (4) and (5), subsection (a) of this section and the requirements for ratemaking in §33-20-3 of this code, the following commercial lines insurance coverages are exempt from rate-filing requirements under this article with respect to every manual, minimum, class rate, rating schedule, or rating plans, and every other rating rule and modification of any of the foregoing, whether the insurance coverage is endorsed to, or otherwise made part of, another kind of insurance policy or sold as a stand-alone policy:

(A) Surety and fidelity;

(B) Commercial inland marine;

(C) Boiler and machinery;

(D) Environmental impairment or pollution liability;

(E) Kidnap and ransom;

(F) Political risk or expropriation;

(G) Excess and umbrella liability;

(H) Directors' and officers' liability;

(I) Fiduciary liability;

(J) Employment practices liability;

(K) Errors and omission other than medical malpractice;

(L) Professional liability other than medical malpractice;

(M) Media liability;

(N) Commercial lines travel risk, including accidental death and dismemberment;

(O) Product liability, product recall, and completed operations;

(P) Cybersecurity, including first and third party commercial lines coverage for losses arising out of or relating to data privacy breach, network security, computer viruses, and similar exposures;

(Q) Highly protected commercial property;

(R) All commercial lines insurance coverages not excluded under subdivision (4), subsection (a) of this section when purchased by a commercial policyholder with aggregate annual commercial insurance premiums of \$25,000 or more excluding premiums for the types of insurance excluded under subdivision (4), subsection (a) of this section; and

(S) Any other commercial lines insurance coverage or risk that the commissioner may, by order, exempt from rate filing and approval requirements in order to promote enhanced competition or to more effectively use the resources of the department that might otherwise be used to review commercial lines filings or because the commissioner does not consider the filing and approval requirements to be necessary or desirable for the protection of the public.

(4) The exemptions from rate filing requirements in subdivision (3), subsection (a) of this section are not applicable to the following kinds of commercial insurance:

(A) Workers' compensation;

(B) Medical malpractice liability;

(C) Nonfleet commercial automobile liability policies covering four or fewer vehicles;

(D) Any coverage issued by an assigned risk or residual market plan pursuant to §33-20-15 of this code, §33-20A-1 *et seq.* of this code, or the Mine Subsidence Insurance Fund created pursuant to §33-30-1 *et seq.* of this code.

(5) The commissioner may temporarily reinstate, for a period of no longer than one year, the requirement for rate filings for a specific insurance coverage set forth in subdivision (3), subsection

(a) of this section if, after a hearing, the commissioner makes a finding of fact that a reasonable degree of competition does not exist for that specific type of insurance coverage. The finding of fact by the commissioner must specify the relevant tests used to determine whether a lack of a reasonable degree of competition exists and the results thereof. In the absence of such findings of fact by the commissioner, a competitive market is presumed to exist.

(b) Every filing shall state the proposed effective date and shall indicate the character and extent of the coverage contemplated. When a filing is not accompanied by the information upon which the insurer supports the filing and the commissioner does not have sufficient information to determine whether the filing meets the requirements of this article, he or she shall require the insurer to furnish the information upon which it supports the filing and in that event the waiting period shall commence as of the date the information is furnished. The information furnished in support of a filing may include: (1) The experience or judgment of the insurer or rating organization making the filing; (2) the experience or judgment of the insurer or rating organization in the territorial rate areas established by §33-20-3(c)(2) of this code; (3) its interpretation of any statistical data it relies upon; (4) the experience of other insurers or rating organizations; or (5) any other relevant factors. A filing and any supporting information is open to public inspection as soon as the filing is received by the commissioner. Any interested party may file a brief with the commissioner supporting his or her position concerning the filing. Any person or organization may file with the commissioner a signed statement declaring and supporting his or her or its position concerning the filing. Upon receipt of the statement prior to the effective date of the filing, the commissioner shall mail or deliver a copy of the statement to the filer, which may file a reply as it may desire to make. This section is not applicable to any memorandum or statement of any kind by any employee of the commissioner.

(c) An insurer may satisfy its obligation to make a filing by becoming a member of, or a subscriber to, a licensed rating organization which makes filings and by authorizing the commissioner to accept filings on its behalf: *Provided*, That



nothing contained in this article shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization.

(d) The commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of this article.

(e) Subject to the exceptions specified in subsections (f), (g) and (h) of this section, each filing shall be on file for a waiting period of 60 days before it becomes effective. Upon written application by an insurer or rating organization, the commissioner may authorize a filing which he or she has reviewed to become effective before the expiration of the waiting period. A filing shall be deemed to meet the requirements of this article unless disapproved by the commissioner within the waiting period.

(f) Any special filing with respect to a surety bond required by law or by court or executive order or by order, rule, or regulation of a public body, not covered by a previous filing, shall become effective when filed and shall be deemed to meet the requirements of this article until the commissioner reviews the filing and so long thereafter as the filing remains in effect.

(g) Specific inland marine rates on risks specially rated by a rating organization shall become effective when filed and shall be deemed to meet the requirements of this article until the commissioner reviews the filing and so long thereafter as the filing remains in effect.

(h) Except as provided in subdivision (3), subsection (a) of this section, rates for commercial lines property and casualty risks must be filed with the commissioner and the filings need not be approved by the commissioner. The commissioner may request additional information to ensure compliance with applicable statutory standards, but if the commissioner does not disapprove the filing within the initial 30-day period after receipt, the rate filing will become effective upon first usage after filing: *Provided*, That the commissioner may at any time thereafter, after notice and for cause shown, disapprove any rate filing.

(i) Under legislative rules, the commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision, or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. These orders and rules shall be made known to insurers and rating organizations affected thereby. The commissioner may make any examination he or she may consider advisable to ascertain whether any rates affected by an order meet the standards set forth in §33-20-3(b) of this code.

(j) Upon the written application of the insured, stating his or her reasons therefor, filed with and approved by the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risks.

(k) No insurer shall make or issue a contract or policy except in accordance with the filings which are in effect for that insurer as provided in this article. This subsection does not apply to contracts or policies for ~~inland-marine~~ risks as to which filings are not required.

(l) In instances when an insurer files a request for an increase of automobile liability insurance rates in the amount of 15 percent or more, the Insurance Commissioner shall provide notice of the increase with the Office of the Secretary of State to be filed in the State Register and shall provide interested persons the opportunity to comment on the request up to the time the commissioner approves or disapproves the rate increase.

(m) For purposes of this section, 'commercial' means commercial lines as defined in §33-6-8(e)(2) of this code."

The bill was then ordered to third reading.

**Com. Sub. for S. B. 501**, Relating to accrued benefit of retirees in Deputy Sheriff Retirement System; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page three, section two, lines sixty-eight through seventy, by striking out

subparagraph (C) in its entirety and inserting in lieu thereof a new subparagraph (C), to read as follows:

“(C) Whose relationship with the member is described in subparagraph (A), (B), or (C), paragraph (1) of this subdivision.”

On page five, section two, lines one hundred five through one hundred ten, by striking out paragraph (3) in its entirety and inserting in lieu thereof a new paragraph (3), to read as follows:

“(3) Each hour for which back pay is either awarded or agreed to be paid by the employing county commission, irrespective of mitigation of damages. The same hours of service shall not be credited both under this paragraph and paragraph (1) or (2) of this subdivision. Hours under this paragraph shall be credited to the member for the plan year or years to which the award or agreement pertains rather than the plan year in which the award, agreement, or payment is made.”

And,

On page five, section two, lines one hundred eleven through one hundred sixteen, by striking out subdivision (x) in its entirety and inserting in lieu thereof a new subdivision (x), to read as follows:

“(x) “Member” means a person first hired as a deputy sheriff after the effective date of this article, as defined in subdivision (t) of this section, or a deputy sheriff first hired prior to the effective date and who elects to become a member pursuant to §7-14D-5 or §7-14D-17 of this code. A member shall remain a member until the benefits to which he or she is entitled under this article are paid or forfeited or until cessation of membership pursuant to §7-14D-5 of this code.”

The bill was then ordered to third reading.

**Com. Sub. for S. B. 521**, Requiring chief executive of municipal law-enforcement agency be certified law-enforcement officer; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, section thirteen, line three, after the word “certified”, by inserting a comma and the words “or certifiable as, a”.

And,

On page one, section thirteen, line three, after the word “officer”, by inserting the words “as provided in §30-29-5 of this code”.

The bill was and ordered to third reading.

**Com. Sub. for S. B. 528**, Providing additional circuit judge for nineteenth judicial circuit; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**S. B. 551**, Relating to failure of employers to make contributions on behalf of employees to retirement plan administered by CPRB; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**S. B. 592**, Adding examination of advanced care technician for firefighter paramedic; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“CHAPTER 8. MUNICIPAL CORPORATIONS.**

**ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPARTMENTS; CIVIL SERVICE FOR PAID FIRE DEPARTMENTS.**

**§8-15-20A. SPECIAL EXAMINATION FOR FIREFIGHTER PARAMEDIC AND ADVANCED CARE TECHNICIAN.**

(a) A municipality with a firefighter’s civil service commission providing an advanced life support ambulance service licensed by

the State Health Department may also administer a special ~~examination~~ examinations for the ~~position~~ positions of firefighter paramedic and advanced care technician.

(b) An applicant for the position of firefighter paramedic shall: (1) Be a certified paramedic; (2) successfully pass the firefighter paramedic examination; and (3) meet the requirements of section seventeen of this article.

(c) An applicant for the position of advanced care technician shall: (1) Be a certified advanced care technician; (2) successfully pass the advanced care technician examination; and (3) meet the requirements of §8-15-17 of this code.

~~(e)~~ (d) Any person employed as a firefighter paramedic or advanced care technician under the provisions of this section shall: (1) Maintain paramedic or advanced care technician certification; (2) complete all required fire service training; and (3) comply with all other provisions of this article applicable to the continued employment of firefighters.

~~(d)~~ (e) Every position of firefighter paramedic or advanced care technician, unless filled by promotion, reinstatement, reduction or a current firefighter, shall be filled only in the manner specified in §8-15-20 of this code.

## CHAPTER 16. PUBLIC HEALTH.

### ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.

#### §16-4C-6. Powers and duties of commissioner.

The commissioner has the following powers and duties:

(a) To propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code: *Provided*, That the rules have been submitted at least thirty days in advance for review by the Emergency Medical Services Advisory Council, who may act only in the presence of a quorum. The rules may include:

(1) Standards and requirements for certification and recertification of emergency medical service personnel, including, but not limited to:

(A) Age, training, testing and continuing education;

(B) Procedures for certification and recertification, and for denying, suspending, revoking, reinstating and limiting a certification or recertification;

(C) Levels of certification and the scopes of practice for each level: Provided, That at a minimum, the commissioner shall certify the levels of emergency medical vehicle operator, emergency medical responder, emergency medical technician, paramedic, mobile critical care paramedic, mobile critical care nurse, and advanced care technician or advanced emergency medical technician;

(D) Standards of conduct; and

(E) Causes for disciplinary action and sanctions which may be imposed.

(2) Standards and requirements for licensure and licensure renewals of emergency medical service agencies, including:

(A) Operational standards, levels of service, personnel qualifications and training, communications, public access, records management, reporting requirements, medical direction, quality assurance and review, and other requirements necessary for safe and efficient operation;

(B) Inspection standards and establishment of improvement periods to ensure maintenance of the standards;

(C) Fee schedules for licensure, renewal of licensure and other necessary costs;

(D) Procedures for denying, suspending, revoking, reinstating or limiting an agency licensure;

(E) Causes for disciplinary action against agencies; and

(F) Administrative penalties, fines and other disciplinary sanctions which may be imposed on agencies;

(3) Standards and requirements for emergency medical service vehicles, including classifications and specifications;

(4) Standards and requirements for training institutions, including approval or accreditation of sponsors of continuing education, course curricula and personnel;

(5) Standards and requirements for a State Medical Direction System, including qualifications for a state emergency medical services medical director and regional medical directors, the establishment of a State Medical Policy and Care Committee and the designation of regional medical command centers;

(6) Provision of services by emergency medical services personnel in hospital emergency rooms;

(7) Authorization to temporarily suspend the certification of an individual emergency medical service provider prior to a hearing or notice if the commissioner finds there is probable cause that the conduct or continued service or practice of any individual certificate holder has or may create a danger to public health or safety: *Provided*, That the commissioner may rely on information received from a physician that serves as a medical director in finding that probable cause exists to temporarily suspend the certification; and

(8) Any other rules necessary to carry out the provisions of this article.

(b) To apply for, receive and expend advances, grants, contributions and other forms of assistance from the state or federal government or from any private or public agencies or foundations to carry out the provisions of this article.

(c) To design, develop and review a Statewide Emergency Medical Services Implementation Plan. The plan shall recommend aid and assistance and all other acts necessary to carry out the purposes of this article:

(1) To encourage local participation by area, county and community officials and regional emergency medical services boards of directors; and

(2) To develop a system for monitoring and evaluating emergency medical services programs throughout the state.

(d) To provide professional and technical assistance and to make information available to regional emergency medical services boards of directors and other potential applicants or program sponsors of emergency medical services for purposes of developing and maintaining a statewide system of services.

(e) To assist local government agencies, regional emergency medical services boards of directors and other public or private entities in obtaining federal, state or other available funds and services.

(f) To cooperate and work with federal, state and local governmental agencies, private organizations and other entities as may be necessary to carry out the purposes of this article.

(g) To acquire in the name of the state by grant, purchase, gift, devise or any other methods appropriate real and personal property as may be reasonable and necessary to carry out the purposes of this article.

(h) To make grants and allocations of funds and property so acquired or which may have been appropriated to the agency to other agencies of state and local government as may be appropriate to carry out the purposes of this article.

(i) To expend and distribute by grant or bailment funds and property to all state and local agencies for the purpose of performing the duties and responsibilities of the agency all funds which it may have so acquired or which may have been appropriated by the Legislature of this state.

(j) To develop a program to inform the public concerning emergency medical services.



(k) To review and disseminate information regarding federal grant assistance relating to emergency medical services.

(l) To prepare and submit to the Governor and Legislature recommendations for legislation in the area of emergency medical services.

(m) To review, make recommendations for and assist in all projects and programs that provide for emergency medical services whether or not the projects or programs are funded through the Office of Emergency Medical Services. A review and approval shall be required for all emergency medical services projects, programs or services for which application is made to receive state or federal funds for their operation after the effective date of this act; and

(n) To take all necessary and appropriate action to encourage and foster the cooperation of all emergency medical service providers and facilities within this state.

**§16-4C-6d. Qualification for examination for license as an emergency medical technician.**

(a) Any person who has served on active duty in the medical corps of any of the Armed Forces of the United States and who has successfully completed the course of instruction required to qualify him or her for rating as an emergency medical technician, hospital corpsman, combat medic, health care specialist or other equivalent rating in his or her particular branch of the Armed Forces, and whose service in the Armed Forces was under honorable conditions, may submit to the West Virginia Office of Emergency Medical Services, a photostatic copy of the certificate issued to him or her certifying successful completion of such course of instruction, a photostatic copy of his or her discharge from the Armed Forces, an application for a certification as an emergency medical technician and the prescribed license fee.

(b) If the certificate and discharge, as evidenced by the photostatic copies thereof, the application and prescribed license fee are in order, and if the veteran meets all of the requirements of

this article, the veteran shall be permitted to take the same examination or examinations as are required under this article for applicants who do not apply for a license under the provisions of §30-24-1 et seq. of this code: Provided, That the veteran may be required to attend additional training courses prior to taking the examination if more than thirty years has passed from his or her successful completion of the course of instruction and date of application. If the veteran passes such examination or examinations, he or she shall be licensed as an emergency medical technician and shall thereafter be subject to all of the provisions of this article. If the veteran does not pass such examination or examinations, any provisions of this article relating to reexaminations shall apply to such veteran the same as they apply to a person who does not apply for a license under the provisions §16-4C-1 et seq. of this code.”

The bill was then ordered to third reading.

**S. B. 612**, Relating to sale of municipal property; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 625**, Creating WV Volunteer Fire and Rescue Act of 2018; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk on pages four and five, section two, lines one and two, by striking out the words “dies in the performance of, or as a result of the performance of,” and inserting in lieu thereof the words “is killed in the performance of”.

On page five, section two, line twenty-three, by striking out “\$100,000” and inserting in lieu thereof “\$50,000”.

On page five, section two, line twenty-seven, by striking out the words “who died” and inserting in lieu thereof the word “killed”.

On page seven, section three-d, line nineteen, after the word “materials” by inserting the words “or extended search and rescue and water rescue incidents”.

On page seven, section three-d, line twenty-five, by striking out “30” and inserting in lieu thereof “90”.

On pages seven and eight, section three-d, lines twenty-nine through thirty-two, by striking out subdivision (4) in its entirety.

On page eight, by striking out “**CHAPTER 11. TAXATION.**”

On page eight, by striking out “**ARTICLE 21. PERSONAL INCOME TAX.**”

On pages eight and nine, by striking out section twenty-five in its entirety.

And,

On page nine, before the chapter heading, by inserting the following:

**“CHAPTER 8. MUNICIPAL CORPORATIONS.**

**ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPARTMENTS; CIVIL SERVICE FOR PAID FIRE DEPARTMENTS.**

**§8-15-3. Municipalities empowered and authorized to contract for prevention and extinguishment of fires beyond the corporate limits.**

(a) Any municipality may contract to render services in the prevention and extinguishment of fires upon property located within the state. A municipality may contract beyond its immediate boundary limit for fire service protection if fire protection is provided in accordance with and under a rural fire protection district plan based upon the fire suppression rating schedule approved by the state Insurance Commissioner. All rural fire protection district plans shall be approved by the state Fire

Commission. No rural fire protection district plan providing for a municipality to contract beyond its boundary may infringe upon an existing fire department's response area without the written consent of the fire department providing fire services for that area.

No contract entered into under the authority of this section may operate to impose any greater obligation or liability upon the municipality than that with respect to property within its corporate limits under an approved rural fire protection district plan. Nothing contained in this section may be construed as requiring any municipality to contract to render such services. A municipality providing fire services under contract to any property outside its corporate limits may offer fire service under contract to any property within the county if the property owner requests the protection.

Any contract entered into under the authority of this section, on or after July 1, 1969, shall require the ~~property~~ owner of served property located outside the corporate limits of the serving municipality to pay as consideration for said services an annual payment, determined as provided in the remainder of this subsection. If the municipality does not impose a fire service fee on the users of such service within the municipality as authorized in section thirteen, article thirteen of this chapter, the annual payment shall be equivalent to ~~eighty~~ thirty-three percent of the annual tax levied for current municipal purposes upon property within said municipality of like assessed valuation to the property under contract. If the municipality does impose a fire service fee on the users of such service within the municipality, as authorized in said section, the annual payment shall be based upon the area of structures used or intended to be used for residential or general business purposes, and may not include charges for buildings used or intended to be used for the production, storage or housing of agricultural products, as defined in section two, article one-b, chapter nineteen of this code, or a building used or intended to be used for the storage of nonflammable products, and shall otherwise be equivalent to the amount of fire service fee which would be imposed if the property under contract were located within the municipality. ~~plus at least fifty percent of the annual tax levied for~~

~~current municipal purposes upon property within said municipality of like assessed valuation to the property under contract~~ No contract entered into under the authority of this section, and nothing herein contained, may be construed as requiring or permitting any municipality to install or maintain any special additional apparatus or equipment beyond that necessary for the protection of property within its corporate limits.

(b) The annual payments due under any such contract are payable on or before October 1, of each calendar year in which such contract remains in effect, or upon such day as may be hereinafter provided as the due date of the first installment of ad valorem taxes. If any annual payment is in default for a period of more than thirty days, it shall bear interest at the same rate as that provided for delinquent property taxes and shall be a lien upon the property under contract if a notice of such lien is recorded in the proper deed of trust book in the office of the clerk of the county commission of the county in which such property or the major portion thereof is located. Such lien is void at the expiration of two years after such defaulted annual payment became due, unless within such two-year period a civil action seeking equitable relief to enforce the lien was instituted by the municipality. The municipality may by civil action collect any annual payment and the interest thereon at any time within five years after such payment became due; and upon default in any annual payment, the municipality may cancel the contract involved.

(c) Any contract made under the authority of this section shall inure to the benefit of and be binding upon the successors in title of the person making the same contract; and such person, upon conveying the property subject to such contract, is no longer liable under such contract, except as to annual payments which were due prior to the conveyance and which remain unpaid.

(d) Any property owner may cancel any such contract with respect to the property of such owner upon giving a thirty-day written notice to the municipality, if the owner is not in default with respect to any annual payment due thereunder, except that if such notice is given subsequent to July 1, of any calendar year, the next succeeding annual payment shall be made by the property owner

as soon as the amount thereof is ascertainable. Upon cancellation as aforesaid, the municipality shall deliver to the property owner a recordable release discharging such owner and such property from any further lien or obligation with respect to the annual payments. The annual payments due under any such contract shall be made to the officials as the municipality, in the contract, designates to receive them, who likewise may receive notice of cancellation and execute upon behalf of the municipality the release for which provision is hereinbefore made.

(e) No provision of this section or section thirteen of this article may be construed to authorize a municipality to impose a fire service fee or any other fee for services in the prevention and extinguishment of fires upon property located outside the boundaries of the municipality in the absence of a written contract entered into under the authority of this section.”

On pages sixteen and seventeen, by striking out section twenty-four in its entirety.

On page nineteen, by striking out section five-f in its entirety.

On page twenty, section eight, line one, after the word “report” by inserting the words “to the Joint Committee on Government and Finance”.

On page twenty, section eight, line ten, by striking out the words “study and prepare a report” and inserting in lieu thereof the words “study, prepare and submit a report to the Joint Committee on Government and Finance”.

On pages twenty-seven through thirty, by striking out section thirty-three in its entirety.

And,

On page thirty, section thirty-b, line eleven, after the word “to” by inserting the words “the Joint Committee on Government and Finance and”.

Delegate Nelson requested to be excused from voting on the amendment and passage of Com. Sub. for S. B. 625 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

On motion of Delegate Statler, the Finance Committee amendment was amended, on page one by striking out lines one through three and inserting in lieu thereof the following:

“The Committee on Finance moves to amend the bill on pages four and five, section two, lines one and two, following the words “~~provider is killed~~”, by striking out the words “dies in the performance of, or as a result of the performance of,” and inserting in lieu thereof the words “dies in the performance of as a proximate result of the performance of”.

Beginning on page five and six, section two, lines twenty-seven and twenty-eight, following the words “~~killed who died~~”, by striking out the words “in the performance of duty” and the period and inserting in lieu thereof the words “as a proximate result of the performance of his or her duties”, followed by a period.

On page four of the committee amendment, line eighty-nine, by striking out the words “On pages sixteen and seventeen, by striking out section twenty-four in its entirety.”

And,

On page four of the committee amendment, line ninety, by striking out the words “On page nineteen, by striking out section five-f in its entirety.”

The Finance Committee amendment, as amended, was then adopted.

The bill was then ordered to third reading.

**H. B. 4630**, Relating to a 2019 across-the-board salary adjustment for employees of the Department of Health and Human Resources; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**H. B. 4631**, Expiring funds to the unappropriated surplus balance in the State Fund - Insurance Commission Fund; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Delegate Cowles asked and obtained unanimous consent that Com. Sub. for S. B. 556 be taken up for immediate consideration.

### **Special Calendar**

#### **Third Reading**

**Com. Sub. for S. B. 556**, Creating small business and minority populations economic and workforce development taskforce to assist Economic Development Authority; on third reading, was reported by the Clerk.

At the request of Delegate Cowles, and by unanimous consent, action on the bill was postponed one day with the restricted right to amend jointly by Delegates Cowles and Miley, and the rule was suspended to permit the consideration of amendments on third reading.

**Com. Sub. for H. B. 4019**, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution; on third reading, coming up in regular order, with the right to amend on third reading, was reported by the Clerk.

An amendment to the bill, offered by Delegate Nelson, was reported by the Clerk, by striking out everything after the enacting clause and inserting in lieu thereof the following:

#### **TITLE I – GENERAL PROVISIONS.**

1           **Section 1. General policy.** – The purpose of this bill is to  
2 appropriate money necessary for the economical and efficient



3 discharge of the duties and responsibilities of the state and its  
4 agencies during the fiscal year 2019.

1           **Sec. 2. Definitions.** — For the purpose of this bill:

2           “Governor” shall mean the Governor of the State of West  
3 Virginia.

4           “Code” shall mean the Code of West Virginia, one  
5 thousand nine hundred thirty-one, as amended.

6           “Spending unit” shall mean the department, bureau,  
7 division, office, board, commission, agency or institution to which  
8 an appropriation is made.

9           The “fiscal year 2019” shall mean the period from July 1,  
10 2018, through June 30, 2019.

11           “General revenue fund” shall mean the general operating  
12 fund of the state and includes all moneys received or collected by  
13 the state except as provided in W.Va. Code §12-2-2 or as otherwise  
14 provided.

15           “Special revenue funds” shall mean specific revenue  
16 sources which by legislative enactments are not required to be  
17 accounted for as general revenue, including federal funds.

18           “From collections” shall mean that part of the total  
19 appropriation which must be collected by the spending unit to be  
20 available for expenditure. If the authorized amount of collections  
21 is not collected, the total appropriation for the spending unit shall  
22 be reduced automatically by the amount of the deficiency in the  
23 collections. If the amount collected exceeds the amount designated  
24 “from collections,” the excess shall be set aside in a special surplus  
25 fund and may be expended for the purpose of the spending unit as  
26 provided by Article 2, Chapter 11B of the Code.

1           **Sec. 3. Classification of appropriations.** — An  
2 appropriation for:

3           “Personal services” shall mean salaries, wages and other  
4 compensation paid to full-time, part-time and temporary  
5 employees of the spending unit but shall not include fees or  
6 contractual payments paid to consultants or to independent  
7 contractors engaged by the spending unit. “Personal services” shall  
8 include “annual increment” for “eligible employees” and shall be  
9 disbursed only in accordance with Article 5, Chapter 5 of the Code.

10           Unless otherwise specified, appropriations for “personal  
11 services” shall include salaries of heads of spending units.

12           “Employee benefits” shall mean social security matching,  
13 workers’ compensation, unemployment compensation, pension  
14 and retirement contributions, public employees insurance  
15 matching, personnel fees or any other benefit normally paid by the  
16 employer as a direct cost of employment. Should the appropriation  
17 be insufficient to cover such costs, the remainder of such cost shall  
18 be paid by each spending unit from its “unclassified” appropriation,  
19 or its “current expenses” appropriation or other appropriate  
20 appropriation. Each spending unit is hereby authorized and  
21 required to make such payments in accordance with the provisions  
22 of Article 2, Chapter 11B of the Code.

23           Each spending unit shall be responsible for all  
24 contributions, payments or other costs related to coverage and  
25 claims of its employees for unemployment compensation and  
26 workers compensation. Such expenditures shall be considered an  
27 employee benefit.

28           “BRIM Premiums” shall mean the amount charged as  
29 consideration for insurance protection and includes the present  
30 value of projected losses and administrative expenses. Premiums  
31 are assessed for coverages, as defined in the applicable policies, for  
32 claims arising from, inter alia, general liability, wrongful acts,  
33 property, professional liability and automobile exposures.

34           Should the appropriation for “BRIM Premium” be  
35 insufficient to cover such cost, the remainder of such costs shall be  
36 paid by each spending unit from its “unclassified” appropriation,  
37 its “current expenses” appropriation or any other appropriate

38 appropriation to the Board of Risk and Insurance Management.  
39 Each spending unit is hereby authorized and required to make such  
40 payments. If there is no appropriation for “BRIM Premium” such  
41 costs shall be paid by each spending unit from its “current  
42 expenses” appropriation, “unclassified” appropriation or other  
43 appropriate appropriation.

44 West Virginia Council for Community and Technical  
45 College Education and Higher Education Policy Commission  
46 entities operating with special revenue funds and/or federal funds  
47 shall pay their proportionate share of the Board of Risk and  
48 Insurance Management total insurance premium cost for their  
49 respective institutions.

50 “Current expenses” shall mean operating costs other than  
51 personal services and shall not include equipment, repairs and  
52 alterations, buildings or lands. Each spending unit shall be  
53 responsible for and charged monthly for all postage meter service  
54 and shall reimburse the appropriate revolving fund monthly for all  
55 such amounts. Such expenditures shall be considered a current  
56 expense.

57 “Equipment” shall mean equipment items which have an  
58 appreciable and calculable period of usefulness in excess of one  
59 year.

60 “Repairs and alterations” shall mean routine maintenance  
61 and repairs to structures and minor improvements to property  
62 which do not increase the capital assets.

63 “Buildings” shall include new construction and major  
64 alteration of existing structures and the improvement of lands and  
65 shall include shelter, support, storage, protection or the  
66 improvement of a natural condition.

67 “Lands” shall mean the purchase of real property or interest  
68 in real property.

69 “Capital outlay” shall mean and include buildings, lands or  
70 buildings and lands, with such category or item of appropriation to  
71 remain in effect as provided by W.Va. Code §12-3-12.

72 From appropriations made to the spending units of state  
73 government, upon approval of the Governor there may be  
74 transferred to a special account an amount sufficient to match  
75 federal funds under any federal act.

76 Appropriations classified in any of the above categories  
77 shall be expended only for the purposes as defined above and only  
78 for the spending units herein designated: *Provided*, That the  
79 secretary of each department shall have the authority to transfer  
80 within the department those general revenue funds appropriated to  
81 the various agencies of the department: *Provided, however*, That  
82 no more than five percent of the general revenue funds  
83 appropriated to any one agency or board may be transferred to  
84 other agencies or boards within the department: and no funds may  
85 be transferred to a “personal services and employee benefits”  
86 appropriation unless the source funds are also wholly from a  
87 “personal services and employee benefits” line, or unless the  
88 source funds are from another appropriation that has exclusively  
89 funded employment expenses for at least twelve consecutive  
90 months prior to the time of transfer and the position(s) supported  
91 by the transferred funds are also permanently transferred to the  
92 receiving agency or board within the department: *Provided further*,  
93 That the secretary of each department and the director,  
94 commissioner, executive secretary, superintendent, chairman or  
95 any other agency head not governed by a departmental secretary as  
96 established by Chapter 5F of the Code shall have the authority to  
97 transfer funds appropriated to “personal services and employee  
98 benefits,” “current expenses,” “repairs and alterations,”  
99 “equipment,” “other assets,” “land,” and “buildings” to other  
100 appropriations within the same account and no funds from other  
101 appropriations shall be transferred to the “personal services and  
102 employee benefits” or the “unclassified” appropriation except that  
103 for funds appropriated in Title II – Section 3, 6, or 7 funds may be  
104 transferred to the “personal services and employee benefits”  
105 appropriation of the same fund in an amount not to exceed 5% of  
106 the enrolled appropriation for “personal services and employee  
107 benefits”: *And provided further*, That no authority exists hereunder  
108 to transfer funds into appropriations to which no funds are  
109 legislatively appropriated: *And provided further*, That if the

110 Legislature consolidates, reorganizes or terminates agencies,  
111 boards or functions, the secretary or other appropriate agency head,  
112 or in the case of the termination of a spending unit of the state, the  
113 Director of the State Budget Office, in the absence of general law  
114 providing otherwise, may transfer the funds formerly appropriated  
115 to such agency, board or function, allocating items of appropriation  
116 as may be necessary if only part of the item may be allocated, in  
117 order to implement such consolidation, reorganization or  
118 termination. No funds may be transferred from a Special Revenue  
119 Account, dedicated account, capital expenditure account or any  
120 other account or fund specifically exempted by the Legislature  
121 from transfer, except that the use of the appropriations from the  
122 State Road Fund for the office of the Secretary of the Department  
123 of Transportation is not a use other than the purpose for which such  
124 funds were dedicated and is permitted.

125           Appropriations otherwise classified shall be expended only  
126 where the distribution of expenditures for different purposes cannot  
127 well be determined in advance or it is necessary or desirable to  
128 permit the spending unit the freedom to spend an appropriation for  
129 more than one of the above classifications.

1           **Sec. 4. Method of expenditure.** — Money appropriated by  
2 this bill, unless otherwise specifically directed, shall be  
3 appropriated and expended according to the provisions of Article  
4 3, Chapter 12 of the Code or according to any law detailing a  
5 procedure specifically limiting that article.

1           **Sec. 5. Maximum expenditures.** — No authority or  
2 requirement of law shall be interpreted as requiring or permitting  
3 an expenditure in excess of the appropriations set out in this bill.

## TITLE II – APPROPRIATIONS.

## ORDER OF SECTIONS

- SECTION 1. Appropriations from general revenue.
- SECTION 2. Appropriations from state road fund.
- SECTION 3. Appropriations from other funds.
- SECTION 4. Appropriations from lottery net profits.
- SECTION 5. Appropriations from state excess lottery revenue.
- SECTION 6. Appropriations of federal funds.
- SECTION 7. Appropriations from federal block grants.
- SECTION 8. Awards for claims against the state.
- SECTION 9. Appropriations from general revenue surplus accrued.
- SECTION 10. Appropriations from lottery net profits surplus accrued.
- SECTION 11. Appropriations from state excess lottery revenue surplus accrued.
- SECTION 12. Special revenue appropriations.
- SECTION 13. State improvement fund appropriations.
- SECTION 14. Specific funds and collection accounts.
- SECTION 15. Appropriations for refunding erroneous payment.
- SECTION 16. Sinking fund deficiencies.
- SECTION 17. Appropriations for local governments.
- SECTION 18. Total appropriations.
- SECTION 19. General school fund.

1           **Section 1. Appropriations from general revenue.** – From  
 2 the State Fund, General Revenue, there are hereby appropriated  
 3 conditionally upon the fulfillment of the provisions set forth in  
 4 Article 2, Chapter 11B the following amounts, as itemized, for  
 5 expenditure during the fiscal year 2019.

**LEGISLATIVE**

*1 - Senate*

Fund 0165 FY 2019 Org 2100

	<b>Appro- Privation</b>	<b>General Revenue Fund</b>
1 Compensation of Members (R)..... 00300	\$	1,010,000
2 Compensation and Per Diem of Officers 3 and Employees (R) ..... 00500		4,011,332
4 Current Expenses and 5 Contingent Fund (R)..... 02100		276,392
6 Repairs and Alterations (R) ..... 06400		50,000
7 Computer Supplies (R) ..... 10100		20,000
8 Computer Systems (R)..... 10200		60,000
9 Printing Blue Book (R) ..... 10300		125,000
10 Expenses of Members (R)..... 39900		370,000
11 BRIM Premium (R) ..... 91300		<u>29,482</u>
12 Total.....	\$	5,952,206

13           The appropriations for the Senate for the fiscal year 2018  
 14 are to remain in full force and effect and are hereby reappropriated  
 15 to June 30, 2019. Any balances so reappropriated may be  
 16 transferred and credited to the fiscal year 2018 accounts.

17           Upon the written request of the Clerk of the Senate, the  
 18 Auditor shall transfer amounts between items of the total  
 19 appropriation in order to protect or increase the efficiency of the  
 20 service.

21           The Clerk of the Senate, with the approval of the President,  
 22 is authorized to draw his or her requisitions upon the Auditor,

23 payable out of the Current Expenses and Contingent Fund of the  
24 Senate, for any bills for supplies and services that may have been  
25 incurred by the Senate and not included in the appropriation bill,  
26 for supplies and services incurred in preparation for the opening,  
27 the conduct of the business and after adjournment of any regular or  
28 extraordinary session, and for the necessary operation of the Senate  
29 offices, the requisitions for which are to be accompanied by bills  
30 to be filed with the Auditor.

31           The Clerk of the Senate, with the approval of the President,  
32 or the President of the Senate shall have authority to employ such  
33 staff personnel during any session of the Legislature as shall be  
34 needed in addition to staff personnel authorized by the Senate  
35 resolution adopted during any such session. The Clerk of the  
36 Senate, with the approval of the President, or the President of the  
37 Senate shall have authority to employ such staff personnel between  
38 sessions of the Legislature as shall be needed, the compensation of  
39 all staff personnel during and between sessions of the Legislature,  
40 notwithstanding any such Senate resolution, to be fixed by the  
41 President of the Senate. The Clerk is hereby authorized to draw his  
42 or her requisitions upon the Auditor for the payment of all such  
43 staff personnel for such services, payable out of the appropriation  
44 for Compensation and Per Diem of Officers and Employees or  
45 Current Expenses and Contingent Fund of the Senate.

46           For duties imposed by law and by the Senate, the Clerk of  
47 the Senate shall be paid a monthly salary as provided by the Senate  
48 resolution, unless increased between sessions under the authority  
49 of the President, payable out of the appropriation for Compensation  
50 and Per Diem of Officers and Employees or Current Expenses and  
51 Contingent Fund of the Senate.

52           The distribution of the blue book shall be by the office of  
53 the Clerk of the Senate and shall include 75 copies for each member  
54 of the Legislature and two copies for each classified and approved  
55 high school and junior high or middle school and one copy for each  
56 elementary school within the state.

57           Included in the above appropriation for Senate (fund 0165,  
58 appropriation 02100), an amount not less than \$5,000 is to be used



59 for the West Virginia Academy of Family Physicians - Doc of the  
60 Day Program.

*2 - House of Delegates*

Fund 0170 FY 2019 Org 2200

1	Compensation of Members (R).....	00300	\$	3,000,000
2	Compensation and Per Diem of Officers			
3	and Employees (R) .....	00500		575,000
4	Current Expenses and			
5	Contingent Fund (R).....	02100		3,909,031
6	Expenses of Members (R).....	39900		1,350,000
7	BRIM Premium (R) .....	91300		<u>70,000</u>
8	Total.....		\$	8,904,031

9 The appropriations for the House of Delegates for the fiscal  
10 year 2018 are to remain in full force and effect and are hereby  
11 reappropriated to June 30, 2019. Any balances so reappropriated  
12 may be transferred and credited to the fiscal year 2018 accounts.

13 Upon the written request of the Clerk of the House of  
14 Delegates, the Auditor shall transfer amounts between items of the  
15 total appropriation in order to protect or increase the efficiency of  
16 the service.

17 The Clerk of the House of Delegates, with the approval of  
18 the Speaker, is authorized to draw his or her requisitions upon the  
19 Auditor, payable out of the Current Expenses and Contingent Fund  
20 of the House of Delegates, for any bills for supplies and services  
21 that may have been incurred by the House of Delegates and not  
22 included in the appropriation bill, for bills for services and supplies  
23 incurred in preparation for the opening of the session and after  
24 adjournment, and for the necessary operation of the House of  
25 Delegates' offices, the requisitions for which are to be  
26 accompanied by bills to be filed with the Auditor.

27 The Speaker of the House of Delegates, upon approval of  
28 the House committee on rules, shall have authority to employ such  
29 staff personnel during and between sessions of the Legislature as  
30 shall be needed, in addition to personnel designated in the House

31 resolution, and the compensation of all personnel shall be as fixed  
 32 in such House resolution for the session, or fixed by the Speaker,  
 33 with the approval of the House committee on rules, during and  
 34 between sessions of the Legislature, notwithstanding such House  
 35 resolution. The Clerk of the House of Delegates is hereby  
 36 authorized to draw requisitions upon the Auditor for such services,  
 37 payable out of the appropriation for the Compensation and Per  
 38 Diem of Officers and Employees or Current Expenses and  
 39 Contingent Fund of the House of Delegates.

40 For duties imposed by law and by the House of Delegates,  
 41 including salary allowed by law as keeper of the rolls, the Clerk of  
 42 the House of Delegates shall be paid a monthly salary as provided  
 43 in the House resolution, unless increased between sessions under  
 44 the authority of the Speaker, with the approval of the House  
 45 committee on rules, and payable out of the appropriation for  
 46 Compensation and Per Diem of Officers and Employees or Current  
 47 Expenses and Contingent Fund of the House of Delegates.

48 Included in the above appropriation for House of Delegates  
 49 (fund 0170, appropriation 02100), an amount not less than \$5,000  
 50 is to be used for the West Virginia Academy of Family Physicians  
 51 - Doc of the Day Program.

*3 - Joint Expenses*

(WV Code Chapter 4)

Fund 0175 FY 2019 Org 2300

1	Joint Committee on		
2	Government and Finance (R).....	10400	\$ 5,725,138
3	Legislative Printing (R).....	10500	760,000
4	Legislative Rule-Making		
5	Review Committee (R).....	10600	147,250
6	Legislative Computer System (R).....	10700	1,447,500
7	BRIM Premium (R) .....	91300	<u>60,569</u>
8	Total.....		\$ 8,140,457

9 The appropriations for the Joint Expenses for the fiscal year  
 10 2018 are to remain in full force and effect and are hereby

11 reappropriated to June 30, 2019. Any balances reappropriated may  
12 be transferred and credited to the fiscal year 2018 accounts.

13           Upon the written request of the Clerk of the Senate, with  
14 the approval of the President of the Senate, and the Clerk of the  
15 House of Delegates, with the approval of the Speaker of the House  
16 of Delegates, and a copy to the Legislative Auditor, the Auditor  
17 shall transfer amounts between items of the total appropriation in  
18 order to protect or increase the efficiency of the service.

## JUDICIAL

### 4 - *Supreme Court* –

#### *General Judicial*

#### Fund 0180 FY 2019 Org 2400

1	Personal Services and	
2	Employee Benefits (R) .....	\$ 102,856,258
3	Children’s Protection Act (R) .....	214,700
4	Current Expenses (R) .....	32,882,879
5	Repairs and Alterations (R) .....	236,450
6	Equipment (R).....	1,800,000
7	Judges’ Retirement System (R).....	779,000
8	Buildings (R).....	100,000
9	Other Assets (R).....	200,000
10	BRIM Premium (R) .....	<u>690,383</u>
11	Total.....	\$ 139,759,670

12           The appropriations to the Supreme Court of Appeals for the  
13 fiscal years 2017 and 2018 are to remain in full force and effect and  
14 are hereby reappropriated to June 30, 2019. Any balances so  
15 reappropriated may be transferred and credited to the fiscal year  
16 2018 accounts.

17           This fund shall be administered by the Administrative  
18 Director of the Supreme Court of Appeals, who shall draw  
19 requisitions for warrants in payment in the form of payrolls,  
20 making deductions there from as required by law for taxes and  
21 other items.

22           The appropriation for the Judges’ Retirement System (fund  
 23 0180, appropriation 11000) is to be transferred to the Consolidated  
 24 Public Retirement Board, in accordance with the law relating  
 25 thereto, upon requisition of the Administrative Director of the  
 26 Supreme Court of Appeals.

**EXECUTIVE**

*5 - Governor’s Office*

(WV Code Chapter 5)

Fund 0101 FY 2019 Org 0100

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 3,171,318
3	Current Expenses (R).....	13000	760,888
4	Repairs and Alterations.....	06400	2,000
5	National Governors Association .....	12300	60,700
6	Herbert Henderson Office of		
7	Minority Affairs.....	13400	146,726
8	BRIM Premium.....	91300	183,645
9	Total.....		\$ 4,325,277

10           Any unexpended balances remaining in the appropriations  
 11 for Unclassified (fund 0101, appropriation 09900), and Current  
 12 Expenses (fund 0101, appropriation 13000) at the close of the fiscal  
 13 year 2018 are hereby reappropriated for expenditure during the  
 14 fiscal year 2019.

15           The above appropriation for Herbert Henderson Office of  
 16 Minority Affairs (fund 0101, appropriation 13400) shall be  
 17 transferred to the Minority Affairs Fund (fund 1058).

*6 - Governor’s Office –*

*Custodial Fund*

(WV Code Chapter 5)

Fund 0102 FY 2019 Org 0100

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 364,421
3	Current Expenses (R).....	13000	183,158
4	Repairs and Alterations.....	06400	<u>5,000</u>
5	Total.....		\$ 552,579

6           Any unexpended balance remaining in the appropriation  
7 for Current Expenses (fund 0102, appropriation 13000) at the close  
8 of the fiscal year 2018 is hereby reappropriated for expenditure  
9 during the fiscal year 2019.

10           Appropriations are to be used for current general expenses,  
11 including compensation of employees, household maintenance,  
12 cost of official functions and additional household expenses  
13 occasioned by such official functions.

*7 - Governor's Office –*

*Civil Contingent Fund*

*(WV Code Chapter 5)*

Fund 0105 FY 2019 Org 0100

1           Any unexpended balances remaining in the appropriations  
2 for Business and Economic Development Stimulus – Surplus (fund  
3 0105, appropriation 08400), Civil Contingent Fund – Total (fund  
4 0105, appropriation 11400), 2012 Natural Disasters – Surplus  
5 (fund 0105, appropriation 13500), Civil Contingent Fund – Total –  
6 Surplus (fund 0105, appropriation 23800), Civil Contingent Fund  
7 – Surplus (fund 0105, appropriation 26300), Business and  
8 Economic Development Stimulus (fund 0105, appropriation  
9 58600), Civil Contingent Fund (fund 0105, appropriation 61400),  
10 and Natural Disasters – Surplus (fund 0105, appropriation 76400)  
11 at the close of the fiscal year 2018 are hereby reappropriated for  
12 expenditure during the fiscal year.

13           From this fund there may be expended, at the discretion of  
14 the Governor, an amount not to exceed \$1,000 as West Virginia's  
15 contribution to the interstate oil compact commission.

16           The above fund is intended to provide contingency funding  
 17 for accidental, unanticipated, emergency or unplanned events  
 18 which may occur during the fiscal year and is not to be expended  
 19 for the normal day-to-day operations of the Governor’s Office.

*8 - Auditor’s Office –*

*General Administration*

(WV Code Chapter 12)

Fund 0116 FY 2019 Org 1200

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,694,191
3	Current Expenses (R).....	13000	13,429
4	BRIM Premium.....	91300	<u>12,077</u>
5	Total.....		\$ 2,719,697

6           Any unexpended balance remaining in the appropriation  
 7 for Current Expenses (fund 0116, appropriation 13000) at the close  
 8 of the fiscal year 2018 is hereby reappropriated for expenditure  
 9 during the fiscal year 2019.

10           Included in the above appropriation to Personal Services  
 11 and Employee Benefits (fund 0116, appropriation 00100), is  
 12 \$95,000 for the Salary of the Auditor.

*9 - Treasurer’s Office*

(WV Code Chapter 12)

Fund 0126 FY 2019 Org 1300

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,480,419
3	Unclassified.....	09900	30,415
4	Current Expenses (R).....	13000	475,100
5	Abandoned Property Program.....	11800	41,794
6	Other Assets.....	69000	10,000
7	ABLE Program.....	69202	150,000
8	BRIM Premium.....	91300	<u>59,169</u>

9 Total..... \$ 3,246,897

10 Any unexpended balances remaining in the appropriation  
 11 for Current Expenses (fund 0126, appropriation 13000) at the close  
 12 of the fiscal year 2018 are hereby reappropriated for expenditure  
 13 during the fiscal year 2019.

14 Included in the above appropriation to Personal Services  
 15 and Employee Benefits (fund 0126, appropriation 00100), is  
 16 \$95,000 for the Salary of the Treasurer.

*10 - Department of Agriculture*

(WV Code Chapter 19)

Fund 0131 FY 2019 Org 1400

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 5,301,277
3	Animal Identification Program .....	03900	126,318
4	State Farm Museum .....	05500	87,759
5	Current Expenses (R) .....	13000	141,960
6	Gypsy Moth Program (R) .....	11900	954,230
7	WV Farmers Market .....	12801	150,467
8	Black Fly Control.....	13700	453,164
9	Donated Foods Program .....	36300	45,000
10	Veterans to Agriculture Program .....	36301	250,000
11	Predator Control (R) .....	47000	176,400
12	Bee Research.....	69100	67,822
13	Microbiology Program.....	78500	97,016
14	Moorefield Agriculture Center .....	78600	933,624
15	Chesapeake Bay Watershed.....	83000	106,803
16	Livestock Care Standards Board.....	84300	8,820
17	BRIM Premium.....	91300	138,905
18	State FFA-FHA Camp and		
19	Conference Center .....	94101	613,246
20	Threat Preparedness .....	94200	70,731
21	WV Food Banks.....	96900	126,000
22	Senior's Farmers' Market Nutrition		
23	Coupon Program.....	97000	<u>55,835</u>

24 Total..... \$ 9,905,377

25 Any unexpended balances remaining in the appropriations  
26 for Gypsy Moth Program (fund 0131, appropriation 11900),  
27 Current Expenses (fund 0131, appropriation 13000), Predator  
28 Control (fund 0131, appropriation 47000), and Agricultural  
29 Disaster and Mitigation Needs – Surplus (fund 0131, appropriation  
30 85000) at the close of the fiscal year 2018 are hereby  
31 reappropriated for expenditure during the fiscal year 2019.

32 Included in the above appropriation to Personal Services  
33 and Employee Benefits (fund 0131, appropriation 00100), is  
34 \$95,000 for the Salary of the Commissioner.

35 The above appropriation for Predator Control (fund 0131,  
36 appropriation 47000) is to be made available to the United States  
37 Department of Agriculture, Wildlife Services to administer the  
38 Predator Control Program.

39 A portion of the Current Expenses appropriation may be  
40 transferred to a special revenue fund for the purpose of matching  
41 federal funds for marketing and development activities.

42 From the above appropriation for WV Food Banks (fund  
43 0131, appropriation 96900), \$20,000 is for House of Hope and the  
44 remainder of the appropriation shall be allocated to the Huntington  
45 Food Bank and the Mountaineer Food Bank in Braxton County.

*11 - West Virginia Conservation Agency*

(WV Code Chapter 19)

Fund 0132 FY 2019 Org 1400

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 754,823
3	Unclassified.....	09900	77,059
4	Current Expenses (R).....	13000	317,848
5	Soil Conservation Projects (R).....	12000	6,649,447
6	BRIM Premium.....	91300	34,428
7	Total.....		<u>\$ 7,833,605</u>



8 Any unexpended balances remaining in the appropriations  
 9 for Soil Conservation Projects (fund 0132, appropriation 12000),  
 10 and Current Expenses (fund 0132, appropriation 13000) at the  
 11 close of the fiscal year 2018 are hereby reappropriated for  
 12 expenditure during the fiscal year 2019.

*12 - Department of Agriculture –*

*Meat Inspection Fund*

(WV Code Chapter 19)

Fund 0135 FY 2019 Org 1400

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 640,093
3	Unclassified.....	09900	7,090
4	Current Expenses .....	13000	<u>82,605</u>
5	Total.....		\$ 729,788

6 Any part or all of this appropriation may be transferred to  
 7 a special revenue fund for the purpose of matching federal funds  
 8 for the above-named program.

*13 - Department of Agriculture –*

*Agricultural Awards Fund*

(WV Code Chapter 19)

Fund 0136 FY 2019 Org 1400

1	Programs and Awards for		
2	4-H Clubs and FFA/FHA.....	57700	\$ 15,000
3	Commissioner's Awards and Programs.....	73700	<u>39,250</u>
4	Total.....		\$ 54,250

*14 - Department of Agriculture –*

*West Virginia Agricultural Land Protection Authority*

(WV Code Chapter 8A)

Fund 0607 FY 2019 Org 1400

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 96,735
3	Unclassified.....	09900	<u>950</u>
4	Total.....		\$ 97,685

*15 - Attorney General*

(WV Code Chapters 5, 14, 46A and 47)

Fund 0150 FY 2019 Org 1500

1	Personal Services and		
2	Employee Benefits (R) .....	00100	\$ 2,537,784
3	Unclassified (R) .....	09900	24,428
4	Current Expenses (R).....	13000	762,097
5	Repairs and Alterations.....	06400	1,000
6	Equipment.....	07000	1,000
7	Criminal Convictions and		
8	Habeas Corpus Appeals (R).....	26000	923,582
9	Better Government Bureau .....	74000	275,194
10	BRIM Premium.....	91300	<u>120,654</u>
11	Total.....		\$ 4,645,739

12 Any unexpended balances remaining in the above  
13 appropriations for Personal Services and Employee Benefits (fund  
14 0150, appropriation 00100), Unclassified (fund 0150,  
15 appropriation 09900), Current Expenses (fund 0150, appropriation  
16 13000), Criminal Convictions and Habeas Corpus Appeals (fund  
17 0150, appropriation 26000), and Agency Client Revolving  
18 Liquidity Pool (fund 0150, appropriation 36200) at the close of the  
19 fiscal year 2018 are hereby reappropriated for expenditure during  
20 the fiscal year 2019.

21 Included in the above appropriation to Personal Services  
22 and Employee Benefits (fund 0150, appropriation 00100), is  
23 \$95,000 for the Salary of the Attorney General.

24 When legal counsel or secretarial help is appointed by the  
25 Attorney General for any state spending unit, this account shall be

26 reimbursed from such spending units specifically appropriated  
 27 account or from accounts appropriated by general language  
 28 contained within this bill: *Provided*, That the spending unit shall  
 29 reimburse at a rate and upon terms agreed to by the state spending  
 30 unit and the Attorney General: *Provided, however*, That if the  
 31 spending unit and the Attorney General are unable to agree on the  
 32 amount and terms of the reimbursement, the spending unit and the  
 33 Attorney General shall submit their proposed reimbursement rates  
 34 and terms to the Governor for final determination.

*16 - Secretary of State*

(WV Code Chapters 3, 5 and 59)

Fund 0155 FY 2019 Org 1600

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 118,794
3	Unclassified (R) .....	09900	9,555
4	Current Expenses (R).....	13000	805,948
5	BRIM Premium.....	91300	<u>23,297</u>
6	Total.....		\$ 957,594

7           Any unexpended balances remaining in the appropriations  
 8 for Unclassified (fund 0155, appropriation 09900) and Current  
 9 Expenses (fund 0155, appropriation 13000) at the close of the fiscal  
 10 year 2018 are hereby reappropriated for expenditure during the  
 11 fiscal year 2019.

12           Included in the above appropriation to Personal Services  
 13 and Employee Benefits (fund 0155, appropriation 00100), is  
 14 \$95,000 for the Salary of the Secretary of State.

*17 - State Election Commission*

(WV Code Chapter 3)

Fund 0160 FY 2019 Org 1601

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,477

3	Unclassified.....	09900		75
4	Current Expenses .....	13000		<u>4,956</u>
5	Total.....		\$	7,508

**DEPARTMENT OF ADMINISTRATION**

*18 - Department of Administration –*

*Office of the Secretary*

(WV Code Chapter 5F)

Fund 0186 FY 2019 Org 0201

1	Personal Services and			
2	Employee Benefits.....	00100	\$	591,118
3	Unclassified.....	09900		9,177
4	Current Expenses .....	13000		85,446
5	Repairs and Alterations.....	06400		100
6	Equipment.....	07000		1,000
7	Financial Advisor (R) .....	30400		27,546
8	Lease Rental Payments .....	51600		15,000,000
9	Design-Build Board .....	54000		4,000
10	Other Assets.....	69000		100
11	BRIM Premium.....	91300		<u>6,299</u>
12	Total.....		\$	15,724,786

13           Any unexpended balance remaining in the appropriation  
 14           for Financial Advisor (fund 0186, appropriation 30400) at the close  
 15           of the fiscal year 2018 is hereby reappropriated for expenditure  
 16           during the fiscal year 2019.

17           The appropriation for Lease Rental Payments (fund 0186,  
 18           appropriation 51600) shall be disbursed as provided by W.Va.  
 19           Code §31-15-6b.

*19 - Consolidated Public Retirement Board*

(WV Code Chapter 5)

Fund 0195 FY 2019 Org 0205

1           The Division of Highways, Division of Motor Vehicles,  
 2 Public Service Commission and other departments, bureaus,  
 3 divisions, or commissions operating from special revenue funds  
 4 and/or federal funds shall pay their proportionate share of the  
 5 retirement costs for their respective divisions. When specific  
 6 appropriations are not made, such payments may be made from the  
 7 balances in the various special revenue funds in excess of specific  
 8 appropriations.

*20 - Division of Finance*

(WV Code Chapter 5A)

Fund 0203 FY 2019 Org 0209

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 64,696
3	Unclassified.....	09900	1,400
4	Current Expenses .....	13000	66,721
5	GAAP Project (R).....	12500	593,684
6	BRIM Premium.....	91300	<u>7,517</u>
7	Total.....		\$ 734,018

8           Any unexpended balance remaining in the appropriation  
 9 for GAAP Project (fund 0203, appropriation 12500) at the close of  
 10 the fiscal year 2018 is hereby reappropriated for expenditure during  
 11 the fiscal year 2019.

*21 - Division of General Services*

(WV Code Chapter 5A)

Fund 0230 FY 2019 Org 0211

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,593,147
3	Unclassified.....	09900	20,000
4	Current Expenses .....	13000	728,849
5	Repairs and Alterations.....	06400	500
6	Equipment.....	07000	5,000
7	Fire Service Fee .....	12600	14,000

8	Buildings (R).....	25800	500
9	Preservation and Maintenance of Statues and		
10	Monuments on Capitol Grounds .....	37100	68,000
11	Capital Outlay, Repairs and		
12	Equipment (R) .....	58900	14,078,888
13	Other Assets .....	69000	500
14	Land (R).....	73000	500
15	BRIM Premium.....	91300	<u>129,983</u>
16	Total.....		\$ 17,639,867

17 Any unexpended balances remaining in the above  
18 appropriations for Buildings (fund 0230, appropriation 25800),  
19 Capital Outlay, Repairs and Equipment (fund 0230, appropriation  
20 58900), Capital Outlay, Repairs and Equipment – Surplus (fund  
21 0230, appropriation 67700), and Land (fund 0230, appropriation  
22 73000) at the close of the fiscal year 2018 are hereby  
23 reappropriated for expenditure during the fiscal year 2019.

24 From the above appropriation for Preservation and  
25 Maintenance of Statues and Monuments on Capitol Grounds (fund  
26 0230, appropriation 37100), the Division shall consult the Division  
27 of Culture and History and Capitol Building Commission in all  
28 aspects of planning, assessment, maintenance and restoration.

29 The above appropriation for Capital Outlay, Repairs and  
30 Equipment (fund 0230, appropriation 58900) shall be expended for  
31 capital improvements, maintenance, repairs and equipment for  
32 state-owned buildings.

*22 - Division of Purchasing*

(WV Code Chapter 5A)

Fund 0210 FY 2019 Org 0213

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,023,307
3	Unclassified.....	09900	144
4	Current Expenses .....	13000	1,285
5	Repairs and Alterations .....	06400	200
6	BRIM Premium.....	91300	<u>6,922</u>

7 Total..... \$ 1,031,858

8 The Division of Highways shall reimburse Fund 2031  
9 within the Division of Purchasing for all actual expenses incurred  
10 pursuant to the provisions of W.Va. Code §17-2A-13.

*23 - Travel Management*

(WV Code Chapter 5A)

Fund 0615 FY 2019 Org 0215

1	Personal Services and		
2	Employee Benefits.....00100	\$	779,867
3	Unclassified.....09900		12,032
4	Current Expenses .....13000		440,247
5	Repairs and Alterations.....06400		1,000
6	Equipment .....07000		5,000
7	Buildings (R).....25800		100
8	Other Assets .....69000		100
9	Total.....	\$	1,238,346

10 Any unexpended balance remaining in the appropriation  
11 for Buildings (fund 0615, appropriation 25800) at the close of the  
12 fiscal year 2018 is hereby reappropriated for expenditure during the  
13 fiscal year 2019.

*24 - Commission on Uniform State Laws*

(WV Code Chapter 29)

Fund 0214 FY 2019 Org 0217

1 Current Expenses .....13000 \$ 45,550

2 To pay expenses for members of the commission on  
3 uniform state laws.

*25 - West Virginia Public Employees Grievance Board*

(WV Code Chapter 6C)

Fund 0220 FY 2019 Org 0219

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 935,883
3	Unclassified.....	09900	1,000
4	Current Expenses .....	13000	143,754
5	Equipment .....	07000	50
6	BRIM Premium.....	91300	<u>10,281</u>
7	Total.....		\$ 1,090,968

*26 - Ethics Commission*

(WV Code Chapter 6B)

Fund 0223 FY 2019 Org 0220

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 588,831
3	Unclassified.....	09900	2,200
4	Current Expenses .....	13000	104,501
5	Repairs and Alterations.....	06400	500
6	Other Assets.....	69000	100
7	BRIM Premium.....	91300	<u>5,574</u>
8	Total.....		\$ 701,706

*27 - Public Defender Services*

(WV Code Chapter 29)

Fund 0226 FY 2019 Org 0221

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,367,785
3	Unclassified.....	09900	314,700
4	Current Expenses .....	13000	12,740
5	Public Defender Corporations.....	35200	19,204,999
6	Appointed Counsel Fees (R).....	78800	10,723,115
7	BRIM Premium.....	91300	<u>10,575</u>
8	Total.....		\$ 31,633,914



9 Any unexpended balance remaining in the above  
 10 appropriation for Appointed Counsel Fees (fund 0226,  
 11 appropriation 78800) at the close of the fiscal year 2018 is hereby  
 12 reappropriated for expenditure during the fiscal year 2019.

13 The director shall have the authority to transfer funds from  
 14 the appropriation to Public Defender Corporations (fund 0226,  
 15 appropriation 35200) to Appointed Counsel Fees (fund 0226,  
 16 appropriation 78800).

*28 - Committee for the Purchase of*

*Commodities and Services from the Handicapped*

(WV Code Chapter 5A)

Fund 0233 FY 2019 Org 0224

1	Personal Services and		
2	Employee Benefits.....00100	\$	3,187
3	Current Expenses .....13000		<u>868</u>
4	Total.....	\$	4,055

*29 - Public Employees Insurance Agency*

(WV Code Chapter 5)

Fund 0200 FY 2019 Org 0225

1	PEIA Subsidy.....80100	\$	21,000,000
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2 The Division of Highways, Division of Motor Vehicles,  
 3 Public Service Commission and other departments, bureaus,  
 4 divisions, or commissions operating from special revenue funds  
 5 and/or federal funds shall pay their proportionate share of the  
 6 public employees health insurance cost for their respective  
 7 divisions.

8 The above appropriation for PEIA Subsidy (fund 0200,  
 9 appropriation 80100) may be transferred to a special revenue fund  
 10 and shall be utilized by the West Virginia Public Employees  
 11 Insurance Agency for the purposes of offsetting benefit changes to

12 offset the aggregate premium cost-sharing percentage  
 13 requirements between employers and employees. Such amount  
 14 shall not be included in the calculation of the plan year aggregate  
 15 premium cost-sharing percentages between employers and  
 16 employees.

*30 - West Virginia Prosecuting Attorneys Institute*

(WV Code Chapter 7)

Fund 0557 FY 2019 Org 0228

1	Forensic Medical Examinations (R) .....	68300	\$	139,611
2	Federal Funds/Grant Match (R) .....	74900		<u>101,418</u>
3	Total.....		\$	241,029

4 Any unexpended balances remaining in the appropriations  
 5 for Forensic Medical Examinations (fund 0557, appropriation  
 6 68300) and Federal Funds/Grant Match (fund 0557, appropriation  
 7 74900) at the close of the fiscal year 2018 are hereby  
 8 reappropriated for expenditure during the fiscal year 2019.

*31 - Real Estate Division*

(WV Code Chapter 5A)

Fund 0610 FY 2019 Org 0233

1	Personal Services and			
2	Employee Benefits.....	00100	\$	660,855
3	Unclassified.....	09900		1,000
4	Current Expenses .....	13000		138,631
5	Repairs and Alterations.....	06400		100
6	Equipment.....	07000		2,500
7	BRIM Premium.....	91300		<u>8,534</u>
8	Total.....		\$	811,620

**DEPARTMENT OF COMMERCE**

*32 - Division of Forestry*

(WV Code Chapter 19)

Fund 0250 FY 2019 Org 0305

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,743,667
3	Unclassified.....	09900	21,435
4	Current Expenses .....	13000	338,953
5	Repairs and Alterations.....	06400	80,000
6	Equipment (R).....	07000	2,061
7	BRIM Premium.....	91300	<u>98,754</u>
8	Total.....		\$ 3,284,870

9           Any unexpended balance remaining in the appropriation  
10 for Equipment (fund 0250,

11 Appropriation 07000) at the close of the fiscal year 2018 is hereby  
12 reappropriated for expenditure during the fiscal year 2019.

13           Out of the above appropriations a sum may be used to  
14 match federal funds for cooperative studies or other funds for  
15 similar purposes.

*33 - Geological and Economic Survey*

(WV Code Chapter 29)

Fund 0253 FY 2019 Org 0306

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,614,784
3	Unclassified.....	09900	27,678
4	Current Expenses .....	13000	51,524
5	Repairs and Alterations.....	06400	968
6	Mineral Mapping System (R) .....	20700	1,114,009
7	BRIM Premium.....	91300	<u>24,486</u>
8	Total.....		\$ 2,833,449

9           Any unexpended balance remaining in the appropriation  
10 for Mineral Mapping System (fund 0253, appropriation 20700) at  
11 the close of the fiscal year 2018 is hereby reappropriated for  
12 expenditure during the fiscal year 2019.

13 The above Unclassified and Current Expense  
 14 appropriations include funding to secure federal and other contracts  
 15 and may be transferred to a special revolving fund (fund 3105) for  
 16 the purpose of providing advance funding for such contracts.

*34 - West Virginia Development Office*

(WV Code Chapter 5B)

Fund 0256 FY 2019 Org 0307

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 4,204,485
3	Unclassified.....	09900	108,687
4	Current Expenses .....	13000	3,769,645
5	National Youth Science Camp.....	13200	241,570
6	Local Economic Development		
7	Partnerships (R) .....	13300	792,000
8	ARC Assessment .....	13600	152,585
9	Infrastructure and Economic		
10	Development Projects.....	23401	3,000,000
11	Guaranteed Work Force Grant (R).....	24200	970,955
12	Mainstreet Program.....	79400	164,655
13	BRIM Premium.....	91300	3,157
14	Hatfield McCoy Recreational Trail.....	96000	<u>198,415</u>
15	Total.....		\$ 13,606,154

16 Any unexpended balances remaining in the appropriations  
 17 for Unclassified – Surplus (fund 0256, appropriation 09700),  
 18 Partnership Grants (fund 0256, appropriation 13100), Local  
 19 Economic Development Partnerships (fund 0256, appropriation  
 20 13300), Guaranteed Work Force Grant (fund 0256, appropriation  
 21 24200), Industrial Park Assistance (fund 0256, appropriation  
 22 48000), and Local Economic Development Assistance (fund 0256,  
 23 appropriation 81900) at the close of the fiscal year 2018 are hereby  
 24 reappropriated for expenditure during the fiscal year 2019.

25 The above appropriation to Local Economic Development  
 26 Partnerships (fund 0256, appropriation 13300) shall be used by the  
 27 West Virginia Development Office for the award of funding

28 assistance to county and regional economic development  
 29 corporations or authorities participating in the Certified  
 30 Development Community Program developed under the provisions  
 31 of W.Va. Code §5B-2-14. The West Virginia Development Office  
 32 shall award the funding assistance through a matching grant  
 33 program, based upon a formula whereby funding assistance may  
 34 not exceed \$34,000 per county served by an economic  
 35 development or redevelopment corporation or authority.

*35 - Division of Labor -*

*Weights and Measures Fund*

(WV Code Chapter 47)

Fund 0260 FY 2019 Org 0308

1	Personal Services and		
2	Employee Benefits.....00100	\$	1,500,000
3	Current Expenses .....13000		227,000
4	Repairs and Alterations.....06400		28,000
5	Equipment.....07000		15,000
6	BRIM Premium.....91300		8,500
7	Total.....	\$	1,778,500

*36 - Division of Natural Resources*

(WV Code Chapter 20)

Fund 0265 FY 2019 Org 0310

1	Personal Services and		
2	Employee Benefits.....00100	\$	16,193,634
3	Unclassified.....09900		184,711
4	Current Expenses .....13000		196,302
5	Repairs and Alterations.....06400		100
6	Equipment.....07000		100
7	Buildings .....25800		100
8	Capital Outlay – Parks .....28800		3,000,000
9	Litter Control Conservation Officers .....6400		142,712
10	Upper Mud River Flood Control.....65400		163,385

11	Other Assets .....	69000	100
12	Land (R) .....	73000	100
13	Law Enforcement.....	80600	2,473,246
14	BRIM Premium.....	91300	<u>45,141</u>
15	Total.....		\$ 22,399,631

16 Any unexpended balances remaining in the appropriations  
 17 for Buildings (fund 0265, appropriation 25800), Land (fund 0265,  
 18 appropriation 73000), and State Park Improvements – Surplus  
 19 (fund 0265, appropriation 76300) at the close of the fiscal year  
 20 2018 are hereby reappropriated for expenditure during the fiscal  
 21 year 2019.

22 Any revenue derived from mineral extraction at any state  
 23 park shall be deposited in a special revenue account of the Division  
 24 of Natural Resources, first for bond debt payment purposes and  
 25 with any remainder to be for park operation and improvement  
 26 purposes.

*37 - Division of Miners’ Health, Safety and Training*

(WV Code Chapter 22)

Fund 0277 FY 2019 Org 0314

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 9,249,358
3	Unclassified.....	09900	111,016
4	Current Expenses .....	13000	1,396,141
5	Coal Dust and Rock Dust Sampling .....	27000	482,128
6	BRIM Premium.....	91300	<u>80,668</u>
7	Total.....		\$ 11,319,311

8 Included in the above appropriation for Current Expenses  
 9 (fund 0277, appropriation 13000) is \$500,000 to be used for coal  
 10 mine training activities at an established mine training facility in  
 11 southern West Virginia.

*38 - Board of Coal Mine Health and Safety*

(WV Code Chapter 22)

Fund 0280 FY 2019 Org 0319

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 231,169
3	Unclassified.....	09900	3,480
4	Current Expenses .....	13000	<u>118,138</u>
5	Total.....		\$ 352,787

6           Included in the above appropriation for Current Expenses  
7 (fund 0280, appropriation 13000) up to \$29,000 shall be used for  
8 the Coal Mine Safety and Technical Review Committee.

*39 - WorkForce West Virginia*

(WV Code Chapter 23)

Fund 0572 FY 2019 Org 0323

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 51,433
3	Unclassified.....	09900	593
4	Current Expenses .....	13000	<u>7,337</u>
5	Total.....		\$ 59,363

*40 - Department of Commerce –**Office of the Secretary*

(WV Code Chapter 19)

Fund 0606 FY 2019 Org 0327

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 555,128
3	Unclassified.....	09900	3,500
4	Current Expenses .....	13000	<u>15,089</u>
5	Total.....		\$ 573,717

*41 - Office of Energy*

(WV Code Chapter 5B)

Fund 0612 FY 2019 Org 0328

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 195,487
3	Unclassified.....	09900	12,395
4	Current Expenses .....	13000	1,029,679
5	BRIM Premium.....	91300	<u>3,894</u>
6	Total.....		\$ 1,241,455

7           From the above appropriation for Current Expenses (fund  
 8 0612, appropriation 13000) \$558,247 is for West Virginia  
 9 University and \$308,247 is for Southern West Virginia Community  
 10 and Technical College for the Mine Training and Energy  
 11 Technologies Academy.

**DEPARTMENT OF EDUCATION**

*42 - State Board of Education –*

*School Lunch Program*

(WV Code Chapters 18 and 18A)

Fund 0303 FY 2019 Org 0402

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 335,494
3	Current Expenses .....	13000	<u>2,118,865</u>
4	Total.....		\$ 2,454,359

*43 - State Board of Education –*

*State Department of Education*

(WV Code Chapters 18 and 18A)

Fund 0313 FY 2019 Org 0402

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 4,387,599
3	Teachers' Retirement Savings Realized ....	09500	35,000,000
4	Unclassified (R) .....	09900	300,000



5	Current Expenses (R) .....	13000	2,572,000
6	Equipment .....	07000	5,000
7	Increased Enrollment .....	14000	2,910,000
8	Safe Schools.....	14300	4,869,447
9	Teacher Mentor .....	15800	550,000
10	National Teacher Certification (R) .....	16100	300,000
11	Buildings (R).....	25800	1,000
12	Technology Repair and Modernization.....	29800	951,003
13	HVAC Technicians .....	35500	506,851
14	Early Retirement Notification Incentive ...	36600	300,000
15	MATH Program .....	36800	336,532
16	Assessment Programs .....	39600	1,339,588
17	21 <sup>st</sup> Century Fellows .....	50700	274,899
18	English as a Second Language.....	52800	96,000
19	Teacher Reimbursement .....	57300	297,188
20	Hospitality Training .....	60000	270,103
21	Hi-Y Youth in Government .....	61600	100,000
22	High Acuity Special Needs (R).....	63400	1,500,000
23	Foreign Student Education.....	63600	100,013
24	Principals Mentorship .....	64900	69,250
25	State Board of Education		
26	Administrative Costs .....	68400	271,779
27	Other Assets .....	69000	1,000
28	IT Academy (R) .....	72100	500,000
29	Land (R).....	73000	1,000
30	Early Literacy Program.....	75600	5,700,000
31	School Based Truancy Prevention (R).....	78101	2,015,366
32	Communities in Schools .....	78103	400,000
33	21 <sup>st</sup> Century Learners (R).....	88600	1,726,944
34	BRIM Premium.....	91300	342,859
35	21 <sup>st</sup> Century Assessment and		
36	Professional Development .....	93100	2,004,447
37	21 <sup>st</sup> Century Technology Infrastructure Network		
38	Tools and Support.....	93300	7,636,586
39	Educational Program Allowance .....	99600	516,250
40	Total.....		<u>\$ 78,152,704</u>

41           The above appropriations include funding for the state  
42 board of education and their executive office.

43 Any unexpended balances remaining in the appropriations  
 44 for Unclassified (fund 0313, appropriation 09900), Current  
 45 Expenses (fund 0313, appropriation 13000), National Teacher  
 46 Certification (fund 0313, appropriation 16100), Buildings (fund  
 47 0313, appropriation 25800), High Acuity Special Needs (fund  
 48 0313, appropriation 63400), IT Academy (fund 0313,  
 49 appropriation 72100), Land (fund 0313, appropriation 73000),  
 50 School Based Truancy Prevention (fund 0313, appropriation  
 51 78101), and 21<sup>st</sup> Century Learners (fund 0313, appropriation  
 52 88600) at the close of the fiscal year 2018 are hereby  
 53 reappropriated for expenditure during the fiscal year 2019.

54 The above appropriation for Teachers’ Retirement Savings  
 55 Realized (fund 0313, appropriation 09500) shall be transferred to  
 56 the Employee Pension and Health Care Benefit Fund (fund 2044).

57 The above appropriation for Hospitality Training (fund  
 58 0313, appropriation 60000), shall be allocated only to entities that  
 59 have a plan approved for funding by the Department of Education,  
 60 at the funding level determined by the State Superintendent of  
 61 Schools. Plans shall be submitted to the State Superintendent of  
 62 Schools to be considered for funding.

63 From the above appropriation for Educational Program  
 64 Allowance (fund 0313, appropriation 99600), \$100,000 shall be  
 65 expended for Webster County Board of Education for Hacker  
 66 Valley; \$150,000 shall be for the Randolph County Board of  
 67 Education for Pickens School; \$100,000 shall be for the Preston  
 68 County Board of Education for the Aurora School; \$100,000 shall  
 69 be for the Fayette County Board of Education for Meadow Bridge;  
 70 and \$66,250 is for Project Based Learning in STEM fields.

*44 - State Board of Education –*

*Aid for Exceptional Children*

(WV Code Chapters 18 and 18A)

Fund 0314 FY 2019 Org 0402

1 Special Education – Counties .....15900 \$ 7,271,757

2	Special Education – Institutions.....	16000	3,858,654
3	Education of Juveniles Held in Predispositional		
4	Juvenile Detention Centers .....	30200	625,614
5	Education of Institutionalized		
6	Juveniles and Adults (R).....	47200	<u>18,472,954</u>
7	Total.....		\$ 30,228,979

8           Any unexpended balance remaining in the appropriation  
9 for Education of Institutionalized Juveniles and Adults (fund 0314,  
10 appropriation 47200) at the close of the fiscal year 2018 is hereby  
11 reappropriated for expenditure during the fiscal year 2019.

12           From the above appropriations, the superintendent shall  
13 have authority to expend funds for the costs of special education  
14 for those children residing in out-of-state placements.

*45 - State Board of Education –*

*State Aid to Schools*

(WV Code Chapters 18 and 18A)

Fund 0317 FY 2019 Org 0402

1	Other Current Expenses .....	02200	\$ 149,651,626
2	Advanced Placement.....	05300	595,663
3	Professional Educators .....	15100	876,075,903
4	Service Personnel.....	15200	297,680,615
5	Fixed Charges .....	15300	103,542,614
6	Transportation .....	15400	73,375,145
7	Professional Student Support Services .....	65500	38,686,260
8	Improved Instructional Programs.....	15600	49,544,683
9	21 <sup>st</sup> Century Strategic Technology		
10	Learning Growth.....	93600	<u>21,584,131</u>
11	Basic Foundation Allowances.....		1,610,736,640
12	Less Local Share .....		(458,622,709)
13	Adjustments .....		<u>(1,694,701)</u>
14	Total Basic State Aid .....		1,150,419,230
15	Public Employees' Insurance Matching ....	01200	232,810,116
16	Teachers' Retirement System .....	01900	72,719,190
17	School Building Authority .....	45300	23,420,520

18	Retirement Systems – Unfunded		
19	Liability.....	77500	<u>353,640,000</u>
20	Total.....		\$ 1,833,009,056

*46 - State Board of Education –*

*Vocational Division*

(WV Code Chapters 18 and 18A)

Fund 0390 FY 2019 Org 0402

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,305,125
3	Unclassified.....	09900	268,800
4	Current Expenses .....	13000	883,106
5	Wood Products – Forestry		
6	Vocational Program .....	14600	73,715
7	Albert Yanni Vocational Program .....	14700	132,123
8	Vocational Aid .....	14800	23,239,266
9	Adult Basic Education .....	14900	4,894,607
10	Program Modernization .....	30500	884,313
11	High School Equivalency Diploma		
12	Testing (R) .....	72600	790,743
13	FFA Grant Awards.....	83900	11,496
14	Pre-Engineering Academy Program .....	84000	<u>265,294</u>
15	Total.....		\$ 32,748,588

16 Any unexpended balance remaining in the appropriation  
 17 for High School Equivalency Diploma Testing (fund 0390,  
 18 appropriation 72600) at the close of the fiscal year 2018 is hereby  
 19 reappropriated for expenditure during the fiscal year 2019.

*47 - State Board of Education –*

*West Virginia Schools for the Deaf and the Blind*

(WV Code Chapters 18 and 18A)

Fund 0320 FY 2019 Org 0403

1 Personal Services and

2	Employee Benefits.....	00100	\$ 11,588,010
3	Unclassified.....	09900	110,000
4	Current Expenses .....	13000	2,145,469
5	Repairs and Alterations.....	06400	85,000
6	Equipment .....	07000	70,000
7	Buildings (R).....	25800	50,000
8	Capital Outlay and Maintenance (R) .....	75500	82,500
9	BRIM Premium.....	91300	<u>140,842</u>
10	Total.....		\$ 14,271,821

11 Any unexpended balances remaining in the appropriations  
 12 for Buildings (fund 0320, appropriation 25800) and Capital Outlay  
 13 and Maintenance (fund 0320, appropriation 75500) at the close of  
 14 the fiscal year 2018 are hereby reappropriated for expenditure  
 15 during the fiscal year 2019.

## DEPARTMENT OF EDUCATION AND THE ARTS

*48 - Department of Education and the Arts –*

*Office of the Secretary*

(WV Code Chapter 5F)

Fund 0294 FY 2019 Org 0431

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 533,834
3	Unclassified.....	09900	35,000
4	Center for Professional		
5	Development (R) .....	11500	1,511,331
6	Current Expenses .....	13000	7,162
7	WV Humanities Council.....	16800	250,000
8	Benedum Professional Development		
9	Collaborative (R) .....	42700	429,775
10	Governor's Honors Academy (R).....	47800	1,059,270
11	Educational Enhancements .....	69500	573,500
12	S.T.E.M. Education and Grant		
13	Program (R) .....	71900	492,262
14	Energy Express .....	86100	382,935
15	BRIM Premium.....	91300	5,336

16	Special Olympic Games.....	96600		<u>25,000</u>
17	Total.....		\$	5,305,405

18 Any unexpended balances remaining in the appropriations  
 19 for Center for Professional Development (fund 0294, appropriation  
 20 11500), Benedum Professional Development Collaborative (fund  
 21 0294, appropriation 42700), Governor’s Honors Academy (fund  
 22 0294, appropriation 47800), and S.T.E.M. Education and Grant  
 23 Program (fund 0294, appropriation 71900) at the close of the fiscal  
 24 year 2018 are hereby reappropriated for expenditure during the  
 25 fiscal year 2019.

26 From the above appropriation for Educational  
 27 Enhancements (fund 0294, appropriation 69500), \$73,500 shall be  
 28 used for the Clay Center and \$500,000 for Save the Children.

*49 - Division of Culture and History*

(WV Code Chapter 29)

Fund 0293 FY 2019 Org 0432

1	Personal Services and			
2	Employee Benefits.....	00100	\$	3,299,919
3	Current Expenses .....	13000		610,843
4	Repairs and Alterations.....	06400		1,000
5	Equipment.....	07000		1
6	Unclassified (R) .....	09900		28,483
7	Buildings (R).....	25800		1
8	Other Assets .....	69000		1
9	Land (R).....	73000		1
10	Culture and History Programming.....	73200		231,573
11	Capital Outlay and Maintenance (R) .....	75500		19,600
12	Historical Highway Marker Program.....	84400		57,548
13	BRIM Premium.....	91300		<u>39,337</u>
14	Total.....		\$	4,288,307

15 Any unexpended balances remaining in the appropriations  
 16 for Unclassified (fund 0293, appropriation 09900), Buildings (fund  
 17 0293, appropriation 25800), Capital Outlay, Repairs and  
 18 Equipment (fund 0293, appropriation 58900), Capital

19 Improvements – Surplus (fund 0293, appropriation 66100), Capital  
 20 Outlay, Repairs and Equipment – Surplus (fund 0293,  
 21 appropriation 67700), Land (fund 0293, appropriation 73000), and  
 22 Capital Outlay and Maintenance (fund 0293, appropriation 75500)  
 23 at the close of the fiscal year 2018 are hereby reappropriated for  
 24 expenditure during the fiscal year 2019.

25 The Current Expense appropriation includes funding for  
 26 the arts funds, department programming funds, grants, fairs and  
 27 festivals and Camp Washington Carver and shall be expended only  
 28 upon authorization of the Division of Culture and History and in  
 29 accordance with the provisions of Chapter 5A, Article 3, and  
 30 Chapter 12 of the Code.

*50 - Library Commission*

(WV Code Chapter 10)

Fund 0296 FY 2019 Org 0433

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,261,316
3	Current Expenses .....	13000	139,624
4	Repairs and Alterations.....	06400	6,500
5	Services to Blind & Handicapped.....	18100	161,717
6	BRIM Premium.....	91300	<u>18,205</u>
7	Total.....		\$ 1,587,362

*51 - Educational Broadcasting Authority*

(WV Code Chapter 10)

Fund 0300 FY 2019 Org 0439

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,767,321
3	Current Expenses .....	13000	1,591,805
4	Mountain Stage .....	24900	300,000
5	Capital Outlay and Maintenance (R) .....	75500	50,000
6	BRIM Premium.....	91300	<u>48,453</u>
7	Total.....		\$ 3,757,579

8 Any unexpended balance remaining in the appropriation  
 9 for Capital Outlay and Maintenance (fund 0300, appropriation  
 10 75500) at the close of the fiscal year 2018 is hereby reappropriated  
 11 for expenditure during the fiscal year 2019.

*52 - State Board of Rehabilitation –*

*Division of Rehabilitation Services*

(WV Code Chapter 18)

Fund 0310 FY 2019 Org 0932

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 10,953,816
3	Independent Living Services.....	00900	429,418
4	Current Expenses .....	13000	558,815
5	Workshop Development .....	16300	1,817,427
6	Supported Employment		
7	Extended Services.....	20600	77,960
8	Ron Yost Personal Assistance Fund .....	40700	333,828
9	Employment Attendant Care Program.....	59800	131,575
10	BRIM Premium.....	91300	<u>77,464</u>
11	Total.....		\$ 14,380,303

12 From the above appropriation for Workshop Development  
 13 (fund 0310, appropriation 16300), funds shall be used exclusively  
 14 with the private nonprofit community rehabilitation program  
 15 organizations known as work centers or sheltered workshops. The  
 16 appropriation shall also be used to continue the support of the  
 17 program, services, and individuals with disabilities currently in  
 18 place at those organizations.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

*53 - Environmental Quality Board*

(WV Code Chapter 20)

Fund 0270 FY 2019 Org 0311

1 Personal Services and



2	Employee Benefits.....	00100	\$	76,915
3	Current Expenses .....	13000		29,353
4	Repairs and Alterations.....	06400		100
5	Equipment.....	07000		300
6	Other Assets.....	69000		400
7	BRIM Premium.....	91300		791
8	Total.....		\$	107,859

*54 - Division of Environmental Protection*

(WV Code Chapter 22)

Fund 0273 FY 2019 Org 0313

1	Personal Services and			
2	Employee Benefits.....	00100	\$	4,051,891
3	Water Resources Protection and			
4	Management .....	06800		570,654
5	Current Expenses .....	13000		96,916
6	Repairs and Alterations.....	06400		1,500
7	Unclassified.....	09900		14,825
8	Dam Safety.....	60700		212,186
9	West Virginia Stream Partners			
10	Program.....	63700		77,396
11	Meth Lab Cleanup.....	65600		199,616
12	WV Contributions to River			
13	Commissions.....	77600		148,485
14	Office of Water Resources Non-			
15	Enforcement Activity.....	85500		934,525
16	Total.....		\$	6,307,994

17 A portion of the appropriations for Current Expense (fund  
 18 0273, appropriation 13000) and Dam Safety (fund 0273,  
 19 appropriation 60700) may be transferred to the special revenue  
 20 fund Dam Safety Rehabilitation Revolving Fund (fund 3025) for  
 21 the state deficient dams rehabilitation assistance program.

*55 - Air Quality Board*

(WV Code Chapter 16)

Fund 0550 FY 2019 Org 0325

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 60,737
3	Current Expenses .....	13000	12,462
4	Repairs and Alterations.....	06400	50
5	Equipment .....	07000	300
6	Other Assets .....	69000	200
7	BRIM Premium.....	91300	<u>2,304</u>
8	Total.....		\$ 76,053

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES***56 - Department of Health and Human Resources –**Office of the Secretary*

(WV Code Chapter 5F)

Fund 0400 FY 2019 Org 0501

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 379,014
3	Unclassified.....	09900	6,459
4	Current Expenses .....	13000	50,613
5	Commission for the Deaf and		
6	Hard of Hearing .....	70400	<u>219,910</u>
7	Total.....		\$ 655,996

8           Any unexpended balance remaining in the appropriation  
9 for the Women's Commission (fund 0400, appropriation 19100) at  
10 the close of the fiscal year 2018 is hereby reappropriated for  
11 expenditure during the fiscal year 2019.

*57 - Division of Health –**Central Office*

(WV Code Chapter 16)

Fund 0407 FY 2019 Org 0506

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 12,446,690
3	Chief Medical Examiner.....	04500	6,618,003
4	Unclassified.....	09900	671,795
5	Current Expenses.....	13000	4,677,059
6	State Aid for Local and		
7	Basic Public Health Services.....	18400	12,652,756
8	Safe Drinking Water Program (R).....	18700	2,188,827
9	Women, Infants and Children.....	21000	38,621
10	Early Intervention.....	22300	8,134,060
11	Cancer Registry.....	22500	200,682
12	Statewide EMS Program Support (R).....	38300	1,835,429
13	Black Lung Clinics.....	46700	170,885
14	Vaccine for Children.....	55100	335,423
15	Tuberculosis Control.....	55300	372,366
16	Maternal and Child Health Clinics, Clinicians		
17	Medical Contracts and Fees (R).....	57500	6,335,115
18	Epidemiology Support.....	62600	1,513,869
19	Primary Care Support.....	62800	4,245,849
20	Sexual Assault Intervention and		
21	Prevention.....	72300	125,000
22	Health Right Free Clinics.....	72700	2,750,000
23	Capital Outlay and Maintenance (R).....	75500	100,000
24	Maternal Mortality Review.....	83400	47,712
25	Diabetes Education and Prevention.....	87300	97,125
26	BRIM Premium.....	91300	169,791
27	State Trauma and Emergency		
28	Care System.....	91800	<u>2,004,450</u>
29	Total.....		\$ 67,731,507

30           Any unexpended balances remaining in the appropriations  
31 for Safe Drinking Water Program (fund 0407, appropriation  
32 18700), Statewide EMS Program Support (fund 0407,  
33 appropriation 38300), Maternal and Child Health Clinics,  
34 Clinicians and Medical Contracts and Fees (fund 0407,  
35 appropriation 57500), Capital Outlay and Maintenance (fund 0407,  
36 appropriation 75500), Emergency Response Entities – Special  
37 Projects (fund 0407, appropriation 82200).

38 From the above appropriation for Current Expenses (fund  
 39 0407, appropriation 13000), an amount not less than \$100,000 is  
 40 for the West Virginia Cancer Coalition; \$50,000 shall be expended  
 41 for the West Virginia Aids Coalition; \$100,000 is for Adolescent  
 42 Immunization Education; \$73,065 is for informal dispute  
 43 resolution relating to nursing home administrative appeals; and  
 44 \$50,000 is for Hospital Hospitality House of Huntington.

45 From the above appropriation for Maternal and Child  
 46 Health Clinics, Clinicians and Medical Contracts and Fees (fund  
 47 0407, appropriation 57500) up to \$400,000 may be transferred to  
 48 the Breast and Cervical Cancer Diagnostic Treatment Fund (fund  
 49 5197) and \$11,000 is for the Marshall County Health Department  
 50 for dental services.

*58 - Consolidated Medical Services Fund*

(WV Code Chapter 16)

Fund 0525 FY 2019 Org 0506

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,590,408
3	Current Expenses .....	13000	14,113
4	Behavioral Health Program (R) .....	21900	64,462,622
5	Family Support Act.....	22100	251,226
6	Institutional Facilities Operations (R).....	33500	134,223,239
7	Substance Abuse		
8	Continuum of Care (R) .....	35400	5,000,000
9	Capital Outlay and Maintenance (R) .....	75500	950,000
10	Renaissance Program .....	80400	165,996
11	BRIM Premium.....	91300	<u>1,296,098</u>
12	Total.....		<u>\$ 207,953,702</u>

13 Any unexpended balances remaining in the appropriations  
 14 for Behavioral Health Program (fund 0525, appropriation 21900),  
 15 Institutional Facilities Operations (fund 0525, appropriation  
 16 33500), Substance Abuse Continuum of Care (fund 0525,  
 17 appropriation 35400), and Capital Outlay and Maintenance (fund

18 0525, appropriation 75500) at the close of the fiscal year 2018 are  
19 hereby reappropriated for expenditure during the fiscal year 2019.

20 Notwithstanding the provisions of Title I, section three of  
21 this bill, the secretary of the Department of Health and Human  
22 Resources shall have the authority to transfer funds within the  
23 above appropriations: *Provided*, That no more than five percent of  
24 the funds appropriated to one appropriation may be transferred to  
25 other appropriations: *Provided, however*, That no funds from other  
26 appropriations shall be transferred to the personal services and  
27 employee benefits appropriation.

28 Included in the above appropriation for Behavioral Health  
29 Program (fund 0525, appropriation 21900) is \$100,000 for the  
30 Healing Place of Huntington.

31 From the above appropriation for Institutional Facilities  
32 Operations (fund 0525, appropriation 33500), together with  
33 available funds from the Division of Health – Hospital Services  
34 Revenue Account (fund 5156, appropriation 33500), on July 1,  
35 2018, the sum of \$160,000 shall be transferred to the Department  
36 of Agriculture – Land Division – Farm Operating Fund (1412) as  
37 advance payment for the purchase of food products; actual  
38 payments for such purchases shall not be required until such credits  
39 have been completely expended.

40 The above appropriation for Institutional Facilities  
41 Operations (fund 0525, appropriation 33500) contains prior year  
42 salary increases due to the Hartley court order in the amount of  
43 \$2,202,013 for William R. Sharpe Jr. Hospital, and \$2,067,984 for  
44 Mildred Mitchel-Bateman Hospital.

45 From the above appropriation for Substance Abuse  
46 Continuum of Care (fund 0525, appropriation 35400), the funding  
47 will be consistent with the goal areas outlined in the  
48 Comprehensive Substance Abuse Strategic Action Plan.

49 Additional funds have been appropriated in fund 5156,  
50 fiscal year 2019, organization 0506, for the operation of the  
51 institutional facilities. The secretary of the Department of Health

52 and Human Resources is authorized to utilize up to ten percent of  
 53 the funds from the Institutional Facilities Operations appropriation  
 54 to facilitate cost effective and cost saving services at the  
 55 community level.

*59 - Division of Health –*

*West Virginia Drinking Water Treatment*

(WV Code Chapter 16)

Fund 0561 FY 2019 Org 0506

1	West Virginia Drinking Water Treatment		
2	Revolving Fund-Transfer.....	68900	\$ 647,500

3           The above appropriation for Drinking Water Treatment  
 4 Revolving Fund – Transfer shall be transferred to the West Virginia  
 5 Drinking Water Treatment Revolving Fund or appropriate bank  
 6 depository and the Drinking Water Treatment Revolving –  
 7 Administrative Expense Fund as provided by Chapter 16 of the  
 8 Code.

*60 - Human Rights Commission*

(WV Code Chapter 5)

Fund 0416 FY 2019 Org 0510

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,028,561
3	Unclassified.....	09900	4,024
4	Current Expenses .....	13000	331,304
5	BRIM Premium.....	91300	<u>10,764</u>
6	Total.....		\$ 1,374,653

*61 - Division of Human Services*

(WV Code Chapters 9, 48 and 49)

Fund 0403 FY 2019 Org 0511

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 45,354,625
3	Unclassified.....	09900	5,688,944
4	Current Expenses .....	13000	11,404,008
5	Child Care Development.....	14400	4,090,908
6	Medical Services .....	18900	413,957,363
7	Social Services .....	19500	154,183,734
8	Family Preservation Program .....	19600	1,565,000
9	Family Resource Networks.....	27400	1,762,464
10	Domestic Violence Legal		
11	Services Fund.....	38400	400,000
12	James “Tiger” Morton Catastrophic		
13	Illness Fund.....	45500	102,883
14	I/DD Waiver.....	6600	88,753,483
15	Child Protective Services		
16	Case Workers.....	46800	23,473,825
17	OSCAR and RAPIDS .....	51500	6,453,502
18	Title XIX Waiver for Seniors.....	53300	13,593,620
19	WV Teaching Hospitals		
20	Tertiary/Safety Net .....	54700	6,356,000
21	Child Welfare System .....	60300	1,291,873
22	In-Home Family Education.....	68800	1,000,000
23	WV Works Separate State Program.....	69800	1,935,000
24	Child Support Enforcement .....	70500	6,487,501
25	Temporary Assistance for Needy Families/ Maintenance of Effort.....	70700	25,819,096
26	Child Care – Maintenance of		
27	Effort Match.....	70800	5,693,743
28	Grants for Licensed Domestic Violence		
29	Programs and Statewide Prevention ....	75000	2,500,000
30	Capital Outlay and Maintenance (R) .....	75500	11,875
31	Community Based Services and Pilot		
32	Programs for Youth .....	75900	1,000,000
33	Medical Services Administrative Costs .....	78900	38,127,412
34	Traumatic Brain Injury Waiver.....	83500	800,000
35	Indigent Burials (R) .....	85100	2,050,000
36	BRIM Premium.....	91300	892,642
37	Rural Hospitals Under 150 Beds.....	94000	2,596,000
38	Children’s Trust Fund – Transfer.....	95100	220,000
39			<hr/>

40 Total..... \$ 867,565,501

41 Any unexpended balances remaining in the appropriations  
42 for Capital Outlay and Maintenance (fund 0403, appropriation  
43 75500) and Indigent Burials (fund 0403, appropriation 85100) at  
44 the close of the fiscal year 2018 are hereby reappropriated for  
45 expenditure during the fiscal year 2019.

46 Notwithstanding the provisions of Title I, section three of  
47 this bill, the secretary of the Department of Health and Human  
48 Resources shall have the authority to transfer funds within the  
49 above appropriations: *Provided*, That no more than five percent of  
50 the funds appropriated to one appropriation may be transferred to  
51 other appropriations: *Provided, however*, That no funds from other  
52 appropriations shall be transferred to the personal services and  
53 employee benefits appropriation.

54 The secretary shall have authority to expend funds for the  
55 educational costs of those children residing in out-of-state  
56 placements, excluding the costs of special education programs.

57 Included in the above appropriation for Social Services  
58 (fund 0403, appropriation 19500) is funding for continuing  
59 education requirements relating to the practice of social work.

60 The above appropriation for Domestic Violence Legal  
61 Services Fund (fund 0403, appropriation 38400) shall be  
62 transferred to the Domestic Violence Legal Services Fund (fund  
63 5455).

64 The above appropriation for James “Tiger” Morton  
65 Catastrophic Illness Fund (fund 0403, appropriation 45500) shall  
66 be transferred to the James “Tiger” Morton Catastrophic Illness  
67 Fund (fund 5454) as provided by Article 5Q, Chapter 16 of the  
68 Code.

69 The above appropriation for WV Works Separate State  
70 Program (fund 0403, appropriation 69800), shall be transferred to  
71 the WV Works Separate State College Program Fund (fund 5467),  
72 and the WV Works Separate State Two-Parent Program Fund (fund



73 5468) as determined by the secretary of the Department of Health  
74 and Human Resources.

75 From the above appropriation for Child Support  
76 Enforcement (fund 0403, appropriation 70500) an amount not to  
77 exceed \$300,000 may be transferred to a local banking depository  
78 to be utilized to offset funds determined to be uncollectible.

79 From the above appropriation for the Grants for Licensed  
80 Domestic Violence Programs and Statewide Prevention (fund  
81 0403, appropriation 75000), 50% of the total shall be divided  
82 equally and distributed among the fourteen (14) licensed programs  
83 and the West Virginia Coalition Against Domestic Violence  
84 (WVCADV). The balance remaining in the appropriation for  
85 Grants for Licensed Domestic Violence Programs and Statewide  
86 Prevention (fund 0403, appropriation 75000), shall be distributed  
87 according to the formula established by the Family Protection  
88 Services Board.

89 The above appropriation for Children's Trust Fund –  
90 Transfer (fund 0403, appropriation 95100) shall be transferred to  
91 the Children's Trust Fund (fund 5469, org 0511).

## DEPARTMENT OF MILITARY AFFAIRS

### AND PUBLIC SAFETY

*62 - Department of Military Affairs and Public Safety –*

*Office of the Secretary*

(WV Code Chapter 5F)

Fund 0430 FY 2019 Org 0601

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 732,256
3	Unclassified (R) .....	09900	18,949
4	Current Expenses .....	13000	58,320
5	Repairs and Alterations.....	06400	2,500
6	Equipment .....	07000	2,500

7	Fusion Center (R).....	46900	542,430
8	Other Assets.....	69000	2,500
9	Directed Transfer.....	70000	32,000
10	BRIM Premium.....	91300	18,190
11	WV Fire and EMS Survivor Benefit (R) ...	93900	200,000
12	Homeland State Security		
13	Administrative Agency (R).....	95300	<u>318,890</u>
14	Total.....		\$ 1,928,535

15           Any unexpended balances remaining in the appropriations  
16 for Unclassified (fund 0430, appropriation 09900), Fusion Center  
17 (fund 0430, appropriation 46900), Justice Reinvestment Training –  
18 Surplus (fund 0430, appropriation 69900), WV Fire and EMS  
19 Survivor Benefit (fund 0430, appropriation 93900), and Homeland  
20 State Security Administrative Agency (fund 0430, appropriation  
21 95300) at the close of the fiscal year 2018 are hereby  
22 reappropriated for expenditure during the fiscal year 2019.

23           The above appropriation for Directed Transfer (fund 0430,  
24 appropriation 70000) shall be transferred to the Law-Enforcement,  
25 Safety and Emergency Worker Funeral Expense Payment Fund  
26 (fund 6003).

**63 - Adjutant General –**

*State Militia*

(WV Code Chapter 15)

Fund 0433 FY 2019 Org 0603

1	Unclassified (R).....	09900	\$ 106,798
2	College Education Fund.....	23200	4,000,000
3	Civil Air Patrol.....	23400	249,664
4	Mountaineer ChalleNGe Academy.....	70900	1,500,000
5	Armory Board Transfer.....	70015	2,317,555
6	Military Authority (R).....	74800	6,029,611
7	Drug Enforcement and Support.....	74801	<u>1,500,000</u>
8	Total.....		\$ 15,703,628

9 Any unexpended balance remaining in the appropriations  
 10 for Unclassified (fund 0433, appropriation 09900) and Military  
 11 Authority (fund 0433, appropriation 74800) at the close of the  
 12 fiscal year 2018 is hereby reappropriated for expenditure during the  
 13 fiscal year 2019.

14 From the above appropriations an amount approved by the  
 15 Adjutant General and the secretary of Military Affairs and Public  
 16 Safety may be transferred to the State Armory Board for operation  
 17 and maintenance of National Guard Armories.

18 The adjutant general shall have the authority to transfer  
 19 between appropriations.

20 From the above appropriation and other state and federal  
 21 funding, the Adjutant General shall provide an amount not less than  
 22 \$4,500,000 to the Mountaineer ChalleNGe Academy to meet  
 23 anticipated program demand.

*64 - Adjutant General –*

*Military Fund*

(WV Code Chapter 15)

Fund 0605 FY 2019 Org 0603

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 100,000
3	Current Expenses .....	13000	<u>57,775</u>
4	Total.....		\$ 157,775

*65 - West Virginia Parole Board*

(WV Code Chapter 62)

Fund 0440 FY 2019 Org 0605

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 402,254
3	Current Expenses .....	13000	365,234
4	Salaries of Members of		

5	West Virginia Parole Board.....	22700	609,833
6	BRIM Premium.....	91300	<u>6,149</u>
7	Total.....		\$ 1,383,470

8           The above appropriation for Salaries of Members of West  
9 Virginia Parole Board (fund 0440, appropriation 22700) includes  
10 funding for salary, annual increment (as provided for in W.Va.  
11 Code §5-5-1), and related employee benefits of board members.

*66 - Division of Homeland Security and*

*Emergency Management*

(WV Code Chapter 15)

Fund 0443 FY 2019 Org 0606

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,268,402
3	Unclassified.....	09900	26,342
4	Current Expenses .....	13000	53,024
5	Repairs and Alterations.....	06400	600
6	Radiological Emergency Preparedness .....	55400	17,052
7	SIRN.....	55401	600,000
8	Federal Funds/Grant Match (R) .....	74900	663,463
9	Mine and Industrial Accident Rapid		
10	Response Call Center.....	78100	461,355
11	Early Warning Flood System (R) .....	87700	475,832
12	BRIM Premium.....	91300	96,529
13	WVU Charleston Poison		
14	Control Hotline .....	94400	<u>712,942</u>
15	Total.....		\$ 4,375,541

16           Any unexpended balances remaining in the appropriations  
17 for Federal Funds/Grant Match (fund 0443, appropriation 74900),  
18 Early Warning Flood System (fund 0443, appropriation 87700),  
19 and Disaster Mitigation (fund 0443, appropriation 95200) at the  
20 close of the fiscal year 2018 are hereby reappropriated for  
21 expenditure during the fiscal year 2019.

*67 - Division of Corrections –**Central Office*

(WV Code Chapters 25, 28, 49 and 62)

Fund 0446 FY 2019 Org 0608

1	Personal Services and		
2	Employee Benefits.....00100	\$	621,000
3	Current Expenses .....13000		<u>2,400</u>
4	Total.....	\$	623,400

*68 - Division of Corrections –**Correctional Units*

(WV Code Chapters 25, 28, 49 and 62)

Fund 0450 FY 2019 Org 0608

1	Employee Benefits.....01000	\$	1,258,136
2	Children's Protection Act (R).....09000		838,437
3	Unclassified.....09900		1,578,800
4	Current Expenses (R).....13000		21,151,011
5	Facilities Planning and		
6	Administration (R).....38600		1,274,200
7	Charleston Correctional Center .....45600		3,026,773
8	Beckley Correctional Center.....49000		2,027,265
9	Anthony Correctional Center.....50400		5,468,335
10	Huttonsville Correctional Center .....51400		20,907,772
11	Northern Correctional Center.....53400		7,205,041
12	Inmate Medical Expenses (R).....53500		21,226,064
13	Pruntytown Correctional Center .....54300		7,630,256
14	Corrections Academy.....56900		1,666,247
15	Information Technology Services.....59901		2,259,052
16	Martinsburg Correctional Center .....66300		3,856,727
17	Parole Services.....68600		5,361,413
18	Special Services .....68700		7,100,452
19	Investigative Services .....71600		3,129,759
20	Capital Outlay and Maintenance (R) .....75500		2,000,000

21	Salem Correctional Center .....	77400	10,260,770
22	McDowell County Correctional Center .....	79000	2,542,590
23	Stevens Correctional Center.....	79100	7,863,195
24	Parkersburg Correctional Center.....	82800	3,412,708
25	St. Mary's Correctional Center .....	88100	12,939,805
26	Denmar Correctional Center .....	88200	4,666,171
27	Ohio County Correctional Center .....	88300	1,874,033
28	Mt. Olive Correctional Complex .....	88800	20,063,054
29	Lakin Correctional Center.....	89600	9,510,551
30	BRIM Premium.....	91300	<u>2,527,657</u>
31	Total.....		\$ 194,626,274

32 Any unexpended balances remaining in the appropriations  
33 for Children's Protection Act (fund 0450, appropriation 09000),  
34 Unclassified – Surplus (fund 0450, appropriation 09700), Current  
35 Expenses (fund 0450, appropriation 13000), Facilities Planning  
36 and Administration (fund 0450, appropriation 38600), Inmate  
37 Medical Expenses (fund 0450, appropriation 53500), Capital  
38 Improvements – Surplus (fund 0450, appropriation 66100), Capital  
39 Outlay, Repairs and Equipment – Surplus (fund 0450,  
40 appropriation 67700), Capital Outlay and Maintenance (fund 0450,  
41 appropriation 75500), and Security System Improvements –  
42 Surplus (fund 0450, appropriation 75501) at the close of the fiscal  
43 year 2018 are hereby reappropriated for expenditure during the  
44 fiscal year 2019.

45 The Commissioner of Corrections shall have the authority  
46 to transfer between appropriations to the individual correctional  
47 units above and may transfer funds from the individual correctional  
48 units to Current Expenses (fund 0450, appropriation 13000) or  
49 Inmate Medical Expenses (fund 0450, appropriation 53500).

50 From the above appropriation to Unclassified (fund 0450,  
51 appropriation 09900), on July 1, 2018, the sum of \$300,000 shall  
52 be transferred to the Department of Agriculture – Land Division –  
53 Farm Operating Fund (1412) as advance payment for the purchase  
54 of food products; actual payments for such purchases shall not be  
55 required until such credits have been completely expended.

56 From the above appropriation to Current Expenses (fund  
57 0450, appropriation 13000) payment shall be made to house  
58 Division of Corrections inmates in federal, county, and /or regional  
59 jails.

60 Any realized savings from Energy Savings Contract may  
61 be transferred to Facilities Planning and Administration (fund  
62 0450, appropriation 38600).

*69 - West Virginia State Police*

(WV Code Chapter 15)

Fund 0453 FY 2019 Org 0612

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 58,857,744
3	Children’s Protection Act .....	09000	972,973
4	Current Expenses .....	13000	10,384,394
5	Repairs and Alterations.....	06400	450,523
6	Trooper Class.....	52100	4,000,000
7	Barracks Lease Payments .....	55600	237,898
8	Communications and Other		
9	Equipment (R) .....	55800	570,968
10	Trooper Retirement Fund.....	60500	5,584,775
11	Handgun Administration Expense .....	74700	72,268
12	Capital Outlay and Maintenance (R) .....	75500	250,000
13	Retirement Systems – Unfunded		
14	Liability.....	77500	15,415,000
15	Automated Fingerprint		
16	Identification System.....	89800	3,185,756
17	BRIM Premium.....	91300	<u>5,743,921</u>
18	Total.....		\$ 105,726,220

19 Any unexpended balances remaining in the appropriations  
20 for Communications and Other Equipment (fund 0453,  
21 appropriation 55800), and Capital Outlay and Maintenance (fund  
22 0453, appropriation 75500) at the close of the fiscal year 2018 are  
23 hereby reappropriated for expenditure during the fiscal year 2019.

24 From the above appropriation for Personal Services and  
 25 Employee Benefits (fund 0453, appropriation 00100), an amount  
 26 not less than \$25,000 shall be expended to offset the costs  
 27 associated with providing police services for the West Virginia  
 28 State Fair.

*70 - Fire Commission*

(WV Code Chapter 29)

Fund 0436 FY 2019 Org 0619

1 Current Expenses .....13000 \$ 64,021

*71 - Division of Justice and Community Services*

(WV Code Chapter 15)

Fund 0546 FY 2019 Org 0620

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 550,620
3	Current Expenses .....	13000	133,360
4	Repairs and Alterations.....	06400	1,804
5	Child Advocacy Centers (R).....	45800	1,704,001
6	Community Corrections (R) .....	56100	6,919,589
7	Statistical Analysis Program .....	59700	48,272
8	Sexual Assault Forensic		
9	Examination Commission (R) .....	71400	76,963
10	Qualitative Analysis and Training for		
11	Youth Services (R) .....	76200	332,446
12	Law Enforcement Professional		
13	Standards.....	83800	157,692
14	BRIM Premium.....	91300	2,123
15	Total.....		\$ 9,926,870

16 Any unexpended balances remaining in the appropriations  
 17 for Child Advocacy Centers (fund 0546, appropriation 45800),  
 18 Community Corrections (fund 0546, appropriation 56100), Sexual  
 19 Assault Forensic Examination Commission (fund 0546,  
 20 appropriation 71400), and Qualitative Analysis and Training for



21 Youth Services (fund 0546, appropriation 76200) at the close of  
 22 the fiscal year 2018 are hereby reappropriated for expenditure  
 23 during the fiscal year 2019.

24 From the above appropriation for Child Advocacy Centers  
 25 (fund 0546, appropriation 45800), the division may retain an  
 26 amount not to exceed four percent of the appropriation for  
 27 administrative purposes.

*72 - Division of Juvenile Services*

(WV Code Chapter 49)

Fund 0570 FY 2019 Org 0621

1	Statewide Reporting Centers.....	26200	\$	6,730,137
2	Robert L. Shell Juvenile Center .....	26700		2,183,169
3	Resident Medical Expenses (R) .....	53501		3,604,999
4	Central Office.....	70100		2,496,733
5	Capital Outlay and Maintenance (R) .....	75500		250,000
6	Gene Spadaro Juvenile Center .....	79300		2,356,207
7	BRIM Premium.....	91300		115,967
8	Kenneth Honey Rubenstein			
9	Juvenile Center (R) .....	98000		5,325,233
10	Vicki Douglas Juvenile Center .....	98100		2,083,190
11	Northern Regional Juvenile Center.....	98200		2,876,302
12	Lorrie Yeager Jr. Juvenile Center .....	98300		2,118,510
13	Sam Perdue Juvenile Center .....	98400		2,220,766
14	Tiger Morton Center .....	98500		2,322,188
15	Donald R. Kuhn Juvenile Center .....	98600		4,465,381
16	J.M. "Chick" Buckbee Juvenile Center .....	98700		<u>2,227,993</u>
17	Total.....		\$	41,376,775

18 Any unexpended balances remaining in the appropriations  
 19 for Resident Medical Expenses (fund 0570, appropriation 53501),  
 20 Capital Outlay and Maintenance (fund 0570, appropriation 75500),  
 21 and Kenneth Honey Rubenstein Juvenile Center (fund 0570,  
 22 appropriation 98000) at the close of the fiscal year 2018 are hereby  
 23 reappropriated for expenditure during the fiscal year 2019.

24 From the above appropriations, on July 1, 2018, the sum of  
 25 \$50,000 shall be transferred to the Department of Agriculture –  
 26 Land Division – Farm Operating Fund (1412) as advance payment  
 27 for the purchase of food products; actual payments for such  
 28 purchases shall not be required until such credits have been  
 29 completely expended.

30 The Director of Juvenile Services shall have the authority  
 31 to transfer between appropriations to the individual juvenile centers  
 32 above and may transfer funds from the individual juvenile centers  
 33 to Resident Medical Expenses (fund 0570, appropriation 53501).

*73 - Division of Protective Services*

(WV Code Chapter 5F)

Fund 0585 FY 2019 Org 0622

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,894,483
3	Unclassified (R).....	09900	21,991
4	Current Expenses.....	13000	443,357
5	Repairs and Alterations.....	06400	8,500
6	Equipment (R).....	07000	64,171
7	BRIM Premium.....	91300	<u>12,226</u>
8	Total.....		\$ 3,444,728

9 Any unexpended balances remaining in the appropriations  
 10 for Equipment (fund 0585, appropriation 07000), and Unclassified  
 11 (fund 0585, appropriation 09900) at the close of the fiscal year  
 12 2018 are hereby reappropriated for expenditure during the fiscal  
 13 year 2019.

**DEPARTMENT OF REVENUE**

*74 - Office of the Secretary*

(WV Code Chapter 11)

Fund 0465 FY 2019 Org 0701

1 Personal Services and

2	Employee Benefits.....	00100	\$	502,846
3	Unclassified.....	09900		5,837
4	Current Expenses .....	13000		81,594
5	Repairs and Alterations.....	06400		1,262
6	Equipment.....	07000		8,000
7	Other Assets.....	69000		<u>500</u>
8	Total.....		\$	600,039

9 Any unexpended balance remaining in the appropriation  
 10 for Unclassified – Total (fund 0465, appropriation 09600) at the  
 11 close of the fiscal year 2018 is hereby reappropriated for  
 12 expenditure during the fiscal year 2019.

*75 - Tax Division*

(WV Code Chapter 11)

Fund 0470 FY 2019 Org 0702

1	Personal Services and			
2	Employee Benefits (R) .....	00100	\$	18,211,688
3	Unclassified (R) .....	09900		224,578
4	Current Expenses (R).....	13000		5,770,589
5	Repairs and Alterations.....	06400		10,000
6	Equipment.....	07000		50,000
7	Tax Technology Upgrade .....	09400		3,700,000
8	Integrated Tax Assessment System.....	29200		5,000,000
9	Multi State Tax Commission .....	65300		77,958
10	Other Assets.....	69000		10,000
11	BRIM Premium.....	91300		<u>15,579</u>
12	Total.....		\$	33,070,392

13 Any unexpended balances remaining in the appropriations  
 14 for Personal Services and Employee Benefits (fund 0470,  
 15 appropriation 00100), Unclassified (fund 0470, appropriation  
 16 09900), and Current Expenses (fund 0470, appropriation 13000) at  
 17 the close of the fiscal year 2018 are hereby reappropriated for  
 18 expenditure during the fiscal year 2019.

*76 - State Budget Office*

(WV Code Chapter 11B)

Fund 0595 FY 2019 Org 0703

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 672,446
3	Unclassified (R) .....	09900	<u>1,199</u>
4	Total.....		\$ 673,645

5           Any unexpended balance remaining in the appropriation  
6 for Unclassified (fund 0595, appropriation 09900) at the close of  
7 the fiscal year 2018 is hereby reappropriated for expenditure  
8 during the fiscal year 2019.

*77 - West Virginia Office of Tax Appeals*

(WV Code Chapter 11)

Fund 0593 FY 2019 Org 0709

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 438,046
3	Current Expenses (R).....	13000	93,022
4	Unclassified.....	09900	5,255
5	BRIM Premium.....	91300	<u>3,062</u>
6	Total.....		\$ 539,385

7           Any unexpended balance remaining in the appropriation  
8 for Current Expenses (fund 0593, appropriation 13000) at the close  
9 of the fiscal year 2018 is hereby reappropriated for expenditure  
10 during the fiscal year 2019.

*78 - Division of Professional and Occupational Licenses –*

*State Athletic Commission*

(WV Code Chapter 29)

Fund 0523 FY 2019 Org 0933

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 7,200
3	Current Expenses .....	13000	<u>29,611</u>
4	Total.....		\$ 36,811

## DEPARTMENT OF TRANSPORTATION

### *79 - State Rail Authority*

(WV Code Chapter 29)

Fund 0506 FY 2019 Org 0804

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 319,933
3	Current Expenses .....	13000	287,707
4	Other Assets (R).....	69000	1,303,277
5	BRIM Premium.....	91300	<u>201,541</u>
6	Total.....		\$ 2,112,458

7           Any unexpended balance remaining in the appropriation  
8 Other Assets (fund 0506, appropriation 69000) at the close of the  
9 fiscal year 2018 is hereby reappropriated for expenditure during the  
10 fiscal year 2019.

### *80 - Division of Public Transit*

(WV Code Chapter 17)

Fund 0510 FY 2019 Org 0805

1	Equipment (R).....	07000	\$ 384,710
2	Current Expenses (R) .....	13000	<u>1,878,279</u>
3	Total.....		\$ 2,262,989

4           Any unexpended balances remaining in the appropriations  
5 for Equipment (fund 0510, appropriation 07000), Current  
6 Expenses (fund 0510, appropriation 13000), Buildings (fund 0510,  
7 appropriation 25800), and Other Assets (fund 0510, appropriation  
8 69000) at the close of the fiscal year 2018 are hereby  
9 reappropriated for expenditure during the fiscal year 2019.

*81 - Public Port Authority*

(WV Code Chapter 17)

Fund 0581 FY 2019 Org 0806

1	Personal Services and		
2	Employee Benefits.....00100	\$	200,000
3	Current Expenses .....13000		<u>300,000</u>
4	Total.....	\$	500,000

*82 - Aeronautics Commission*

(WV Code Chapter 29)

Fund 0582 FY 2019 Org 0807

1	Personal Services and		
2	Employee Benefits.....00100	\$	170,304
3	Current Expenses (R).....13000		591,839
4	Repairs and Alterations.....06400		100
5	BRIM Premium.....91300		<u>4,438</u>
6	Total.....	\$	766,681

7 Any unexpended balances remaining in the appropriations  
8 for Unclassified (fund 0582, appropriation 09900) and Current  
9 Expenses (fund 0582, appropriation 13000) at the close of the fiscal  
10 year 2018 are hereby reappropriated for expenditure during the  
11 fiscal year 2019.

**DEPARTMENT OF VETERANS' ASSISTANCE***83 - Department of Veterans' Assistance*

(WV Code Chapter 9A)

Fund 0456 FY 2019 Org 0613

1	Personal Services and		
2	Employee Benefits.....00100	\$	1,887,475
3	Unclassified.....09900		20,000
4	Current Expenses .....13000		140,161

5	Repairs and Alterations.....	06400	5,000
6	Veterans' Field Offices .....	22800	248,345
7	Veterans' Nursing Home (R) .....	28600	5,770,950
8	Veterans' Toll Free Assistance Line.....	32800	2,015
9	Veterans' Reeducation Assistance (R).....	32900	29,502
10	Veterans' Grant Program (R).....	34200	30,741
11	Veterans' Grave Markers .....	47300	10,254
12	Veterans' Transportation .....	48500	625,000
13	Veterans Outreach Programs .....	61700	162,107
14	Memorial Day Patriotic Exercise.....	69700	20,000
15	Veterans Cemetery.....	80800	382,085
16	BRIM Premium.....	91300	<u>25,530</u>
17	Total.....		\$ 9,359,165

18 Any unexpended balances remaining in the appropriations  
 19 for Veterans' Nursing Home (fund 0456, appropriation 28600),  
 20 Veterans' Reeducation Assistance (fund 0456, appropriation  
 21 32900), Veterans' Grant Program (fund 0456, appropriation  
 22 34200), Veterans' Bonus – Surplus (fund 0456, appropriation  
 23 34400), and Educational Opportunities for Children of Deceased  
 24 Veterans (fund 0456, appropriation 85400) at the close of the fiscal  
 25 year 2018 are hereby reappropriated for expenditure during the  
 26 fiscal year 2019.

*84 - Department of Veterans' Assistance –*

*Veterans' Home*

(WV Code Chapter 9A)

Fund 0460 FY 2019 Org 0618

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,148,764
3	Current Expenses .....	13000	<u>46,759</u>
4	Total.....		\$ 1,195,523

**BUREAU OF SENIOR SERVICES**

*85 - Bureau of Senior Services*

(WV Code Chapter 29)

Fund 0420 FY 2019 Org 0508

1 Transfer to Division of Human  
 2 Services for Health Care and Title XIX  
 3 Waiver for Senior Citizens .....53900 \$ 29,950,955

4 The above appropriation for Transfer to Division of Human  
 5 Services for Health Care and Title XIX Waiver for Senior Citizens  
 6 (fund 0420, appropriation 53900) along with the federal moneys  
 7 generated thereby shall be used for reimbursement for services  
 8 provided under the program.

9 The above appropriation is in addition to funding provided  
 10 in fund 5405 for this program.

**WEST VIRGINIA COUNCIL FOR COMMUNITY  
 AND TECHNICAL COLLEGE EDUCATION**

*86 - West Virginia Council for*

*Community and Technical College Education –*

*Control Account*

(WV Code Chapter 18B)

Fund 0596 FY 2019 Org 0420

1	West Virginia Council for Community		
2	and Technical Education (R) .....	39200	\$ 730,800
3	Transit Training Partnership .....	78300	34,293
4	Community College Workforce		
5	Development (R) .....	87800	2,784,901
6	College Transition Program .....	88700	278,222
7	West Virginia Advance Workforce		
8	Development (R) .....	89300	3,118,172
9	Technical Program Development (R) .....	89400	<u>1,800,735</u>
10	Total.....		\$ 8,747,123



11 Any unexpended balances remaining in the appropriations  
 12 for West Virginia Council for Community and Technical  
 13 Education (fund 0596, appropriation 39200), Capital  
 14 Improvements – Surplus (fund 0596, appropriation 66100),  
 15 Community College Workforce Development (fund 0596,  
 16 appropriation 87800), West Virginia Advance Workforce  
 17 Development (fund 0596, appropriation 89300), and Technical  
 18 Program Development (fund 0596, appropriation 89400) at the  
 19 close of the fiscal year 2018 are hereby reappropriated for  
 20 expenditure during the fiscal year 2019.

21 From the above appropriation for the Community College  
 22 Workforce Development (fund 0596, appropriation 87800),  
 23 \$200,000 shall be expended on the Mine Training Program in  
 24 Southern West Virginia.

25 Included in the above appropriation for West Virginia  
 26 Advance Workforce Development (fund 0596, appropriation  
 27 89300) is \$200,000 to be used exclusively for advanced  
 28 manufacturing and energy industry specific training programs.

*87 - Mountwest Community and Technical College*

(WV Code Chapter 18B)

Fund 0599 FY 2019 Org 0444

1	Mountwest Community and		
2	Technical College .....	48700	\$ 5,505,121

*88 - New River Community and Technical College*

(WV Code Chapter 18B)

Fund 0600 FY 2019 Org 0445

1	New River Community and		
2	Technical College .....	35800	\$ 5,452,807

*89 - Pierpont Community and Technical College*

(WV Code Chapter 18B)

Fund 0597 FY 2019 Org 0446

1	Pierpont Community and		
2	Technical College .....	93000	\$ 7,244,243

*90 - Blue Ridge Community and Technical College*

(WV Code Chapter 18B)

Fund 0601 FY 2019 Org 0447

1	Blue Ridge Community and		
2	Technical College .....	88500	\$ 5,099,246

*91 - West Virginia University at Parkersburg*

(WV Code Chapter 18B)

Fund 0351 FY 2019 Org 0464

1	West Virginia University –		
2	Parkersburg .....	47100	\$ 9,495,037

*92 - Southern West Virginia Community and Technical College*

(WV Code Chapter 18B)

Fund 0380 FY 2019 Org 0487

1	Southern West Virginia Community and		
2	Technical College .....	44600	\$ 7,944,214

*93 - West Virginia Northern Community and Technical College*

(WV Code Chapter 18B)

Fund 0383 FY 2019 Org 0489

1	West Virginia Northern Community and		
2	Technical College .....	44700	\$ 6,833,499

*94 - Eastern West Virginia Community and Technical College*

(WV Code Chapter 18B)

Fund 0587 FY 2019 Org 0492

1	Eastern West Virginia Community and		
2	Technical College .....	41200	\$ 1,812,537

*95 - BridgeValley Community and Technical College*

(WV Code Chapter 18B)

Fund 0618 FY 2019 Org 0493

1	BridgeValley Community and		
2	Technical College .....	71700	\$ 7,420,648

**HIGHER EDUCATION POLICY COMMISSION***96 - Higher Education Policy Commission –**Administration –**Control Account*

(WV Code Chapter 18B)

Fund 0589 FY 2019 Org 0441

1	Personal Services and		
2	Employee Benefits .....	00100	\$ 2,646,406
3	Current Expenses .....	13000	1,114,959
4	Higher Education Grant Program .....	16400	40,619,864
5	Tuition Contract Program (R) .....	16500	1,224,839
6	Underwood-Smith Scholarship		
7	Program-Student Awards.....	16700	328,349
8	Facilities Planning and Administration.....	38600	1,760,254
9	Higher Education System Initiatives.....	48801	1,630,000
10	PROMISE Scholarship – Transfer .....	80000	18,500,000
11	HEAPS Grant Program (R).....	86700	5,011,298
12	BRIM Premium.....	91300	17,817
13	Total.....		\$ 72,853,786

14 Any unexpended balances remaining in the appropriations  
 15 for Unclassified – Surplus (fund 0589, appropriation 09700),

16 Tuition Contract Program (fund 0589, appropriation 16500),  
 17 Capital Improvements – Surplus (fund 0589, appropriation 66100),  
 18 Capital Outlay and Maintenance (fund 0589, appropriation 75500),  
 19 and HEAPS Grant Program (fund 0589, appropriation 86700) at  
 20 the close of the fiscal year 2018 are hereby reappropriated for  
 21 expenditure during the fiscal year 2019.

22 The above appropriation for Facilities Planning and  
 23 Administration (fund 0589, appropriation 38600) is for operational  
 24 expenses of the West Virginia Education, Research and  
 25 Technology Park between construction and full occupancy.

26 The above appropriation for Higher Education Grant  
 27 Program (fund 0589, appropriation 16400) shall be transferred to  
 28 the Higher Education Grant Fund (fund 4933, org 0441)  
 29 established by W.Va. Code §18C-5-3.

30 The above appropriation for Underwood-Smith  
 31 Scholarship Program-Student Awards (fund 0589, appropriation  
 32 16700) shall be transferred to the Underwood-Smith Teacher  
 33 Scholarship and Loan Assistance Fund (fund 4922, org 0441)  
 34 established by W.Va. Code §18C-4-1.

35 The above appropriation for PROMISE Scholarship –  
 36 Transfer (fund 0589, appropriation 80000) shall be transferred to  
 37 the PROMISE Scholarship Fund (fund 4296, org 0441) established  
 38 by W.Va. Code §18C-7-7.

*97 - Higher Education Policy Commission –*

*Administration -*

*West Virginia Network for Educational Telecomputing (WVNET)*

(WV Code Chapter 18B9)

Fund 0551 FY 2019 Org 0495

1	WVNET .....	16900	\$	1,681,744
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*98 - West Virginia University –*

*School of Medicine**Medical School Fund*

(WV Code Chapter 18B)

Fund 0343 FY 2019 Org 0463

1	WVU School of Health Science –		
2	Eastern Division.....	05600	\$ 2,158,359
3	WVU – School of Health Sciences.....	17400	16,778,145
4	WVU – School of Health Sciences –		
5	Charleston Division .....	17500	2,218,598
6	Rural Health Outreach Programs .....	37700	162,520
7	West Virginia University		
8	School of Medicine BRIM Subsidy .....	46000	<u>1,203,087</u>
9	Total.....		\$ 22,520,709

10           The above appropriation for Rural Health Outreach  
11 Programs (fund 0343, appropriation 37700) includes rural health  
12 activities and programs; rural residency development and  
13 education; and rural outreach activities.

14           The above appropriation for West Virginia University  
15 School of Medicine BRIM Subsidy (fund 0343, appropriation  
16 46000) shall be paid to the Board of Risk and Insurance  
17 Management as a general revenue subsidy against the “Total  
18 Premium Billed” to the institution as part of the full cost of their  
19 malpractice insurance coverage.

*99 - West Virginia University –**General Administrative Fund*

(WV Code Chapter 18B)

Fund 0344 FY 2019 Org 0463

1	West Virginia University .....	45900	\$ 93,559,659
2	Jackson’s Mill .....	46100	480,879
3	West Virginia University		
4	Institute of Technology.....	47900	7,717,964

5	State Priorities – Brownfield		
6	Professional Development .....	53100	316,556
7	West Virginia University –		
8	Potomac State .....	99400	<u>3,834,937</u>
9	Total .....		\$ 105,909,995

10           From the above appropriation for Jackson’s Mill (fund  
11 0344, appropriation 46100) \$250,000 shall be used for the West  
12 Virginia State Fire Training Academy.

*100 - Marshall University –*

*School of Medicine*

(WV Code Chapter 18B)

Fund 0347 FY 2019 Org 0471

1	Marshall Medical School .....	17300	\$ 11,774,743
2	Rural Health Outreach Programs (R).....	37700	156,022
3	Forensic Lab.....	37701	226,009
4	Center for Rural Health.....	37702	153,075
5	Marshall University Medical		
6	School BRIM Subsidy .....	44900	<u>872,612</u>
7	Total .....		\$ 13,182,461

8           Any unexpended balance remaining in the appropriation  
9 for Rural Health Outreach Program (fund 0347, appropriation  
10 37700) at the close of the fiscal year 2018 is hereby reappropriated  
11 for expenditure during the fiscal year 2019.

12           The above appropriation for Rural Health Outreach  
13 Programs (fund 0347, appropriation 37700) includes rural health  
14 activities and programs; rural residency development and  
15 education; and rural outreach activities.

16           The above appropriation for Marshall University Medical  
17 School BRIM Subsidy (fund 0347, appropriation 44900) shall be  
18 paid to the Board of Risk and Insurance Management as a general  
19 revenue subsidy against the “Total Premium Billed” to the

20 institution as part of the full cost of their malpractice insurance  
21 coverage.

*101 - Marshall University –*

*General Administration Fund*

(WV Code Chapter 18B)

Fund 0348 FY 2019 Org 0471

1	Marshall University .....	44800	\$	44,273,845
2	Luke Lee Listening Language and			
3	Learning Lab.....	44801		96,203
4	Vista E-Learning (R).....	51900		229,019
5	State Priorities – Brownfield			
6	Professional Development (R).....	53100		309,606
7	Marshall University Graduate College			
8	Writing Project (R) .....	80700		25,412
9	WV Autism Training Center (R) .....	93200		<u>1,742,215</u>
10	Total.....		\$	46,676,300

11 Any unexpended balances remaining in the appropriations  
12 for Vista E-Learning (fund 0348, appropriation 51900), State  
13 Priorities – Brownfield Professional Development (fund 0348,  
14 appropriation 53100), Marshall University Graduate College  
15 Writing Project (fund 0348, appropriation 80700), and WV Autism  
16 Training Center (fund 0348, appropriation 93200) at the close of  
17 the fiscal year 2018 are hereby reappropriated for expenditure  
18 during the fiscal year 2019.

*102 - West Virginia School of Osteopathic Medicine*

(WV Code Chapter 18B)

Fund 0336 FY 2019 Org 0476

1	West Virginia School of			
2	Osteopathic Medicine .....	17200	\$	6,683,018
3	Rural Health Outreach Programs (R).....	37700		163,299
4	West Virginia School of Osteopathic Medicine			

5	BRIM Subsidy .....	40300	153,405
6	Rural Health Initiative –		
7	Medical Schools Support .....	58100	<u>391,968</u>
8	Total .....		\$ 7,391,690

9 Any unexpended balance remaining in the appropriation  
 10 for Rural Health Outreach Programs (fund 0336, appropriation  
 11 37700) at the close of fiscal year 2018 is hereby reappropriated for  
 12 expenditure during the fiscal year 2019.

13 The above appropriation for Rural Health Outreach  
 14 Programs (fund 0336, appropriation 37700) includes rural health  
 15 activities and programs; rural residency development and  
 16 education; and rural outreach activities.

17 The above appropriation for West Virginia School of  
 18 Osteopathic Medicine BRIM Subsidy (fund 0336, appropriation  
 19 40300) shall be paid to the Board of Risk and Insurance  
 20 Management as a general revenue subsidy against the “Total  
 21 Premium Billed” to the institution as part of the full cost of their  
 22 malpractice insurance coverage.

*103 - Bluefield State College*

(WV Code Chapter 18B)

Fund 0354 FY 2019 Org 0482

1	Bluefield State College .....	40800	\$ 5,600,993
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*104 - Concord University*

(WV Code Chapter 18B)

Fund 0357 FY 2019 Org 0483

1	Concord University .....	41000	\$ 8,552,843
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*105 - Fairmont State University*

(WV Code Chapter 18B)



Fund 0360 FY 2019 Org 0484

1 Fairmont State University .....41400 \$ 15,111,777

*106 - Glenville State College*

(WV Code Chapter 18B)

Fund 0363 FY 2019 Org 0485

1 Glenville State College .....42800 \$ 5,885,700

*107 - Shepherd University*

(WV Code Chapter 18B)

Fund 0366 FY 2019 Org 0486

1 Shepherd University.....43200 \$ 9,671,542

*108 - West Liberty University*

(WV Code Chapter 18B)

Fund 0370 FY 2019 Org 0488

1 West Liberty University.....43900 \$ 7,823,727

*109 - West Virginia State University*

(WV Code Chapter 18B)

Fund 0373 FY 2019 Org 0490

1 West Virginia State University .....44100 \$ 9,861,240

2 West Virginia State University

3 Land Grant Match.....95600 1,586,340

4 Total..... \$ 11,447,580

5 Total TITLE II, Section 1 – General Revenue

6 (Including claims against the state) ..... \$4,381,808,884

1           **Sec. 2. Appropriations from state road fund.** — From  
 2 the state road fund there are hereby appropriated conditionally  
 3 upon the fulfillment of the provisions set forth in Article 2, Chapter  
 4 11B of the Code the following amounts, as itemized, for  
 5 expenditure during the fiscal year 2019.

**DEPARTMENT OF TRANSPORTATION**

*110 - Division of Motor Vehicles*

(WV Code Chapters 17, 17A, 17B, 17C, 17D, 20 and 24A)

Fund 9007 FY 2019 Org 0802

			<b>State Road Fund</b>
1	Personal Services and		
2	Employee Benefits.....00100	\$	23,378,949
3	Current Expenses .....13000		16,181,042
4	Repairs and Alterations.....06400		144,000
5	Equipment.....07000		1,080,000
6	Buildings.....25800		10,000
7	Other Assets.....69000		2,600,000
8	BRIM Premium.....91300		<u>84,738</u>
9	Total.....	\$	43,478,729

*111 - Division of Highways*

(WV Code Chapters 17 and 17C)

Fund 9017 FY 2019 Org 0803

1	Debt Service.....04000	\$	89,000,000
2	Maintenance.....23700		386,386,000
3	Nonfederal Improvements .....23701		156,500,000
4	Inventory Revolving .....27500		4,000,000
5	Equipment Revolving .....27600		22,500,000
6	General Operations .....27700		68,295,000
7	Interstate Construction .....27800		95,000,000
8	Other Federal Aid Programs .....27900		370,000,000

9	Appalachian Programs .....	28000	110,000,000
10	Highway Litter Control.....	28200	1,719,000
11	Courtesy Patrol.....	28201	<u>5,000,000</u>
12	Total.....		\$1,308,400,000

13           The above appropriations are to be expended in accordance  
 14 with the provisions of Chapters 17 and 17C of the code.

15           The Commissioner of Highways shall have the authority to  
 16 operate revolving funds within the State Road Fund for the  
 17 operation and purchase of various types of equipment used directly  
 18 and indirectly in the construction and maintenance of roads and for  
 19 the purchase of inventories and materials and supplies.

20           There is hereby appropriated in addition to the above  
 21 appropriations, sufficient money for the payment of claims,  
 22 accrued or arising during this budgetary period, to be paid in  
 23 accordance with Sections 17 and 18, Article 2, Chapter 14 of the  
 24 code.

25           It is the intent of the Legislature to capture and match all  
 26 federal funds available for expenditure on the Appalachian  
 27 highway system at the earliest possible time. Therefore, should  
 28 amounts in excess of those appropriated be required for the  
 29 purposes of Appalachian programs, funds in excess of the amount  
 30 appropriated may be made available upon recommendation of the  
 31 commissioner and approval of the Governor. Further, for the  
 32 purpose of Appalachian programs, funds appropriated by  
 33 appropriation may be transferred to other appropriations upon  
 34 recommendation of the commissioner and approval of the  
 35 Governor.

*112 - Office of Administrative Hearings*

(WV Code Chapter 17C)

Fund 9027 FY 2019 Org 0808

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,585,201
3	Current Expenses .....	13000	338,278

4	Repairs and Alterations.....	06400		3,000
5	Equipment.....	07000		15,500
6	BRIM Premium.....	91300		<u>10,000</u>
7	Total.....		\$	1,951,979

8 Total TITLE II, Section 2 – State Road Fund

9 (Including claims against the state) ..... \$1,354,239,538

1 **Sec. 3. Appropriations from other funds.** — From the  
 2 funds designated there are hereby appropriated conditionally upon  
 3 the fulfillment of the provisions set forth in Article 2, Chapter 11B  
 4 of the Code the following amounts, as itemized, for expenditure  
 5 during the fiscal year 2019.

**LEGISLATIVE**

*113 - Crime Victims Compensation Fund*

(WV Code Chapter 14)

Fund 1731 FY 2019 Org 2300

			<b>Appro- piation</b>		<b>Other Funds</b>
1	Personal Services and				
2	Employee Benefits.....	00100	\$	498,020	
3	Current Expenses .....	13000		133,903	
4	Repairs and Alterations.....	06400		1,000	
5	Economic Loss Claim Payment Fund.....	33400		2,360,125	
6	Other Assets.....	69000		<u>3,700</u>	
7	Total.....		\$	2,996,748	

**JUDICIAL**

*114 - Supreme Court –*

*Family Court Fund*

(WV Code Chapter 51)

Fund 1763 FY 2019 Org 2400

1	Current Expenses .....	13000	\$	1,600,000
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*115 - Supreme Court –**Court Advanced Technology Subscription Fund*

(WV Code Chapter 51)

Fund 1704 FY 2019 Org 2400

1	Current Expenses .....	13000	\$	500,000
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*116 - Supreme Court –**Adult Drug Court Participation Fund*

(WV Code Chapter 62)

Fund 1705 FY 2019 Org 2400

1	Current Expenses .....	13000	\$	300,000
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**EXECUTIVE***117 - Governor's Office –**Minority Affairs Fund*

(WV Code Chapter 5)

Fund 1058 FY 2019 Org 0100

1	Personal Services and			
2	Employee Benefits.....	00100	\$	172,800
3	Current Expenses .....	13000		503,200
4	Martin Luther King, Jr.			
5	Holiday Celebration.....	03100		<u>8,926</u>
6	Total.....		\$	684,926

*118 - Auditor's Office –**Land Operating Fund*

(WV Code Chapters 11A, 12 and 36)

Fund 1206 FY 2019 Org 1200

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 749,297
3	Unclassified.....	09900	15,139
4	Current Expenses .....	13000	715,291
5	Repairs and Alterations.....	06400	2,600
6	Equipment .....	07000	426,741
7	Cost of Delinquent Land Sales.....	76800	<u>1,341,168</u>
8	Total.....		\$ 3,250,236

9           There is hereby appropriated from this fund, in addition to  
 10 the above appropriations if needed, the necessary amount for the  
 11 expenditure of funds other than Personal Services and Employee  
 12 Benefits to enable the division to pay the direct expenses relating  
 13 to land sales as provided in Chapter 11A of the West Virginia  
 14 Code.

15           The total amount of these appropriations shall be paid from  
 16 the special revenue fund out of fees and collections as provided by  
 17 law.

*119 - Auditor's Office –*

*Local Government Purchasing Card Expenditure Fund*

(WV Code Chapter 6)

Fund 1224 FY 2019 Org 1200

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 588,283
3	Current Expenses .....	13000	282,030
4	Repairs and Alterations.....	06400	6,000
5	Equipment .....	07000	10,805
6	Other Assets .....	69000	50,000
7	Statutory Revenue Distribution.....	74100	<u>2,350,000</u>
8	Total.....		\$ 3,287,118

9           There is hereby appropriated from this fund, in addition to  
 10 the above appropriations if needed, the amount necessary to meet  
 11 the transfer of revenue distribution requirements to provide a  
 12 proportionate share of rebates back to the general fund of local  
 13 governments based on utilization of the program in accordance  
 14 with W.Va. Code §6-9-2b.

*120 - Auditor's Office –*

*Securities Regulation Fund*

(WV Code Chapter 32)

Fund 1225 FY 2019 Org 1200

1	Personal Services and		
2	Employee Benefits.....00100	\$	2,375,836
3	Unclassified.....09900		31,866
4	Current Expenses .....13000		1,463,830
5	Repairs and Alterations.....06400		12,400
6	Equipment.....07000		394,700
7	Other Assets.....69000		<u>900,000</u>
8	Total.....	\$	5,178,632

*121 - Auditor's Office – Technology Support and Acquisition Fund*

(WV Code Chapter 12)

Fund 1233 FY 2019 Org 1200

1	Current Expenses .....13000	\$	10,000
2	Other Assets.....69000		<u>5,000</u>
3	Total.....	\$	15,000

4           Fifty percent of the deposits made into this fund shall be  
 5 transferred to the Treasurer's Office – Technology Support and  
 6 Acquisition Fund (fund 1329, org 1300) for expenditure for the  
 7 purposes described in W.Va. Code §12-3-10c.

*122 - Auditor's Office –*

*Purchasing Card Administration Fund*

(WV Code Chapter 12)

Fund 1234 FY 2019 Org 1200

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,667,397
3	Current Expenses .....	13000	2,303,622
4	Repairs and Alterations.....	06400	5,500
5	Equipment.....	07000	650,000
6	Other Assets.....	69000	308,886
7	Statutory Revenue Distribution.....	74100	<u>8,000,000</u>
8	Total.....		\$ 13,935,405

9           There is hereby appropriated from this fund, in addition to  
10 the above appropriations if needed, the amount necessary to meet  
11 the transfer and revenue distribution requirements to the  
12 Purchasing Improvement Fund (fund 2264), the Hatfield-McCoy  
13 Regional Recreation Authority, and the State Park Operating Fund  
14 (fund 3265) per W.Va. Code §12-3-10d.

*123 - Auditor's Office –*

*Chief Inspector's Fund*

(WV Code Chapter 6)

Fund 1235 FY 2019 Org 1200

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 3,405,512
3	Current Expenses .....	13000	765,915
4	Equipment.....	07000	<u>50,000</u>
5	Total.....		\$ 4,221,427

*124 - Auditor's Office –*

*Volunteer Fire Department Workers'*

*Compensation Premium Subsidy Fund*

(WV Code Chapters 12 and 33)



Fund 1239 FY 2019 Org 1200

1	Volunteer Fire Department		
2	Workers' Compensation Subsidy .....	83200	\$ 2,500,000

*125 - Treasurer's Office**College Prepaid Tuition and Savings Program**Administrative Account*

(WV Code Chapter 18)

Fund 1301 FY 2019 Org 1300

1	Personal Services and		
2	Employee Benefits .....	00100	\$ 774,769
3	Unclassified.....	09900	14,000
4	Current Expenses .....	13000	<u>619,862</u>
5	Total.....		\$ 1,408,631

*126 - Department of Agriculture –**Agriculture Fees Fund*

(WV Code Chapter 19)

Fund 1401 FY 2019 Org 1400

1	Personal Services and		
2	Employee Benefits .....	00100	\$ 2,244,245
3	Unclassified.....	09900	37,425
4	Current Expenses .....	13000	1,856,184
5	Repairs and Alterations .....	06400	158,500
6	Equipment .....	07000	436,209
7	Other Assets .....	69000	<u>10,000</u>
8	Total.....		\$ 4,742,563

*127 - Department of Agriculture –**West Virginia Rural Rehabilitation Program*

(WV Code Chapter 19)

Fund 1408 FY 2019 Org 1400

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 73,807
3	Unclassified.....	09900	10,476
4	Current Expenses .....	13000	<u>963,404</u>
5	Total.....		\$ 1,047,687

*128 - Department of Agriculture –**General John McCausland Memorial Farm Fund*

(WV Code Chapter 19)

Fund 1409 FY 2019 Org 1400

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 67,000
3	Unclassified.....	09900	2,100
4	Current Expenses .....	13000	89,500
5	Repairs and Alterations.....	06400	36,400
6	Equipment.....	07000	<u>15,000</u>
7	Total.....		\$ 210,000

8           The above appropriations shall be expended in accordance  
9 with Article 26, Chapter 19 of the Code.

*129 - Department of Agriculture –**Farm Operating Fund*

(WV Code Chapter 19)

Fund 1412 FY 2019 Org 1400

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 809,248
3	Unclassified.....	09900	15,173
4	Current Expenses .....	13000	1,367,464
5	Repairs and Alterations.....	06400	388,722
6	Equipment.....	07000	399,393
7	Other Assets.....	69000	<u>20,000</u>

8 Total..... \$ 3,000,000

*130 - Department of Agriculture –*

*Donated Food Fund*

(WV Code Chapter 19)

Fund 1446 FY 2019 Org 1400

1	Personal Services and		
2	Employee Benefits.....00100	\$	958,864
3	Unclassified.....09900		45,807
4	Current Expenses .....13000		3,410,542
5	Repairs and Alterations.....06400		128,500
6	Equipment.....07000		10,000
7	Other Assets.....69000		<u>27,000</u>
8	Total.....	\$	4,580,713

*131 - Department of Agriculture –*

*Integrated Predation Management Fund*

(WV Code Chapter 7)

Fund 1465 FY 2019 Org 1400

1	Current Expenses .....13000	\$	100,000
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*132 - Department of Agriculture –*

*West Virginia Spay Neuter Assistance Fund*

(WV Code Chapter 19)

Fund 1481 FY 2019 Org 1400

1	Current Expenses .....13000	\$	500,000
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*133 - Department of Agriculture –*

*Veterans and Warriors to Agriculture Fund*

## (WV Code Chapter 19)

Fund 1483 FY 2019 Org 1400

1	Current Expenses .....	13000	\$	7,500
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*134 - Department of Agriculture –**State FFA-FHA Camp and Conference Center*

## (WV Code Chapters 18 and 18A)

Fund 1484 FY 2019 Org 1400

1	Personal Services and			
2	Employee Benefits.....	00100	\$	1,169,194
3	Unclassified.....	09900		17,000
4	Current Expenses .....	13000		1,143,306
5	Repairs and Alterations.....	06400		82,500
6	Equipment.....	07000		76,000
7	Buildings.....	25800		1,000
8	Other Assets.....	69000		10,000
9	Land .....	73000		<u>1,000</u>
10	Total.....		\$	2,500,000

*135 - Attorney General –**Antitrust Enforcement Fund*

## (WV Code Chapter 47)

Fund 1507 FY 2019 Org 1500

1	Personal Services and			
2	Employee Benefits.....	00100	\$	356,900
3	Current Expenses .....	13000		148,803
4	Repairs and Alterations.....	06400		1,000
5	Equipment.....	07000		<u>1,000</u>
6	Total.....		\$	507,703

*136 - Attorney General –*

*Preneed Burial Contract Regulation Fund*

(WV Code Chapter 47)

Fund 1513 FY 2019 Org 1500

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 210,226
3	Current Expenses .....	13000	54,615
4	Repairs and Alterations.....	06400	1,000
5	Equipment.....	07000	<u>1,000</u>
6	Total.....		\$ 266,841

*137 - Attorney General –**Preneed Funeral Guarantee Fund*

(WV Code Chapter 47)

Fund 1514 FY 2019 Org 1500

1	Current Expenses .....	13000	\$ 901,135
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*138 - Secretary of State –**Service Fees and Collection Account*

(WV Code Chapters 3, 5, and 59)

Fund 1612 FY 2019 Org 1600

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 991,051
3	Unclassified.....	09900	4,524
4	Current Expenses .....	13000	<u>8,036</u>
5	Total.....		\$ 1,003,611

*139 - Secretary of State –**General Administrative Fees Account*

(WV Code Chapters 3, 5, and 59)

Fund 1617 FY 2019 Org 1600

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,769,898
3	Unclassified.....	09900	25,529
4	Current Expenses .....	13000	796,716
5	Technology Improvements .....	59900	<u>750,000</u>
6	Total.....		\$ 4,342,143

**DEPARTMENT OF ADMINISTRATION**

*140 - Department of Administration –*

*Office of the Secretary –*

*Tobacco Settlement Fund*

*(WV Code Chapter 4)*

Fund 2041 FY 2019 Org 0201

1	Tobacco Settlement Securitization		
2	Trustee Pass Thru .....	65000	\$ 80,000,000

*141 - Department of Administration –*

*Office of the Secretary –*

*Employee Pension and Health Care Benefit Fund*

*(WV Code Chapter 18)*

Fund 2044 FY 2019 Org 0201

1	Current Expenses .....	13000	\$ 35,000,000
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2           The above appropriation for Current Expenses (fund  
3   2044, appropriation 13000) shall be transferred to the  
4   Consolidated Public Retirement Board – Teachers’ Accumulation  
5   Fund (fund 2600).

*142 - Department of Administration –*

*Division of Finance –*

*Shared Services Section Fund*

(WV Code Chapter 5A)

Fund \_\_\_\_ FY 2019 Org 0209

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,500,000
3	Current Expenses .....	13000	<u>500,000</u>
4	Total.....		\$ 2,000,000

*143 - Division of Information Services and Communications*

(WV Code Chapter 5A)

Fund 2220 FY 2019 Org 0210

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 21,378,322
3	Unclassified.....	09900	382,354
4	Current Expenses .....	13000	13,378,766
5	Repairs and Alterations.....	06400	1,000
6	Equipment.....	07000	2,050,000
7	Other Assets .....	69000	<u>1,045,000</u>
8	Total.....		\$ 38,235,442

9           The total amount of these appropriations shall be paid from  
 10 a special revenue fund out of collections made by the Division of  
 11 Information Services and Communications as provided by law.

12           Each spending unit operating from the General Revenue  
 13 Fund, from special revenue funds or receiving reimbursement for  
 14 postage from the federal government shall be charged monthly for  
 15 all postage meter service and shall reimburse the revolving fund  
 16 monthly for all such amounts.

*144 - Division of Purchasing –*

*Vendor Fee Fund*

(WV Code Chapter 5A)

Fund 2263 FY 2019 Org 0213

1	Personal Services and		
2	Employee Benefits.....00100	\$	655,208
3	Unclassified.....09900		2,382
4	Current Expenses .....13000		238,115
5	Repairs and Alterations.....06400		5,000
6	Equipment.....07000		2,500
7	Other Assets.....69000		2,500
8	BRIM Premium.....91300		810
9	Total.....	\$	906,515

*145 - Division of Purchasing –*

*Purchasing Improvement Fund*

(WV Code Chapter 5A)

Fund 2264 FY 2019 Org 0213

1	Personal Services and		
2	Employee Benefits.....00100	\$	739,272
3	Unclassified.....09900		5,562
4	Current Expenses .....13000		393,066
5	Repairs and Alterations.....06400		500
6	Equipment.....07000		500
7	Other Assets.....69000		500
8	BRIM Premium.....91300		850
9	Total.....	\$	1,140,250

*146 - Travel Management –*

*Fleet Management Office Fund*

(WV Code Chapter 5A)

Fund 2301 FY 2019 Org 0215

1	Personal Services and		
2	Employee Benefits.....00100	\$	722,586



3	Unclassified.....	09900	4,000
4	Current Expenses .....	13000	8,130,614
5	Repairs and Alterations.....	06400	12,000
6	Equipment .....	07000	800,000
7	Other Assets .....	69000	<u>2,000</u>
8	Total.....		\$ 9,671,200

*147 - Travel Management –**Aviation Fund*

(WV Code Chapter 5A)

Fund 2302 FY 2019 Org 0215

1	Unclassified.....	09900	\$ 1,000
2	Current Expenses .....	13000	149,700
3	Repairs and Alterations.....	06400	1,175,237
4	Equipment .....	07000	1,000
5	Buildings .....	25800	100
6	Other Assets .....	69000	100
7	Land .....	73000	<u>100</u>
8	Total.....		\$ 1,327,237

*148 - Division of Personnel*

(WV Code Chapter 29)

Fund 2440 FY 2019 Org 0222

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 4,442,590
3	Unclassified.....	09900	51,418
4	Current Expenses .....	13000	1,262,813
5	Repairs and Alterations.....	06400	5,000
6	Equipment .....	07000	20,000
7	Other Assets .....	69000	<u>60,000</u>
8	Total.....		\$ 5,841,821

9           The total amount of these appropriations shall be paid from  
10 a special revenue fund out of fees collected by the Division of  
11 Personnel.

*149 - West Virginia Prosecuting Attorneys Institute*

(WV Code Chapter 7)

Fund 2521 FY 2019 Org 0228

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 249,242
3	Unclassified.....	09900	4,023
4	Current Expenses .....	13000	297,528
5	Repairs and Alterations.....	06400	600
6	Equipment.....	07000	500
7	Other Assets.....	69000	500
8	Total.....		\$ 552,393

*150 - Office of Technology –*

*Chief Technology Officer Administration Fund*

(WV Code Chapter 5A)

Fund 2531 FY 2019 Org 0231

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 399,911
3	Unclassified.....	09900	6,949
4	Current Expenses .....	13000	227,116
5	Repairs and Alterations.....	06400	1,000
6	Equipment.....	07000	50,000
7	Other Assets.....	69000	10,000
8	Total.....		\$ 694,976

9           From the above fund, the provisions of W.Va. Code §11B-  
10 2-18 shall not operate to permit expenditures in excess of the funds  
11 authorized for expenditure herein.

**DEPARTMENT OF COMMERCE**

*151 - Division of Forestry*

(WV Code Chapter 19)

Fund 3081 FY 2019 Org 0305

1	Personal Services and		
2	Employee Benefits.....00100	\$	1,464,328
3	Current Expenses .....13000		282,202
4	Repairs and Alterations.....06400		53,000
5	Equipment.....07000		<u>300,000</u>
6	Total.....	\$	2,099,530

*152 - Division of Forestry –**Timbering Operations Enforcement Fund*

(WV Code Chapter 19)

Fund 3082 FY 2019 Org 0305

1	Personal Services and		
2	Employee Benefits.....00100	\$	224,433
3	Current Expenses .....13000		87,036
4	Repairs and Alterations.....06400		<u>11,250</u>
5	Total.....	\$	322,719

*153 - Division of Forestry –**Severance Tax Operations*

(WV Code Chapter 11)

Fund 3084 FY 2019 Org 0305

1	Personal Services and		
2	Employee Benefits.....00100	\$	859,626
3	Current Expenses .....13000		<u>435,339</u>
4	Total.....	\$	1,294,965

*154 - Geological and Economic Survey –**Geological and Analytical Services Fund*

(WV Code Chapter 29)

Fund 3100 FY 2019 Org 0306

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 37,966
3	Unclassified.....	09900	2,182
4	Current Expenses .....	13000	141,631
5	Repairs and Alterations.....	06400	50,000
6	Equipment .....	07000	20,000
7	Other Assets .....	69000	<u>10,000</u>
8	Total.....		\$ 261,779

9           The above appropriations shall be used in accordance  
10 with W.Va. Code §29-2-4.

*155 - West Virginia Development Office –*

*Department of Commerce –*

*Marketing and Communications Operating Fund*

(WV Code Chapter 5B)

Fund 3002 FY 2019 Org 0307

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,528,219
3	Unclassified.....	09900	30,000
4	Current Expenses .....	13000	<u>1,482,760</u>
5	Total.....		\$ 3,040,979

*156 - West Virginia Development Office –*

*Office of Coalfield Community Development*

(WV Code Chapter 5B)

Fund 3162 FY 2019 Org 0307

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 430,724

3	Unclassified.....	09900		8,300
4	Current Expenses .....	13000		<u>399,191</u>
5	Total.....		\$	838,215

*157 - Division of Labor –**HVAC Fund*

(WV Code Chapter 21)

Fund 3186 FY 2019 Org 0308

1	Personal Services and			
2	Employee Benefits.....	00100	\$	300,000
3	Unclassified.....	09900		4,000
4	Current Expenses .....	13000		85,000
5	Repairs and Alterations.....	06400		1,500
6	Buildings .....	25800		1,000
7	BRIM Premium.....	91300		<u>8,500</u>
8	Total.....		\$	400,000

*158 - Division of Labor –**Contractor Licensing Board Fund*

(WV Code Chapter 21)

Fund 3187 FY 2019 Org 0308

1	Personal Services and			
2	Employee Benefits.....	00100	\$	3,019,374
3	Unclassified.....	09900		21,589
4	Current Expenses .....	13000		597,995
5	Repairs and Alterations.....	06400		15,000
6	Buildings .....	25800		5,000
7	BRIM Premium.....	91300		<u>8,500</u>
8	Total.....		\$	3,667,458

*159 - Division of Labor –**Elevator Safety Fund*

(WV Code Chapter 21)

Fund 3188 FY 2019 Org 0308

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 376,772
3	Unclassified.....	09900	2,261
4	Current Expenses .....	13000	44,112
5	Repairs and Alterations.....	06400	2,000
6	Buildings .....	25800	1,000
7	BRIM Premium.....	91300	8,500
8	Total.....		<u>\$ 434,645</u>

*160 - Division of Labor –*

*Steam Boiler Fund*

(WV Code Chapter 21)

Fund 3189 FY 2019 Org 0308

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 80,000
3	Unclassified.....	09900	1,000
4	Current Expenses .....	13000	15,000
5	Repairs and Alterations.....	06400	2,000
6	Buildings .....	25800	1,000
7	BRIM Premium.....	91300	1,000
8	Total.....		<u>\$ 100,000</u>

*161 - Division of Labor –*

*Crane Operator Certification Fund*

(WV Code Chapter 21)

Fund 3191 FY 2019 Org 0308

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 184,380
3	Unclassified.....	09900	1,380
4	Current Expenses .....	13000	49,765

5	Repairs and Alterations.....	06400		1,500
6	Buildings.....	25800		1,000
7	BRIM Premium.....	91300		<u>8,500</u>
8	Total.....		\$	246,525

*162 - Division of Labor –*

*Amusement Rides and Amusement Attraction Safety Fund*

(WV Code Chapter 21)

Fund 3192 FY 2019 Org 0308

1	Personal Services and			
2	Employee Benefits.....	00100	\$	179,316
3	Unclassified.....	09900		1,281
4	Current Expenses.....	13000		44,520
5	Repairs and Alterations.....	06400		2,000
6	Buildings.....	25800		1,000
7	BRIM Premium.....	91300		<u>8,500</u>
8	Total.....		\$	236,617

*163 - Division of Labor –*

*State Manufactured Housing Administration Fund*

(WV Code Chapter 21)

Fund 3195 FY 2019 Org 0308

1	Personal Services and			
2	Employee Benefits.....	00100	\$	283,768
3	Unclassified.....	09900		1,847
4	Current Expenses.....	13000		43,700
5	Repairs and Alterations.....	06400		1,000
6	Buildings.....	25800		1,000
7	BRIM Premium.....	91300		<u>3,404</u>
8	Total.....		\$	334,719

*164 - Division of Labor -*

*Weights and Measures Fund*

## (WV Code Chapter 47)

Fund 3196 FY 2019 Org 0308

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,500,000
3	Current Expenses .....	13000	227,000
4	Repairs and Alterations.....	06400	28,000
5	Equipment.....	07000	15,000
6	BRIM Premium.....	91300	<u>8,500</u>
7	Total.....		\$ 1,778,500

*165 - Division of Labor –**Bedding and Upholstery Fund*

## (WV Code Chapter 21)

Fund 3198 FY 2019 Org 0308

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 150,000
3	Unclassified.....	09900	2,000
4	Current Expenses .....	13000	43,000
5	Repairs and Alterations.....	06400	2,000
6	Buildings.....	25800	1,000
7	BRIM Premium.....	91300	<u>2,000</u>
8	Total.....		\$ 200,000

*166 - Division of Labor –**Psychophysiological Examiners Fund*

## (WV Code Chapter 21)

Fund 3199 FY 2019 Org 0308

1	Current Expenses .....	13000	\$ 4,000
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*167 - Division of Natural Resources –**License Fund – Wildlife Resources*



## (WV Code Chapter 20)

Fund 3200 FY 2019 Org 0310

1	Wildlife Resources.....02300	\$	7,064,884
2	Administration .....15500		1,766,221
3	Capital Improvements and		
4	Land Purchase (R) .....24800		1,766,220
5	Law Enforcement.....80600		<u>7,064,884</u>
6	Total.....	\$	<u>17,662,209</u>

7           The total amount of these appropriations shall be paid from  
8 a special revenue fund out of fees collected by the Division of  
9 Natural Resources.

10           Any unexpended balance remaining in the appropriation  
11 for Capital Improvements and Land Purchase (fund 3200,  
12 appropriation 24800) at the close of the fiscal year 2018 is hereby  
13 reappropriated for expenditure during the fiscal year 2019.

*168 - Division of Natural Resources –**Natural Resources Game Fish and Aquatic Life Fund*

## (WV Code Chapter 22)

Fund 3202 FY 2019 Org 0310

1	Current Expenses .....13000	\$	125,000
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*169 - Division of Natural Resources –**Nongame Fund*

## (WV Code Chapter 20)

Fund 3203 FY 2019 Org 0310

1	Personal Services and		
2	Employee Benefits.....00100	\$	678,109
3	Current Expenses .....13000		201,930
4	Equipment.....07000		<u>106,615</u>

5 Total..... \$ 986,654

*170 - Division of Natural Resources –*

*Planning and Development Division*

(WV Code Chapter 20)

Fund 3205 FY 2019 Org 0310

1	Personal Services and		
2	Employee Benefits.....00100	\$	437,496
3	Current Expenses .....13000		157,864
4	Repairs and Alterations.....06400		15,016
5	Equipment.....07000		8,300
6	Buildings.....25800		8,300
7	Other Assets.....69000		2,000,000
8	Land.....73000		<u>31,700</u>
9	Total.....	\$	2,658,676

*171 - Division of Natural Resources –*

*Whitewater Study and Improvement Fund*

(WV Code Chapter 20)

Fund 3253 FY 2019 Org 0310

1	Personal Services and		
2	Employee Benefits.....00100	\$	62,704
3	Current Expenses .....13000		64,778
4	Equipment.....07000		1,297
5	Buildings.....25800		<u>6,969</u>
6	Total.....	\$	135,748

*172 - Division of Natural Resources –*

*Whitewater Advertising and Promotion Fund*

(WV Code Chapter 20)

Fund 3256 FY 2019 Org 0310

1	Unclassified.....	09900	\$	200
2	Current Expenses .....	13000		<u>19,800</u>
3	Total.....		\$	20,000

*173 - Division of Miners' Health, Safety and Training –*

*Special Health, Safety and Training Fund*

(WV Code Chapter 22A)

Fund 3355 FY 2019 Org 0314

1	Personal Services and			
2	Employee Benefits.....	00100	\$	471,606
3	WV Mining Extension Service .....	02600		150,000
4	Unclassified.....	09900		40,985
5	Current Expenses .....	13000		1,954,557
6	Buildings .....	25800		481,358
7	Land .....	73000		<u>1,000,000</u>
8	Total.....		\$	4,098,506

*174 - Department of Commerce –*

*Office of the Secretary –*

*Broadband Enhancement Fund*

Fund 3013 FY 2019 Org 0327

1	Current Expenses .....	13000	\$	1,431,043
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*175 - Office of Energy –*

*Energy Assistance*

(WV Code Chapter 5B)

Fund 3010 FY 2019 Org 0328

1	Energy Assistance – Total .....	64700	\$	7,211
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**DEPARTMENT OF EDUCATION**

*176 - State Board of Education –*

*Strategic Staff Development*

(WV Code Chapter 18)

Fund 3937 FY 2019 Org 0402

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 134,000
3	Unclassified.....	09900	1,000
4	Current Expenses .....	13000	<u>765,000</u>
5	Total.....		\$ 900,000

*177 - State Board of Education –*

*School Construction Fund*

(WV Code Chapters 18 and 18A)

Fund 3951 FY 2019 Org 0402

1	SBA Construction Grants .....	24000	\$ 35,845,818
2	Directed Transfer .....	70000	<u>1,371,182</u>
3	Total.....		\$ 37,217,000

4           The above appropriation for Directed Transfer (fund  
5 3951, appropriation 70000) shall be transferred to the School  
6 Building Authority Fund (3959) for the administrative expenses  
7 of the School Building Authority.

*178 - School Building Authority*

(WV Code Chapter 18)

Fund 3959 FY 2019 Org 0402

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,085,152
3	Current Expenses .....	13000	244,100
4	Repairs and Alterations.....	06400	13,150

5	Equipment .....	07000		<u>26,000</u>
6	Total.....		\$	1,368,402

**DEPARTMENT OF EDUCATION AND THE ARTS**

*179 - Office of the Secretary –*

*Lottery Education Fund Interest Earnings –*

*Control Account*

(WV Code Chapter 29)

Fund 3508 FY 2019 Org 0431

1 Any unexpended balance remaining in the appropriation  
2 for Educational Enhancements (fund 3508, appropriation 69500) at  
3 the close of the fiscal year 2018 is hereby reappropriated for  
4 expenditure during the fiscal year 2019.

*180 - Division of Culture and History –*

*Public Records and Preservation Revenue Account*

(WV Code Chapter 5A)

Fund 3542 FY 2019 Org 0432

1	Personal Services and			
2	Employee Benefits .....	00100	\$	211,418
3	Current Expenses .....	13000		862,241
4	Equipment .....	07000		75,000
5	Buildings .....	25800		1,000
6	Other Assets .....	69000		52,328
7	Land .....	73000		<u>1,000</u>
8	Total.....		\$	1,202,987

*181 - State Board of Rehabilitation –*

*Division of Rehabilitation Services –*

*West Virginia Rehabilitation Center Special Account*

## (WV Code Chapter 18)

Fund 8664 FY 2019 Org 0932

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 119,738
3	Current Expenses .....	13000	2,180,122
4	Repairs and Alterations.....	06400	85,500
5	Equipment.....	07000	220,000
6	Buildings.....	25800	150,000
7	Other Assets.....	69000	<u>150,000</u>
8	Total.....		\$ 2,905,360

**DEPARTMENT OF ENVIRONMENTAL PROTECTION***182 - Solid Waste Management Board*

## (WV Code Chapter 22C)

Fund 3288 FY 2019 Org 0312

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 802,269
3	Current Expenses .....	13000	2,060,997
4	Repairs and Alterations.....	06400	1,000
5	Equipment.....	07000	5,000
6	Other Assets.....	69000	<u>4,403</u>
7	Total.....		\$ 2,873,669

*183 - Division of Environmental Protection –**Hazardous Waste Management Fund*

## (WV Code Chapter 22)

Fund 3023 FY 2019 Org 0313

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 692,784
3	Current Expenses .....	13000	190,569
4	Repairs and Alterations.....	06400	500
5	Equipment.....	07000	1,505

6	Unclassified.....	09900		8,072
7	Other Assets.....	69000		<u>2,000</u>
8	Total.....		\$	895,430

*184 - Division of Environmental Protection –*

*Air Pollution Education and Environment Fund*

(WV Code Chapter 22)

Fund 3024 FY 2019 Org 0313

1	Personal Services and			
2	Employee Benefits.....	00100	\$	935,324
3	Current Expenses.....	13000		1,226,863
4	Repairs and Alterations.....	06400		13,000
5	Equipment.....	07000		53,105
6	Unclassified.....	09900		14,647
7	Other Assets.....	69000		<u>20,000</u>
8	Total.....		\$	2,262,939

*185 - Division of Environmental Protection –*

*Special Reclamation Fund*

(WV Code Chapter 22)

Fund 3321 FY 2019 Org 0313

1	Personal Services and			
2	Employee Benefits.....	00100	\$	1,350,829
3	Current Expenses.....	13000		16,402,506
4	Repairs and Alterations.....	06400		79,950
5	Equipment.....	07000		130,192
6	Other Assets.....	69000		<u>32,000</u>
7	Total.....		\$	17,995,477

*186 - Division of Environmental Protection –*

*Oil and Gas Reclamation Fund*

(WV Code Chapter 22)

Fund 3322 FY 2019 Org 0313

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 143,906
3	Current Expenses .....	13000	<u>356,094</u>
4	Total.....		\$ 500,000

*187 - Division of Environmental Protection –*

*Oil and Gas Operating Permit and Processing Fund*

(WV Code Chapter 22)

Fund 3323 FY 2019 Org 0313

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 3,321,164
3	Current Expenses .....	13000	1,237,758
4	Repairs and Alterations.....	06400	40,600
5	Equipment .....	07000	8,000
6	Unclassified.....	09900	44,700
7	Other Assets .....	69000	<u>15,000</u>
8	Total.....		\$ 4,667,222

*188 - Division of Environmental Protection –*

*Mining and Reclamation Operations Fund*

(WV Code Chapter 22)

Fund 3324 FY 2019 Org 0313

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 4,035,449
3	Current Expenses .....	13000	2,302,231
4	Repairs and Alterations.....	06400	60,260
5	Equipment .....	07000	83,000
6	Unclassified.....	09900	920
7	Other Assets .....	69000	<u>57,500</u>
8	Total.....		\$ 6,539,360

*189 - Division of Environmental Protection –*



*Underground Storage Tank**Administrative Fund*

(WV Code Chapter 22)

Fund 3325 FY 2019 Org 0313

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 466,543
3	Current Expenses .....	13000	318,420
4	Repairs and Alterations.....	06400	5,350
5	Equipment.....	07000	3,610
6	Unclassified.....	09900	7,520
7	Other Assets .....	69000	<u>3,500</u>
8	Total.....		\$ 804,943

*190 - Division of Environmental Protection –**Hazardous Waste Emergency Response Fund*

(WV Code Chapter 22)

Fund 3331 FY 2019 Org 0313

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 6,000
3	Current Expenses .....	13000	1,067,905
4	Repairs and Alterations.....	06400	7,014
5	Equipment.....	07000	9,000
6	Unclassified.....	09900	10,616
7	Other Assets .....	69000	<u>3,500</u>
8	Total.....		\$ 1,104,035

*191 - Division of Environmental Protection –**Solid Waste Reclamation and**Environmental Response Fund*

(WV Code Chapter 22)

Fund 3332 FY 2019 Org 0313

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 793,967
3	Current Expenses .....	13000	3,604,737
4	Repairs and Alterations.....	06400	25,000
5	Equipment .....	07000	31,500
6	Unclassified.....	09900	22,900
7	Buildings .....	25800	500
8	Other Assets .....	69000	<u>1,000</u>
9	Total.....		\$ 4,479,604

*192 - Division of Environmental Protection –**Solid Waste Enforcement Fund*

(WV Code Chapter 22)

Fund 3333 FY 2019 Org 0313

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 3,041,424
3	Current Expenses .....	13000	1,020,229
4	Repairs and Alterations.....	06400	30,930
5	Equipment .....	07000	23,356
6	Unclassified.....	09900	37,145
7	Other Assets .....	69000	<u>25,554</u>
8	Total.....		\$ 4,178,638

*193 - Division of Environmental Protection –**Air Pollution Control Fund*

(WV Code Chapter 22)

Fund 3336 FY 2019 Org 0313

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 5,643,421
3	Current Expenses .....	13000	1,489,467
4	Repairs and Alterations.....	06400	84,045
5	Equipment .....	07000	103,601

6	Unclassified.....	09900		70,572
7	Other Assets.....	69000		<u>52,951</u>
8	Total.....		\$	7,444,057

*194 - Division of Environmental Protection –*

*Environmental Laboratory*

*Certification Fund*

(WV Code Chapter 22)

Fund 3340 FY 2019 Org 0313

1	Personal Services and			
2	Employee Benefits.....	00100	\$	311,044
3	Current Expenses.....	13000		208,188
4	Repairs and Alterations.....	06400		1,000
5	Equipment.....	07000		1,000
6	Unclassified.....	09900		1,120
7	Other Assets.....	69000		<u>177,000</u>
8	Total.....		\$	699,352

*195 - Division of Environmental Protection –*

*Stream Restoration Fund*

(WV Code Chapter 22)

Fund 3349 FY 2019 Org 0313

1	Current Expenses.....	13000	\$	9,298,205
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*196 - Division of Environmental Protection –*

*Litter Control Fund*

(WV Code Chapter 22)

Fund 3486 FY 2019 Org 0313

1	Current Expenses.....	13000	\$	60,000
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*197 - Division of Environmental Protection –**Recycling Assistance Fund*

(WV Code Chapter 22)

Fund 3487 FY 2019 Org 0313

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 646,395
3	Current Expenses .....	13000	2,735,112
4	Repairs and Alterations.....	06400	800
5	Equipment.....	07000	500
6	Unclassified.....	09900	400
7	Other Assets .....	69000	<u>2,500</u>
8	Total.....		\$ 3,385,707

*198 - Division of Environmental Protection –**Mountaintop Removal Fund*

(WV Code Chapter 22)

Fund 3490 FY 2019 Org 0313

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,228,345
3	Current Expenses .....	13000	642,934
4	Repairs and Alterations.....	06400	30,112
5	Equipment.....	07000	23,500
6	Unclassified.....	09900	1,180
7	Other Assets .....	69000	<u>11,520</u>
8	Total.....		\$ 1,937,591

*199 - Oil and Gas Conservation Commission –**Special Oil and Gas Conservation Fund*

(WV Code Chapter 22C)

Fund 3371 FY 2019 Org 0315

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 157,224
3	Current Expenses .....	13000	161,225
4	Repairs and Alterations.....	06400	1,000
5	Equipment .....	07000	9,481
6	Other Assets .....	69000	<u>1,500</u>
7	Total.....		\$ 330,430

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

*200 - Division of Health –*

*Ryan Brown Addiction Prevention and Recovery Fund*

(WV Code Chapter 19)

Fund 5111 FY 2019 Org 0506

1	Current Expenses .....	13000	\$ 13,588,654
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*201 - Division of Health –*

*The Vital Statistics Account*

(WV Code Chapter 16)

Fund 5144 FY 2019 Org 0506

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 876,771
3	Unclassified.....	09900	15,500
4	Current Expenses .....	13000	<u>1,257,788</u>
5	Total.....		\$ 2,150,059

*202 - Division of Health –*

*Hospital Services Revenue Account*

*Special Fund*

*Capital Improvement, Renovation and Operations*

(WV Code Chapter 16)

Fund 5156 FY 2019 Org 0506

1	Institutional Facilities Operations .....	33500	\$ 35,555,221
2	Medical Services Trust Fund –		
3	Transfer.....	51200	<u>27,800,000</u>
4	Total.....		\$ 63,355,221

5           The total amount of these appropriations shall be paid from  
6 the Hospital Services Revenue Account Special Fund created by  
7 W.Va. Code §16-1-13, and shall be used for operating expenses  
8 and for improvements in connection with existing facilities.

9           Additional funds have been appropriated in fund 0525,  
10 fiscal year 2019, organization 0506, for the operation of the  
11 institutional facilities. The Secretary of the Department of Health  
12 and Human Resources is authorized to utilize up to ten percent of  
13 the funds from the appropriation for Institutional Facilities  
14 Operations to facilitate cost effective and cost saving services at  
15 the community level.

16           Necessary funds from the above appropriation may be used  
17 for medical facilities operations, either in connection with this fund  
18 or in connection with the appropriation designated Institutional  
19 Facilities Operations in the Consolidated Medical Service Fund  
20 (fund 0525, organization 0506).

21           From the above appropriation to Institutional Facilities  
22 Operations, together with available funds from the Consolidated  
23 Medical Services Fund (fund 0525, appropriation 33500) on July  
24 1, 2018, the sum of \$160,000 shall be transferred to the Department  
25 of Agriculture – Land Division – Farm Operating Fund (1412) as  
26 advance payment for the purchase of food products; actual  
27 payments for such purchases shall not be required until such credits  
28 have been completely expended.

*203 - Division of Health –*

*Laboratory Services Fund*

(WV Code Chapter 16)

Fund 5163 FY 2019 Org 0506

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 862,657
3	Unclassified.....	09900	18,114
4	Current Expenses .....	13000	<u>930,716</u>
5	Total.....		\$ 1,811,487

*204 - Division of Health –**The Health Facility Licensing Account*

(WV Code Chapter 16)

Fund 5172 FY 2019 Org 0506

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 605,950
3	Unclassified.....	09900	7,113
4	Current Expenses .....	13000	<u>98,247</u>
5	Total.....		\$ 711,310

*205 - Division of Health –**Hepatitis B Vaccine*

(WV Code Chapter 16)

Fund 5183 FY 2019 Org 0506

1	Current Expenses .....	13000	\$ 9,740
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*206 - Division of Health –**Lead Abatement Account*

(WV Code Chapter 16)

Fund 5204 FY 2019 Org 0506

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 19,100
3	Unclassified.....	09900	373

4	Current Expenses .....	13000		<u>17,875</u>
5	Total.....		\$	37,348

*207 - Division of Health –*

*West Virginia Birth-to-Three Fund*

(WV Code Chapter 16)

Fund 5214 FY 2019 Org 0506

1	Personal Services and			
2	Employee Benefits.....	00100	\$	647,545
3	Unclassified.....	09900		223,999
4	Current Expenses .....	13000		<u>28,053,549</u>
5	Total.....		\$	28,925,093

*208 - Division of Health –*

*Tobacco Control Special Fund*

(WV Code Chapter 16)

Fund 5218 FY 2019 Org 0506

1	Current Expenses .....	13000	\$	7,579
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*209 - Division of Health –*

*Medical Cannabis Program Fund*

(WV Code Chapter 16A)

Fund 5420 FY 2019 Org 0506

1	Personal Services and			
2	Employee Benefits.....	00100	\$	509,658
3	Current Expenses .....	13000		1,151,040
4	Other Assets .....	69000		<u>895,000</u>
5	Total.....		\$	2,555,698

*210 - West Virginia Health Care Authority –*



*Health Care Cost Review Fund*

(WV Code Chapter 16)

Fund 5375 FY 2019 Org 0507

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,310,821
3	Hospital Assistance.....	02500	50,000
4	Unclassified.....	09900	100
5	Current Expenses.....	13000	754,645
6	Repairs and Alterations.....	06400	500
7	Equipment.....	07000	<u>300</u>
8	Total.....		\$ 2,116,366

9           The above appropriation is to be expended in accordance  
10 with and pursuant to the provisions of W.Va. Code §16-29B and  
11 from the special revolving fund designated Health Care Cost  
12 Review Fund.

*211 - West Virginia Health Care Authority –**Certificate of Need Program Fund*

(WV Code Chapter 16)

Fund 5377 FY 2019 Org 0507

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 805,113
3	Current Expenses.....	13000	<u>774,967</u>
4	Total.....		\$ 1,580,080

*212 - Division of Human Services –**Health Care Provider Tax –**Medicaid State Share Fund*

(WV Code Chapter 11)

Fund 5090 FY 2019 Org 0511

1	Medical Services.....	18900	\$ 198,568,451
2	Medical Services Administrative Costs .....	78900	<u>231,549</u>
3	Total.....		\$ 198,800,000

4           The above appropriation for Medical Services  
5 Administrative Costs (fund 5090, appropriation 78900) shall be  
6 transferred to a special revenue account in the treasury for use by  
7 the Department of Health and Human Resources for administrative  
8 purposes. The remainder of all moneys deposited in the fund shall  
9 be transferred to the West Virginia Medical Services Fund (fund  
10 5084.)

*213 - Division of Human Services –*

*Child Support Enforcement Fund*

(WV Code Chapter 48A)

Fund 5094 FY 2019 Org 0511

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 24,809,509
3	Unclassified.....	09900	380,000
4	Current Expenses .....	13000	<u>12,810,491</u>
5	Total.....		\$ 38,000,000

*214 - Division of Human Services –*

*Medical Services Trust Fund*

(WV Code Chapter 9)

Fund 5185 FY 2019 Org 0511

1	Medical Services.....	18900	\$ 73,477,905
2	Medical Services Administrative Costs .....	78900	<u>548,723</u>
3	Total.....		\$ 74,026,628

4           The above appropriation to Medical Services shall be used  
5 to provide state match of Medicaid expenditures as defined and  
6 authorized in subsection (c) of W.Va. Code §9-4A-2a.  
7 Expenditures from the fund are limited to the following: payment

8 of backlogged billings, funding for services to future federally  
 9 mandated population groups and payment of the required state  
 10 match for Medicaid disproportionate share payments. The  
 11 remainder of all moneys deposited in the fund shall be transferred  
 12 to the Division of Human Services accounts.

*215 - Division of Human Services –*

*James “Tiger” Morton Catastrophic Illness Fund*

(WV Code Chapter 16)

Fund 5454 FY 2019 Org 0511

1	Unclassified.....09900	\$	7,000
2	Current Expenses .....13000		<u>693,000</u>
3	Total.....	\$	700,000

*216 - Division of Human Services –*

*Domestic Violence Legal Services Fund*

(WV Code Chapter 48)

Fund 5455 FY 2019 Org 0511

1	Current Expenses .....13000	\$	900,000
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*217 - Division of Human Services –*

*West Virginia Works Separate State College Program Fund*

(WV Code Chapter 9)

Fund 5467 FY 2019 Org 0511

1	Current Expenses .....13000	\$	1,000,000
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*218 - Division of Human Services –*

*West Virginia Works Separate State Two-Parent Program Fund*

(WV Code Chapter 9)

Fund 5468 FY 2019 Org 0511

1	Current Expenses .....	13000	\$	2,000,000
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*219 - Division of Human Services –*

*Marriage Education Fund*

(WV Code Chapter 9)

Fund 5490 FY 2019 Org 0511

1	Personal Services and			
2	Employee Benefits.....	00100	\$	10,000
3	Current Expenses .....	13000		25,000
4	Total.....		\$	35,000

**DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY**

*220 - Department of Military Affairs and Public Safety –*

*Office of the Secretary –*

*Law-Enforcement, Safety and Emergency Worker*

*Funeral Expense Payment Fund*

(WV Code Chapter 15)

Fund 6003 FY 2019 Org 0601

1	Current Expenses .....	13000	\$	32,000
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*221 - State Armory Board –*

*General Armory Fund*

(WV Code Chapter 15)

Fund 6057 FY 2019 Org 0603

1	Personal Services and			
2	Employee Benefits.....	00100	\$	1,643,528

3	Current Expenses .....	13000	650,000
4	Repairs and Alterations .....	06400	385,652
5	Equipment .....	07000	250,000
6	Buildings .....	25800	770,820
7	Other Assets .....	69000	100,000
8	Land .....	73000	<u>200,000</u>
9	Total.....		\$ 4,000,000

10 From the above appropriations, the Adjutant General may  
 11 receive and expend funds to conduct operations and activities to  
 12 include functions of the Military Authority. The Adjutant General  
 13 may transfer funds between appropriations, except no funds may  
 14 be transferred to Personal Services and Employee Benefits (fund  
 15 6057, appropriation 00100).

*222 - Division of Homeland Security*

*And Emergency Management –*

*Statewide Interoperable Radio Network Account*

(WV Code Chapter 15)

Fund 6208 FY 2019 Org 0606

1	Current Expenses .....	13000	\$ 80,000
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*223 - Division of Homeland Security and*

*Emergency Management –*

*West Virginia Interoperable Radio Project*

(WV Code Chapter 24)

Fund 6295 FY 2019 Org 0606

1	Current Expenses .....	13000	\$ 2,000,000
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2 Any unexpended balance remaining in the appropriation  
 3 for Unclassified – Total (fund 6295, appropriation 09600) at the

4 close of fiscal year 2018 is hereby reappropriated for expenditure  
5 during the fiscal year 2019.

*224 - West Virginia Division of Corrections –*

*Parolee Supervision Fees*

(WV Code Chapter 62)

Fund 6362 FY 2019 Org 0608

1	Personal Services and		
2	Employee Benefits.....00100	\$	1,013,793
3	Unclassified.....09900		9,804
4	Current Expenses .....13000		758,480
5	Equipment.....07000		30,000
6	Other Assets.....69000		<u>40,129</u>
7	Total.....	\$	<u>1,852,206</u>

*225 - West Virginia State Police –*

*Motor Vehicle Inspection Fund*

(WV Code Chapter 17C)

Fund 6501 FY 2019 Org 0612

1	Personal Services and		
2	Employee Benefits.....00100	\$	1,786,923
3	Current Expenses .....13000		1,488,211
4	Repairs and Alterations.....06400		204,500
5	Equipment.....07000		3,770,751
6	Buildings.....25800		534,000
7	Other Assets.....69000		5,000
8	BRIM Premium.....91300		<u>302,432</u>
9	Total.....	\$	<u>8,091,817</u>

10           The total amount of these appropriations shall be paid  
11 from the special revenue fund out of fees collected for inspection  
12 stickers as provided by law.

*226 - West Virginia State Police –*

*Forensic Laboratory Fund*

(WV Code Chapter 15)

Fund 6511 FY 2019 Org 0612

1	Personal Services and		
2	Employee Benefits.....00100	\$	100,000
3	Current Expenses .....13000		90,000
4	Repairs and Alterations.....06400		5,000
5	Equipment.....07000		<u>45,000</u>
6	Total.....	\$	240,000

*227 - West Virginia State Police –**Drunk Driving Prevention Fund*

(WV Code Chapter 15)

Fund 6513 FY 2019 Org 0612

1	Current Expenses .....13000	\$	1,327,000
2	Equipment.....07000		3,491,895
3	BRIM Premium.....91300		<u>154,452</u>
4	Total.....	\$	4,973,347

5           The total amount of these appropriations shall be paid from  
6 the special revenue fund out of receipts collected pursuant to W.Va.  
7 Code §11-15-9a and 16 and paid into a revolving fund account in  
8 the State Treasury.

*228 - West Virginia State Police –**Surplus Real Property Proceeds Fund*

(WV Code Chapter 15)

Fund 6516 FY 2019 Org 0612

1	Buildings.....25800	\$	1,022,778
2	Land .....73000		1,000
3	BRIM Premium.....91300		<u>77,222</u>

4 Total..... \$ 1,101,000

*229 - West Virginia State Police –*

*Surplus Transfer Account*

(WV Code Chapter 15)

Fund 6519 FY 2019 Org 0612

1	Current Expenses .....	13000	\$	225,000
2	Repairs and Alterations.....	06400		20,000
3	Equipment .....	07000		250,000
4	Buildings.....	25800		40,000
5	Other Assets .....	69000		45,000
6	BRIM Premium.....	91300		<u>5,000</u>
7	Total.....		\$	585,000

*230 - West Virginia State Police –*

*Central Abuse Registry Fund*

(WV Code Chapter 15)

Fund 6527 FY 2019 Org 0612

1	Personal Services and			
2	Employee Benefits.....	00100	\$	236,881
3	Current Expenses .....	13000		51,443
4	Repairs and Alterations.....	06400		500
5	Equipment .....	07000		300,500
6	Other Assets .....	69000		300,500
7	BRIM Premium.....	91300		<u>18,524</u>
8	Total.....		\$	908,348

*231 - West Virginia State Police –*

*Bail Bond Enforcer Account*

(WV Code Chapter 15)

Fund 6532 FY 2019 Org 0612



1 Current Expenses .....13000 \$ 8,300

*232 - West Virginia State Police –*

*State Police Academy Post Exchange*

(WV Code Chapter 15)

Fund 6544 FY 2019 Org 0612

1	Current Expenses .....	13000	\$	160,000
2	Repairs and Alterations.....	06400		<u>40,000</u>
3	Total.....		\$	200,000

*233 - Regional Jail and Correctional Facility Authority*

(WV Code Chapter 31)

Fund 6675 FY 2019 Org 0615

1	Personal Services and			
2	Employee Benefits.....	00100	\$	1,971,039
3	Debt Service.....	04000		9,000,000
4	Current Expenses .....	13000		495,852
5	Repairs and Alterations.....	06400		4,000
6	Equipment.....	07000		<u>1,743</u>
7	Total.....		\$	11,472,634

*234 - Fire Commission –*

*Fire Marshal Fees*

(WV Code Chapter 29)

Fund 6152 FY 2019 Org 0619

1	Personal Services and			
2	Employee Benefits.....	00100	\$	3,233,683
3	Unclassified.....	09900		3,800
4	Current Expenses .....	13000		1,249,550
5	Repairs and Alterations.....	06400		58,500
6	Equipment.....	07000		140,800

7	Other Assets .....	69000		2,000
8	BRIM Premium.....	91300		<u>60,000</u>
9	Total.....		\$	4,748,333

*235 - Division of Justice and Community Services –*

*WV Community Corrections Fund*

(WV Code Chapter 62)

Fund 6386 FY 2019 Org 0620

1	Personal Services and			
2	Employee Benefits.....	00100	\$	152,000
3	Unclassified.....	09900		750
4	Current Expenses .....	13000		1,846,250
5	Repairs and Alterations.....	06400		<u>1,000</u>
6	Total.....		\$	2,000,000

*236 - Division of Justice and Community Services –*

*Court Security Fund*

(WV Code Chapter 51)

Fund 6804 FY 2019 Org 0620

1	Personal Services and			
2	Employee Benefits.....	00100	\$	21,865
3	Current Expenses .....	13000		<u>1,478,135</u>
4	Total.....		\$	1,500,000

*237 - Division of Justice and Community Services –*

*Second Chance Driver's License Program Account*

(WV Code Chapter 17B)

Fund 6810 FY 2019 Org 0620

1	Current Expenses .....	13000	\$	25,000
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**DEPARTMENT OF REVENUE***238 - Division of Financial Institutions*

(WV Code Chapter 31A)

Fund 3041 FY 2019 Org 0303

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,511,101
3	Current Expenses .....	13000	705,875
4	Repairs and Alterations.....	06400	100
5	Equipment.....	07000	<u>12,000</u>
6	Total.....		\$ 3,229,076

*239 - Office of the Secretary –**State Debt Reduction Fund*

(WV Code Chapter 29)

Fund 7007 FY 2019 Org 0701

1	Directed Transfer .....	70000	\$ 20,000,000
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2           The above appropriation for Directed Transfer shall be  
3 transferred to the Consolidated Public Retirement Board – West  
4 Virginia Public Employees Retirement System Employers  
5 Accumulation Fund (fund 2510).

*240 - Tax Division –**Cemetery Company Account*

(WV Code Chapter 35)

Fund 7071 FY 2019 Org 0702

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 23,459
3	Current Expenses .....	13000	<u>7,717</u>
4	Total.....		\$ 31,176

*241 - Tax Division –**Special Audit and Investigative Unit*

(WV Code Chapter 11)

Fund 7073 FY 2019 Org 0702

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 655,203
3	Unclassified.....	09900	9,500
4	Current Expenses .....	13000	273,297
5	Repairs and Alterations.....	06400	7,000
6	Equipment.....	07000	<u>5,000</u>
7	Total.....		\$ 950,000

*242 - Tax Division –**Wine Tax Administration Fund*

(WV Code Chapter 60)

Fund 7087 FY 2019 Org 0702

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 254,162
3	Current Expenses .....	13000	<u>5,406</u>
4	Total.....		\$ 259,568

*243 - Tax Division –**Reduced Cigarette Ignition Propensity**Standard and Fire Prevention Act Fund*

(WV Code Chapter 47)

Fund 7092 FY 2019 Org 0702

1	Current Expenses .....	13000	\$ 35,000
2	Equipment.....	07000	<u>15,000</u>
3	Total.....		\$ 50,000

*244 - Tax Division –**Local Sales Tax and Excise Tax**Administration Fund*

(WV Code Chapter 11)

Fund 7099 FY 2019 Org 0702

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,508,968
3	Unclassified.....	09900	10,000
4	Current Expenses .....	13000	784,563
5	Repairs and Alterations.....	06400	1,000
6	Equipment.....	07000	<u>5,000</u>
7	Total.....		\$ 2,309,531

*245 - State Budget Office –**Public Employees Insurance Reserve Fund*

(WV Code Chapter 11B)

Fund 7400 FY 2019 Org 0703

1	Public Employees Insurance		
2	Reserve Fund – Transfer.....	90300	\$ 6,800,000

3           The above appropriation for Public Employees Insurance  
4 Reserve Fund – Transfer shall be transferred to the Medical  
5 Services Trust Fund (fund 5185, org 0511) for expenditure.

*246 - State Budget Office –**Public Employees Insurance Agency Financial Stability Fund*

(WV Code Chapter 11B)

Fund 7401 FY 2019 Org 0703

1	Retiree Premium Offset .....	80101	\$ 5,000,000
2	PEIA Reserve.....	80102	<u>10,000,000</u>

3 Total..... \$ 15,000,000

4 The above appropriation shall be transferred to special  
5 revenue funds to be utilized by the West Virginia Public  
6 Employees Insurance Agency for the purposes of permitting the  
7 PEIA Finance Board to offset \$5 million in retiree premium  
8 increases. Additionally, \$10 million will be put into a reserve fund  
9 to stabilize and preserve the future solvency of PEIA. Such amount  
10 shall not be included in the calculation of the plan year aggregate  
11 premium cost-sharing percentages between employers and  
12 employees.

*247 - Insurance Commissioner –*

*Examination Revolving Fund*

(WV Code Chapter 33)

Fund 7150 FY 2019 Org 0704

1	Personal Services and		
2	Employee Benefits.....00100	\$	721,117
3	Current Expenses .....13000		1,357,201
4	Repairs and Alterations.....06400		3,000
5	Equipment.....07000		81,374
6	Buildings.....25800		8,289
7	Other Assets.....69000		<u>11,426</u>
8	Total.....	\$	2,182,407

*248 - Insurance Commissioner –*

*Consumer Advocate*

(WV Code Chapter 33)

Fund 7151 FY 2019 Org 0704

1	Personal Services and		
2	Employee Benefits.....00100	\$	552,228
3	Current Expenses .....13000		202,152
4	Repairs and Alterations.....06400		5,000
5	Equipment.....07000		34,225

6	Buildings .....	25800	4,865
7	Other Assets .....	69000	<u>19,460</u>
8	Total .....		\$ 817,930

*249 - Insurance Commissioner –*

*Insurance Commission Fund*

(WV Code Chapter 33)

Fund 7152 FY 2019 Org 0704

1	Personal Services and		
2	Employee Benefits .....	00100	\$ 23,039,727
3	Current Expenses .....	13000	8,797,758
4	Repairs and Alterations .....	06400	68,614
5	Equipment .....	07000	1,728,240
6	Buildings .....	25800	25,000
7	Other Assets .....	69000	<u>340,661</u>
8	Total .....		\$ 34,000,000

*250 - Insurance Commissioner –*

*Workers' Compensation Old Fund*

(WV Code Chapter 23)

Fund 7162 FY 2019 Org 0704

1	Employee Benefits .....	01000	\$ 50,000
2	Current Expenses .....	13000	<u>250,500,000</u>
3	Total .....		\$ 250,550,000

*251 - Insurance Commissioner –*

*Workers' Compensation Uninsured Employers' Fund*

(WV Code Chapter 23)

Fund 7163 FY 2019 Org 0704

1	Current Expenses .....	13000	\$ 15,000,000
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*252 - Insurance Commissioner –**Self-Insured Employer Guaranty Risk Pool*

(WV Code Chapter 23)

Fund 7164 FY 2019 Org 0704

1	Current Expenses .....	13000	\$	9,000,000
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*253 - Insurance Commissioner –**Self-Insured Employer Security Risk Pool*

(WV Code Chapter 23)

Fund 7165 FY 2019 Org 0704

1	Current Expenses .....	13000	\$	14,000,000
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*254 - Municipal Bond Commission*

(WV Code Chapter 13)

Fund 7253 FY 2019 Org 0706

1	Personal Services and			
2	Employee Benefits .....	00100	\$	247,523
3	Current Expenses .....	13000		144,844
4	Equipment .....	07000		<u>100</u>
5	Total .....		\$	392,467

*255 - Racing Commission –**Relief Fund*

(WV Code Chapter 19)

Fund 7300 FY 2019 Org 0707

1	Medical Expenses – Total .....	24500	\$	57,000
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2           The total amount of this appropriation shall be paid from  
3 the special revenue fund out of collections of license fees and fines  
4 as provided by law.

5           No expenditures shall be made from this fund except for  
6 hospitalization, medical care and/or funeral expenses for persons  
7 contributing to this fund.

*256 - Racing Commission –*

*Administration and Promotion Account*

(WV Code Chapter 19)

Fund 7304 FY 2019 Org 0707

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 256,665
3	Current Expenses .....	13000	93,335
4	Other Assets .....	69000	<u>5,000</u>
5	Total.....		\$ 355,000

*257 - Racing Commission –*

*General Administration*

(WV Code Chapter 19)

Fund 7305 FY 2019 Org 0707

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,271,339
3	Current Expenses .....	13000	566,248
4	Repairs and Alterations.....	06400	7,000
5	Other Assets .....	69000	<u>50,000</u>
6	Total.....		\$ 2,894,587

*258 - Racing Commission –*

*Administration, Promotion, Education, Capital Improvement  
and Greyhound Adoption Programs*

*to include Spaying and Neutering Account*

(WV Code Chapter 19)

Fund 7307 FY 2019 Org 0707

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 864,474
3	Current Expenses .....	13000	214,406
4	Other Assets .....	69000	<u>200,000</u>
5	Total.....		\$ 1,278,880

*259 - Alcohol Beverage Control Administration –**Wine License Special Fund*

(WV Code Chapter 60)

Fund 7351 FY 2019 Org 0708

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 122,339
3	Current Expenses .....	13000	69,186
4	Repairs and Alterations.....	06400	7,263
5	Equipment.....	07000	10,000
6	Buildings.....	25800	100,000
7	Other Assets.....	69000	<u>100</u>
8	Total.....		\$ 308,888

9           To the extent permitted by law, four classified exempt  
10 positions shall be provided from Personal Services and Employee  
11 Benefits appropriation for field auditors.

*260 - Alcohol Beverage Control Administration*

(WV Code Chapter 60)

Fund 7352 FY 2019 Org 0708

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 5,413,237
3	Current Expenses .....	13000	2,890,577

4	Repairs and Alterations.....	06400	91,000
5	Equipment.....	07000	108,000
6	Buildings.....	25800	375,100
7	Purchase of Supplies for Resale.....	41900	72,500,000
8	Transfer Liquor Profits and Taxes .....	42500	20,800,000
9	Other Assets.....	69000	125,100
10	Land .....	73000	<u>100</u>
11	Total.....		\$ 102,303,114

12           The total amount of these appropriations shall be paid from  
 13 a special revenue fund out of liquor revenues and any other  
 14 revenues available.

15           The above appropriations include the salary of the  
 16 commissioner and the salaries, expenses and equipment of  
 17 administrative offices, warehouses and inspectors.

18           The above appropriations include funding for the  
 19 Tobacco/Alcohol Education Program.

20           There is hereby appropriated from liquor revenues, in  
 21 addition to the above appropriations as needed, the necessary  
 22 amount for the purchase of liquor as provided by law and the  
 23 remittance of profits and taxes to the General Revenue Fund.

*261 - State Athletic Commission Fund*

(WV Code Chapter 29)

Fund 7009 FY 2019 Org 0933

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,900
3	Current Expenses .....	13000	<u>37,100</u>
4	Total.....		\$ 40,000

**DEPARTMENT OF TRANSPORTATION**

*262 - Division of Motor Vehicles –*

*Dealer Recovery Fund*

(WV Code Chapter 17)

Fund 8220 FY 2019 Org 0802

1 Current Expenses .....13000 \$ 189,000

*263 - Division of Motor Vehicles –*

*Motor Vehicle Fees Fund*

(WV Code Chapter 17B)

Fund 8223 FY 2019 Org 0802

1	Personal Services and		
2	Employee Benefits.....00100	\$	3,362,799
3	Current Expenses .....13000		4,362,975
4	Repairs and Alterations.....06400		16,000
5	Equipment.....07000		75,000
6	Other Assets.....69000		10,000
7	BRIM Premium.....91300		<u>84,737</u>
8	Total.....	\$	7,911,511

*264 - Division of Highways –*

*A. James Manchin Fund*

(WV Code Chapter 22)

Fund 8319 FY 2019 Org 0803

1 Current Expenses .....13000 \$ 1,650,000

**DEPARTMENT OF VETERANS’ ASSISTANCE**

*265 - Veterans’ Facilities Support Fund*

(WV Code Chapter 9A)

Fund 6703 FY 2019 Org 0613

1	Personal Services and		
2	Employee Benefits.....00100	\$	94,210

3	Current Expenses .....	13000	2,255,997
4	Repairs and Alterations .....	06400	10,000
5	Equipment .....	07000	10,000
6	Other Assets .....	69000	<u>10,000</u>
7	Total .....		\$ 2,380,207

*266 - Department of Veterans' Assistance –*

*WV Veterans' Home –*

*Special Revenue Operating Fund*

(WV Code Chapter 9A)

Fund 6754 FY 2019 Org 0618

1	Current Expenses .....	13000	\$ 700,000
2	Repairs and Alterations .....	06400	<u>50,000</u>
3	Total .....		\$ 750,000

**BUREAU OF SENIOR SERVICES**

*267 - Bureau of Senior Services –*

*Community Based Service Fund*

(WV Code Chapter 22)

Fund 5409 FY 2019 Org 0508

1	Personal Services and		
2	Employee Benefits .....	00100	\$ 151,290
3	Current Expenses .....	13000	<u>10,348,710</u>
4	Total .....		\$ 10,500,000

5 The total amount of these appropriations are funded from  
6 annual table game license fees to enable the aged and disabled  
7 citizens of West Virginia to stay in their homes through the  
8 provision of home and community-based services.

**HIGHER EDUCATION POLICY COMMISSION**

*268 - Higher Education Policy Commission –*

*System –*

*Tuition Fee Capital Improvement Fund*

*(Capital Improvement and Bond Retirement Fund)*

*Control Account*

(WV Code Chapters 18 and 18B)

Fund 4903 FY 2019 Org 0442

1	Debt Service.....	04000	\$ 27,713,123
2	General Capital Expenditures .....	30600	5,000,000
3	Facilities Planning and Administration.....	38600	<u>421,082</u>
4	Total.....		\$ 33,134,205

5           The total amount of these appropriations shall be paid from  
6 the Special Capital Improvement Fund created in W.Va. Code  
7 §18B-10-8. Projects are to be paid on a cash basis and made  
8 available on July 1.

9           The above appropriations, except for Debt Service, may be  
10 transferred to special revenue funds for capital improvement  
11 projects at the institutions.

*269 - Tuition Fee Revenue Bond Construction Fund*

(WV Code Chapters 18 and 18B)

Fund 4906 FY 2019 Org 0442

1           Any unexpended balance remaining in the appropriation  
2 for Capital Outlay (fund 4906, appropriation 51100) at the close of  
3 the fiscal year 2018 is hereby reappropriated for expenditure during  
4 the fiscal year 2019.

5           The appropriation shall be paid from available unexpended  
6 cash balances and interest earnings accruing to the fund. The  
7 appropriation shall be expended at the discretion of the Higher  
8 Education Policy Commission and the funds may be allocated to  
9 any institution within the system.

10           The total amount of this appropriation shall be paid from  
 11 the unexpended proceeds of revenue bonds previously issued  
 12 pursuant to W.Va. Code §18-12B-8, which have since been  
 13 refunded.

*270 - Community and Technical College –*

*Capital Improvement Fund*

(WV Code Chapter 18B)

Fund 4908 FY 2019 Org 0442

1           Any unexpended balance remaining in the appropriation  
 2 for Capital Improvements – Total (fund 4908, appropriation  
 3 95800) at the close of fiscal year 2018 is hereby reappropriated for  
 4 expenditure during the fiscal year 2019.

5           The total amount of this appropriation shall be paid from  
 6 the sale of the Series 2017 Community and Technical College  
 7 Capital Improvement Refunding Revenue Bonds and anticipated  
 8 interest earnings.

*271 - West Virginia University –*

*West Virginia University Health Sciences Center*

(WV Code Chapters 18 and 18B)

Fund 4179 FY 2019 Org 0463

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 10,274,340
3	Current Expenses .....	13000	4,524,300
4	Repairs and Alterations.....	06400	425,000
5	Equipment.....	07000	512,000
6	Buildings.....	25800	150,000
7	Other Assets.....	69000	<u>50,000</u>
8	Total.....		\$ 15,935,640

**MISCELLANEOUS BOARDS AND COMMISSIONS**

*272 - Board of Barbers and Cosmetologists –*

*Barbers and Beauticians Special Fund*

(WV Code Chapters 16 and 30)

Fund 5425 FY 2019 Org 0505

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 504,497
3	Current Expenses .....	13000	<u>239,969</u>
4	Total.....		\$ 744,466

5           The total amount of these appropriations shall be paid from  
6 a special revenue fund out of collections made by the Board of  
7 Barbers and Cosmetologists as provided by law.

*273 - Hospital Finance Authority –*

*Hospital Finance Authority Fund*

(WV Code Chapter 16)

Fund 5475 FY 2019 Org 0509

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 85,981
3	Unclassified.....	09900	1,450
4	Current Expenses .....	13000	<u>57,740</u>
5	Total.....		\$ 145,171

6           The total amount of these appropriations shall be paid from  
7 the special revenue fund out of fees and collections as provided by  
8 Article 29A, Chapter 16 of the Code.

*274 - WV State Board of Examiners for Licensed Practical Nurses –*

*Licensed Practical Nurses*

(WV Code Chapter 30)



Fund 8517 FY 2019 Org 0906

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 455,324
3	Current Expenses .....	13000	<u>128,133</u>
4	Total.....		\$ 583,457

*275 - WV Board of Examiners for Registered Professional Nurses –**Registered Professional Nurses*

(WV Code Chapter 30)

Fund 8520 FY 2019 Org 0907

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,226,557
3	Current Expenses .....	13000	312,655
4	Repairs and Alterations.....	06400	3,000
5	Equipment.....	07000	25,000
6	Other Assets.....	69000	<u>4,500</u>
7	Total.....		\$ 1,571,712

*276 - Public Service Commission*

(WV Code Chapter 24)

Fund 8623 FY 2019 Org 0926

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 11,807,314
3	Unclassified.....	09900	147,643
4	Current Expenses .....	13000	2,572,222
5	Repairs and Alterations.....	06400	55,000
6	Equipment.....	07000	160,000
7	PSC Weight Enforcement.....	34500	4,370,453
8	Debt Payment/Capital Outlay .....	52000	350,000
9	BRIM Premium.....	91300	<u>172,216</u>
10	Total.....		\$ 19,634,848

11           The total amount of these appropriations shall be paid from  
 12 a special revenue fund out of collections for special license fees  
 13 from public service corporations as provided by law.

14           The Public Service Commission is authorized to transfer  
 15 up to \$500,000 from this fund to meet the expected deficiencies in  
 16 the Motor Carrier Division (fund 8625, org 0926) due to the  
 17 amendment and reenactment of W.Va. Code §24A-3-1 by Enrolled  
 18 House Bill Number 2715, Regular Session, 1997.

*277 - Public Service Commission –*

*Gas Pipeline Division –*

*Public Service Commission Pipeline Safety Fund*

(WV Code Chapter 24B)

Fund 8624 FY 2019 Org 0926

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 284,198
3	Unclassified.....	09900	3,851
4	Current Expenses .....	13000	93,115
5	Repairs and Alterations.....	06400	4,000
6	Total.....		<u>\$ 385,164</u>

7           The total amount of these appropriations shall be paid from  
 8 a special revenue fund out of receipts collected for or by the Public  
 9 Service Commission pursuant to and in the exercise of regulatory  
 10 authority over pipeline companies as provided by law.

*278 - Public Service Commission –*

*Motor Carrier Division*

(WV Code Chapter 24A)

Fund 8625 FY 2019 Org 0926

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,243,526

3	Unclassified.....	09900	29,233
4	Current Expenses .....	13000	577,557
5	Repairs and Alterations.....	06400	23,000
6	Equipment.....	07000	<u>50,000</u>
7	Total.....		\$ 2,923,316

8           The total amount of these appropriations shall be paid from  
9 a special revenue fund out of receipts collected for or by the Public  
10 Service Commission pursuant to and in the exercise of regulatory  
11 authority over motor carriers as provided by law.

*279 - Public Service Commission –*

*Consumer Advocate Fund*

(WV Code Chapter 24)

Fund 8627 FY 2019 Org 0926

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 743,372
3	Current Expenses .....	13000	276,472
4	Equipment.....	07000	9,872
5	BRIM Premium.....	91300	<u>4,660</u>
6	Total.....		\$ 1,034,376

7           The total amount of these appropriations shall be supported  
8 by cash from a special revenue fund out of collections made by the  
9 Public Service Commission.

*280 - Real Estate Commission –*

*Real Estate License Fund*

(WV Code Chapter 30)

Fund 8635 FY 2019 Org 0927

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 582,413
3	Current Expenses .....	13000	285,622
4	Repairs and Alterations.....	06400	5,000

5	Equipment .....	07000		<u>10,000</u>
6	Total .....		\$	883,035

7           The total amount of these appropriations shall be paid out  
8 of collections of license fees as provided by law.

*281 - WV Board of Examiners for Speech-Language*

*Pathology and Audiology –*

*Speech-Language Pathology and Audiology Operating Fund*

(WV Code Chapter 30)

Fund 8646 FY 2019 Org 0930

1	Personal Services and			
2	Employee Benefits .....	00100	\$	73,190
3	Current Expenses .....	13000		<u>65,623</u>
4	Total .....		\$	138,813

*282 - WV Board of Respiratory Care –*

*Board of Respiratory Care Fund*

(WV Code Chapter 30)

Fund 8676 FY 2019 Org 0935

1	Personal Services and			
2	Employee Benefits .....	00100	\$	82,803
3	Current Expenses .....	13000		50,387
4	Repairs and Alterations .....	06400		<u>400</u>
5	Total .....		\$	133,590

*283 - WV Board of Licensed Dietitians –*

*Dietitians Licensure Board Fund*

(WV Code Chapter 30)

Fund 8680 FY 2019 Org 0936

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 15,950
3	Current Expenses .....	13000	<u>17,050</u>
4	Total.....		\$ 33,000

*284 - Massage Therapy Licensure Board –*

*Massage Therapist Board Fund*

(WV Code Chapter 30)

Fund 8671 FY 2019 Org 0938

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 104,418
3	Current Expenses .....	13000	<u>42,648</u>
4	Total.....		\$ 147,066

*285 - Board of Medicine –*

*Medical Licensing Board Fund*

(WV Code Chapter 30)

Fund 9070 FY 2019 Org 0945

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,287,752
3	Current Expenses .....	13000	1,113,789
4	Repairs and Alterations.....	06400	<u>20,000</u>
5	Total.....		\$ 2,421,541

*286 - West Virginia Enterprise Resource Planning Board –*

*Enterprise Resource Planning System Fund*

(WV Code Chapter 12)

Fund 9080 FY 2019 Org 0947

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 6,713,066
3	Unclassified.....	09900	232,000

4	Current Expenses .....	13000	17,640,134
5	Repairs and Alterations .....	06400	300
6	Equipment .....	07000	213,000
7	Buildings .....	25800	2,000
8	Other Assets .....	69000	<u>199,500</u>
9	Total.....		\$ 25,000,000

*287 - Board of Treasury Investments –*

*Board of Treasury Investments Fee Fund*

(WV Code Chapter 12)

Fund 9152 FY 2019 Org 0950

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 782,889
3	Unclassified.....	09900	14,850
4	Current Expenses .....	13000	650,714
5	BRIM Premium.....	91300	36,547
6	Fees of Custodians, Fund Advisors and		
7	Fund Managers .....	93800	<u>3,500,000</u>
8	Total.....		\$ 4,985,000

9           There is hereby appropriated from this fund, in addition to  
10 the above appropriation if needed, an amount of funds necessary  
11 for the Board of Treasury Investments to pay the fees and expenses  
12 of custodians, fund advisors and fund managers for the  
13 consolidated fund of the State as provided in Article 6C, Chapter  
14 12 of the Code.

15           The total amount of these appropriations shall be paid from  
16 the special revenue fund out of fees and collections as provided by  
17 law.

18 Total TITLE II, Section 3 – Other Funds

19           (Including claims against the state) ..... \$1,485,773,568

1           **Sec. 4. Appropriations from lottery net profits.** — Net  
2 profits of the lottery are to be deposited by the Director of the

3 Lottery to the following accounts in the amounts indicated. The  
 4 Director of the Lottery shall prorate each deposit of net profits in  
 5 the proportion the appropriation for each account bears to the total  
 6 of the appropriations for all accounts.

7           After first satisfying the requirements for Fund 2252, Fund  
 8 3963, and Fund 4908 pursuant to W.Va. Code §29-22-18, the  
 9 Director of the Lottery shall make available from the remaining net  
 10 profits of the lottery any amounts needed to pay debt service for  
 11 which an appropriation is made for Fund 9065, Fund 4297, Fund  
 12 3390, and Fund 3514 and is authorized to transfer any such  
 13 amounts to Fund 9065, Fund 4297, Fund 3390, and Fund 3514 for  
 14 that purpose. Upon receipt of reimbursement of amounts so  
 15 transferred, the Director of the Lottery shall deposit the  
 16 reimbursement amounts to the following accounts as required by  
 17 this section.

*288 - Education, Arts, Sciences and Tourism –*

*Debt Service Fund*

(WV Code Chapter 5)

Fund 2252 FY 2019 Org 0211

	<b>Appro- piation</b>	<b>Lottery Funds</b>
1 Debt Service – Total .....	31000	\$ 10,000,000

*289 - West Virginia Development Office –*

*West Virginia Tourism Office*

(WV Code Chapter 5B)

Fund 3067 FY 2019 Org 0304

1 Tourism – Telemarketing Center .....	46300	\$ 82,080
2 Tourism – Advertising (R).....	61800	2,422,407
3 Tourism – Operations (R) .....	66200	<u>4,045,269</u>
4 Total.....		\$ 6,549,756

5 Any unexpended balances remaining in the appropriations  
 6 for Tourism – Advertising (fund 3067, appropriation 61800), and  
 7 Tourism – Operations (fund 3067, appropriation 66200) at the  
 8 close of the fiscal year 2018 are hereby reappropriated for  
 9 expenditure during the fiscal year 2019.

*290 - Division of Natural Resources*

(WV Code Chapter 20)

Fund 3267 FY 2019 Org 0310

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,196,139
3	Current Expenses .....	13000	26,900
4	Pricketts Fort State Park.....	32400	106,560
5	Non-Game Wildlife (R) .....	52700	372,124
6	State Parks and Recreation		
7	Advertising (R) .....	61900	<u>494,578</u>
8	Total.....		\$ 3,196,301

9 Any unexpended balances remaining in the appropriations  
 10 for Unclassified (fund 3267, appropriation 09900), Capital Outlay  
 11 – Parks (fund 3267, appropriation 28800), Non-Game Wildlife  
 12 (fund 3267, appropriation 52700), and State Parks and Recreation  
 13 Advertising (fund 3267, appropriation 61900) at the close of the  
 14 fiscal year 2018 are hereby reappropriated for expenditure during  
 15 the fiscal year 2019.

*291 - State Board of Education*

(WV Code Chapters 18 and 18A)

Fund 3951 FY 2019 Org 0402

1	FBI Checks.....	37200	\$ 111,611
2	Vocational Education Equipment		
3	Replacement .....	39300	800,000
4	Assessment Program (R).....	39600	2,969,690
5	21 <sup>st</sup> Century Technology Infrastructure		
6	Network Tools and Support (R) .....	93300	<u>14,295,591</u>



7 Total..... \$ 18,176,892

8 Any unexpended balances remaining in the appropriations  
9 for Unclassified (fund 3951, appropriation 09900), Current  
10 Expenses (fund 3951, appropriation 13000), Assessment Program  
11 (fund 3951, appropriation 39600), and 21<sup>st</sup> Century Technology  
12 Infrastructure Network Tools and Support (fund 3951,  
13 appropriation 93300) at the close of the fiscal year 2018 are hereby  
14 reappropriated for expenditure during the fiscal year 2019.

*292 - State Department of Education –*

*School Building Authority –*

*Debt Service Fund*

(WV Code Chapter 18)

Fund 3963 FY 2019 Org 0402

1	Debt Service – Total .....	31000	\$ 15,320,363
2	Directed Transfer .....	70000	<u>2,679,637</u>
3	Total.....		\$ 18,000,000

4 The School Building Authority shall have the authority to  
5 transfer between the above appropriations in accordance with  
6 W.Va. Code §29-22-18.

*293 - Department of Education and the Arts –*

*Office of the Secretary –*

*Control Account –*

*Lottery Education Fund*

(WV Code Chapter 5F)

Fund 3508 FY 2019 Org 0431

1	Unclassified (R) .....	09900	\$ 9,483
2	Current Expenses .....	13000	110,617
3	Commission for National and		

4	Community Service .....	19300	357,084
5	Statewide STEM 21 <sup>st</sup> Century Academy ...	89700	130,000
6	Literacy Project (R).....	89900	<u>350,000</u>
7	Total.....		\$ 957,184

8 Any unexpended balances remaining in the appropriations  
 9 for Unclassified (fund 3508, appropriation 09900), Governor's  
 10 Honors Academy (fund 3508, appropriation 47800), Arts Programs  
 11 (fund 3508, appropriation 50000), and Literacy Project (fund 3508,  
 12 appropriation 89900) at the close of fiscal year 2018 are hereby  
 13 reappropriated for expenditure during the fiscal year 2019.

*294 - Division of Culture and History –*

*Lottery Education Fund*

(WV Code Chapter 29)

Fund 3534 FY 2019 Org 0432

1	Huntington Symphony .....	02700	\$ 59,058
2	Preservation WV (R).....	09200	491,921
3	Fairs and Festivals (R) .....	12200	1,346,814
4	Archeological Curation/Capital		
5	Improvements (R).....	24600	32,079
6	Historic Preservation Grants (R).....	31100	368,428
7	West Virginia Public Theater.....	31200	120,019
8	Greenbrier Valley Theater .....	42300	99,543
9	Theater Arts of West Virginia.....	46400	90,000
10	Marshall Artists Series .....	51800	36,005
11	Grants for Competitive Arts		
12	Program (R) .....	62400	726,000
13	West Virginia State Fair.....	65700	31,241
14	Save the Music .....	68000	24,000
15	Contemporary American		
16	Theater Festival .....	81100	57,281
17	Independence Hall .....	81200	27,277
18	Mountain State Forest Festival .....	86400	38,187
19	WV Symphony.....	90700	59,058
20	Wheeling Symphony.....	90800	59,058

21	Appalachian Children's Chorus.....	91600	<u>54,554</u>
22	Total.....		\$ 3,720,523

23 From the above appropriation for Preservation West  
 24 Virginia (fund 3534, appropriation 09200) funding shall be  
 25 provided to the African-American Heritage Family Tree Museum  
 26 (Fayette) \$2,673, Aracoma Story (Logan) \$29,703, Arts  
 27 Monongahela (Monongalia) \$11,881, Barbour County Arts and  
 28 Humanities Council \$891, Beckley Main Street (Raleigh)  
 29 \$2,970, Buffalo Creek Memorial (Logan) \$2,970, Carnegie Hall  
 30 (Greenbrier) \$46,899, Ceredo Historical Society (Wayne)  
 31 \$1,188, Ceredo Kenova Railroad Museum (Wayne) \$1,188,  
 32 Ceredo Museum (Wayne) \$720, Children's Theatre of Charleston  
 33 (Kanawha) \$3,127, Chuck Mathena Center (Mercer) \$62,532,  
 34 Collis P. Huntington Railroad Historical Society (Cabell) \$5,941,  
 35 Country Music Hall of Fame and Museum (Marion) \$4,159, First  
 36 Stage Children's Theater Company \$1,188, Flannigan Murrell  
 37 House (Summers) \$3,781, Fort Ashby Fort (Mineral) \$891, Fort  
 38 New Salem (Harrison) \$2,198, Fort Randolph (Mason) \$2,970,  
 39 General Adam Stephen Memorial Foundation (Berkeley)  
 40 \$11,006, Grafton Mother's Day Shrine Committee (Taylor)  
 41 \$5,049, Hardy County Tour and Crafts Association \$11,881,  
 42 Heartwood in the Hills (Calhoun) \$5,040, Heritage Farm Museum  
 43 & Village (Cabell) \$29,703, Historic Fayette Theater (Fayette)  
 44 \$3,267, Historic Middleway Conservancy (Jefferson) \$594,  
 45 Jefferson County Black History Preservation Society \$2,970,  
 46 Jefferson County Historical Landmark Commission \$4,753,  
 47 Maddie Carroll House (Cabell) \$4,455, Marshall County  
 48 Historical Society \$5,049, McCoy Theater (Hardy) \$11,881,  
 49 Morgantown Theater Company (Monongalia) \$11,881,  
 50 Mountaineer Boys' State (Lewis) \$5,941, Nicholas Old Main  
 51 Foundation (Nicholas) \$1,188, Norman Dillon Farm Museum  
 52 (Berkeley) \$5,941, Old Opera House Theater Company  
 53 (Jefferson) \$8,911, Parkersburg Arts Center (Wood) \$11,881,  
 54 Pocahontas Historic Opera House \$3,564, Raleigh County All  
 55 Wars Museum \$5,941, Rhododendron Girl's State (Ohio)  
 56 \$5,941, Roane County 4-H and FFA Youth Livestock Program  
 57 \$2,970, Scottish Heritage Society/N. Central WV (Harrison)  
 58 \$2,970, Society for the Preservation of McGrew House (Preston)

59 \$2,079, Southern West Virginia Veterans' Museum \$3,393,  
60 Summers County Historic Landmark Commission \$2,970, Those  
61 Who Served War Museum (Mercer) \$2,376, Three Rivers Avian  
62 Center (Summers) \$5,311, Tug Valley Arts Council (Mingo)  
63 \$2,970, Tug Valley Chamber of Commerce Coal House (Mingo)  
64 \$1,188, Tunnelton Historical Society (Preston) \$1,188, Veterans  
65 Committee for Civic Improvement of Huntington (Wayne)  
66 \$2,970, West Virginia Museum of Glass (Lewis) \$2,970, West  
67 Virginia Music Hall of Fame (Kanawha) \$20,792, YMCA Camp  
68 Horseshoe (Tucker) \$59,406, Youth Museum of Southern West  
69 Virginia (Raleigh) \$7,129, Z.D. Ramsdell House (Wayne) \$720.

70 From the above appropriation for Fairs and Festivals (fund  
71 3534, appropriation 12200) funding shall be provided to A  
72 Princeton 4th (Mercer) \$1,800, African-American Cultural  
73 Heritage Festival (Jefferson) \$2,970, Alderson 4th of July  
74 Celebration (Greenbrier) \$2,970, Allegheny Echo (Pocahontas)  
75 \$4,456, Alpine Festival/Leaf Peepers Festival (Tucker) \$6,683,  
76 American Civil War (Grant) \$3,127, American Legion Post 8  
77 Veterans Day Parade (McDowell) \$1,250, Angus Beef and Cattle  
78 Show (Lewis) \$891, Annual Birch River Days (Nicholas) \$1,296,  
79 Annual Don Redman Heritage Concert & Awards (Jefferson)  
80 \$938, Annual Ruddle Park Jamboree (Pendleton) \$4,690, Antique  
81 Market Fair (Lewis) \$1,188, Apollo Theater-Summer Program  
82 (Berkeley) \$1,188, Apple Butter Festival (Morgan) \$3,564,  
83 Arkansas Homemaker's Heritage Weekend (Hardy) \$2,079,  
84 Armed Forces Day-South Charleston (Kanawha) \$1,782,  
85 Arthurdale Heritage New Deal Festival (Preston) \$2,970, Athens  
86 Town Fair (Mercer) \$1,188, Augusta Fair (Randolph) \$2,970,  
87 Autumn Harvest Fest (Monroe) \$2,448, Barbour County Fair  
88 \$14,851, Barboursville Octoberfest (Cabell) \$2,970, Bass Festival  
89 (Pleasants) \$1,099, Battelle District Fair (Monongalia) \$2,970,  
90 Battle of Dry Creek (Greenbrier) \$891, Battle of Point Pleasant  
91 Memorial Committee (Mason) \$2,970, Belle Town Fair  
92 (Kanawha) \$2,673, Belleville Homecoming (Wood) \$11,881,  
93 Bergoo Down Home Days (Webster) \$1,485, Berkeley County  
94 Youth Fair \$10,990, Black Bear 4K Mountain Bike Race  
95 (Kanawha) \$684, Black Heritage Festival (Harrison) \$3,564,  
96 Black Walnut Festival (Roane) \$5,940, Blast from the Past

97 (Upshur) \$1,440, Blue-Gray Reunion (Barbour) \$2,079, Boone  
98 County Fair \$5,940, Boone County Labor Day Celebration  
99 \$2,376, Bradshaw Fall Festival (McDowell) \$1,188, Brandonville  
100 Heritage Day (Preston) \$1,048, Braxton County Fair \$6,832,  
101 Braxton County Monster Fest / West Virginia Autumn Festival  
102 \$1,485, Brooke County Fair \$2,079, Bruceton Mills Good  
103 Neighbor Days (Preston) \$1,188, Buckwheat Festival (Preston)  
104 \$5,050, Buffalo 4th of July Celebration (Putnam) \$400, Buffalo  
105 October Fest (Putnam) \$3,240, Burlington Apple Harvest Festival  
106 (Mineral) \$17,821, Burlington Pumpkin Harvest Festival  
107 (Raleigh) \$2,970, Burnsville Harvest Festival (Braxton) \$1,407,  
108 Cabell County Fair \$5,940, Calhoun County Wood Festival  
109 \$1,188, Campbell's Creek Community Fair (Kanawha) \$1,485,  
110 Cape Coalwood Festival Association (McDowell) \$1,485, Capon  
111 Bridge Founders Day Festival (Hampshire) \$1,188, Capon  
112 Springs Ruritan 4th of July (Hampshire) \$684, Cass Homecoming  
113 (Pocahontas) \$1,188, Cedarville Town Festival (Gilmer) \$684,  
114 Celebration in the Park (Wood) \$2,376, Celebration of America  
115 (Monongalia) \$3,564, Ceredo Freedom Festival (Wayne) \$700,  
116 Chapmanville Apple Butter Festival (Logan) \$684, Chapmanville  
117 Fire Department 4th of July (Logan) \$1,782, Charles Town  
118 Christmas Festival (Jefferson) \$2,970, Charles Town Heritage  
119 Festival (Jefferson) \$2,970, Cherry River Festival (Nicholas)  
120 \$3,861, Chester Fireworks (Hancock) \$891, Chester 4th of July  
121 Festivities (Hancock) \$2,970, Chief Logan State Park-Civil War  
122 Celebration (Logan) \$4,752, Chilifest West Virginia State Chili  
123 Championship (Cabell) \$1,563, Christmas In Our Town (Marion)  
124 \$3,127, Christmas in Shepherdstown (Jefferson) \$2,376,  
125 Christmas in the Park (Brooke) \$2,970, Christmas in the Park  
126 (Logan) \$14,851, City of Dunbar Critter Dinner (Kanawha)  
127 \$5,940, City of Logan Polar Express (Logan) \$4,456, City of New  
128 Martinsville Festival of Memories (Wetzel) \$6,534, Clay County  
129 Golden Delicious Apple Festival \$4,158, Clay District Fair  
130 (Monongalia) \$1,080, Coal Field Jamboree (Logan) \$20,792,  
131 Coalton Days Fair (Randolph) \$4,158, Country Roads Festival  
132 (Fayette) \$1,188, Cowen Railroad Festival (Webster) \$2,079,  
133 Craigsville Fall Festival (Nicholas) \$2,079, Cruise into Princeton  
134 (Mercer) \$2,160, Culturefest World Music & Arts Festival  
135 (Mercer) \$4,690, Delbarton Homecoming (Mingo) \$2,079,

136 Doddridge County Fair \$4,158, Dorcas Ice Cream Social (Grant)  
137 \$3,564, Durbin Days (Pocahontas) \$2,970, Elbert/Filbert Reunion  
138 Festival (McDowell) \$891, Elkins Randolph County 4th of July  
139 Car Show (Randolph) \$1,188, Fairview 4th of July Celebration  
140 (Marion) \$684, Farm Safety Day (Preston) \$1,188, Farmer's Day  
141 Festival (Monroe) \$2,330, Farmers' Day Parade (Wyoming)  
142 \$720, Fenwick Mountain Old Time Community Festival  
143 (Nicholas) \$2,880, FestivALL Charleston (Kanawha) \$11,881,  
144 Flatwoods Days (Braxton) \$700, Flemington Day Fair and  
145 Festival (Taylor) \$2,079, Follansbee Community Days (Brooke)  
146 \$4,900, Fort Gay Mountain Heritage Days (Wayne) \$2,970, Fort  
147 Henry Days (Ohio) \$3,148, Fort Henry Living History (Ohio)  
148 \$1,563, Fort New Salem Spirit of Christmas Festival (Harrison)  
149 \$2,432, Frankford Autumnfest (Greenbrier) \$2,970, Franklin  
150 Fishing Derby (Pendleton) \$4,456, Freshwater Folk Festival  
151 (Greenbrier) \$2,970, Friends Auxiliary of W.R. Sharpe Hospital  
152 (Lewis) \$2,970, Frontier Days (Harrison) \$1,782, Frontier  
153 Fest/Canaan Valley (Taylor) \$2,970, Fund for the Arts-Wine &  
154 All that Jazz Festival (Kanawha) \$1,485, Gassaway Days  
155 Celebration (Braxton) \$2,970, Gilbert Elementary Fall Blast  
156 (Mingo) \$2,188, Gilbert Kiwanis Harvest Festival (Mingo)  
157 \$2,376, Gilbert Spring Fling (Mingo) \$3,595, Gilmer County  
158 Farm Show \$2,376, Grant County Arts Council \$1,188, Grape  
159 Stomping Wine Festival (Nicholas) \$1,188, Great Greenbrier  
160 River Race (Pocahontas) \$5,940, Greater Quinwood Days  
161 (Greenbrier) \$781, Guyandotte Civil War Days (Cabell) \$5,941,  
162 Hamlin 4th of July Celebration (Lincoln) \$2,970, Hampshire Civil  
163 War Celebration Days (Hampshire) \$684, Hampshire County 4th  
164 of July Celebration \$11,881, Hampshire County Fair \$5,002,  
165 Hampshire Heritage Days (Hampshire) \$2,376, Hancock County  
166 Oldtime Fair \$2,970, Hardy County Commission - 4th of July  
167 \$5,940, Hatfield McCoy Matewan Reunion Festival (Mingo)  
168 \$12,330, Hatfield McCoy Trail National ATV and Dirt Bike  
169 Weekend (Wyoming) \$2,970, Heat'n the Hills Chilifest (Lincoln)  
170 \$2,970, Heritage Craft Festival (Monroe) \$1,044, Heritage Days  
171 Festival (Roane) \$891, Hilltop Festival (Cabell) \$684, Hilltop  
172 Festival of Lights (McDowell) \$1,188, Hinton Railroad Days  
173 (Summers) \$4,347, Holly River Festival (Webster) \$891,  
174 Hometown Mountain Heritage Festival (Fayette) \$2,432,

175 Hundred 4th of July (Wetzel) \$4,307, Hundred American Legion  
176 Earl Kiger Post Bluegrass Festival (Wetzel) \$1,188, Hurricane 4th  
177 of July Celebration (Putnam) \$2,970, Jaeger Town Fair  
178 (McDowell) \$891, Irish Heritage Festival of West Virginia  
179 (Raleigh) \$2,970, Irish Spring Festival (Lewis) \$684, Italian  
180 Heritage Festival-Clarksburg (Harrison) \$17,821, Jackson County  
181 Fair \$2,970, Jamboree (Pocahontas) \$2,970, Jane Lew Arts and  
182 Crafts Fair (Lewis) \$684, Jefferson County Fair Association  
183 \$14,851, Jersey Mountain Ruritan Pioneer Days (Hampshire)  
184 \$684, John Henry Days Festival (Monroe) \$4,698, Johnnie  
185 Johnson Blues and Jazz Festival (Marion) \$2,970, Johnstown  
186 Community Fair (Harrison) \$1,485, Junior Heifer Preview Show  
187 (Lewis) \$1,188, Kanawha Coal Riverfest-St. Albans 4th of July  
188 Festival (Kanawha) \$2,970, Keeper of the Mountains-Kayford  
189 (Kanawha) \$1,485, Kenova Autumn Festival (Wayne) \$4,377,  
190 Kermit Fall Festival (Mingo) \$1,782, Keystone Reunion Gala  
191 (McDowell) \$1,563, King Coal Festival (Mingo) \$2,970,  
192 Kingwood Downtown Street Fair and Heritage Days (Preston)  
193 \$1,188, L.Z. Rainelle West Virginia Veterans Reunion  
194 (Greenbrier) \$2,970, Lady of Agriculture (Preston) \$684, Larry  
195 Joe Harless Center Octoberfest Hatfield McCoy Trail (Mingo)  
196 \$5,940, Larry Joe Harless Community Center Spring Middle  
197 School Event (Mingo) \$2,970, Last Blast of Summer (McDowell)  
198 \$2,970, Lewis County Fair Association \$2,079, Lewisburg  
199 Shanghai (Greenbrier) \$1,188, Lincoln County Fall Festival  
200 \$4,752, Lincoln County Winterfest \$2,970, Lindsie Veterans'  
201 Day Parade \$720, Little Levels Heritage Festival (Pocahontas)  
202 \$1,188, Lost Creek Community Festival (Harrison) \$4,158, Main  
203 Street Arts Festival (Upshur) \$3,127, Main Street Martinsburg  
204 Chocolate Fest and Book Fair (Berkeley) \$2,813, Mannington  
205 District Fair (Marion) \$3,564, Maple Syrup Festival (Randolph)  
206 \$684, Marion County FFA Farm Fest \$1,485, Marmet Labor Day  
207 Celebration (Kanawha) \$3,078, Marshall County Antique Power  
208 Show \$1,485, Marshall County Fair \$4,456, Mason County Fair  
209 \$2,970, Mason Dixon Festival (Monongalia) \$4,158, Matewan  
210 Massacre Reenactment (Mingo) \$5,004, Matewan-Magnolia Fair  
211 (Mingo) \$15,932, McARTS-McDowell County \$11,881,  
212 McDowell County Fair \$1,485, McGrew House History Day  
213 (Preston) \$1,188, McNeill's Rangers (Mineral) \$4,752, Meadow

214 Bridge Hometown Festival (Fayette) \$743, Meadow River Days  
215 Festival (Greenbrier) \$1,782, Mercer Bluestone Valley Fair  
216 (Mercer) \$1,188, Mercer County Fair \$1,188, Mercer County  
217 Heritage Festival \$3,474, Mid Ohio Valley Antique Engine  
218 Festival (Wood) \$1,782, Milton Christmas in the Park (Cabell)  
219 \$1,485, Milton 4th of July Celebration (Cabell) \$1,485, Mineral  
220 County Fair \$1,040, Mineral County Veterans Day Parade \$891,  
221 Molasses Festival (Calhoun) \$1,188, Monongahfest (Marion)  
222 \$3,752, Moon Over Mountwood Fishing Festival (Wood) \$1,782,  
223 Morgan County Fair-History Wagon \$891, Moundsville Bass  
224 Festival (Marshall) \$2,376, Moundsville July 4th Celebration  
225 (Marshall) \$2,970, Mount Liberty Fall Festival (Barbour)  
226 \$1,485, Mountain Fest (Monongalia) \$11,881, Mountain Festival  
227 (Mercer) \$2,747, Mountain Heritage Arts and Crafts Festival  
228 (Jefferson) \$2,970, Mountain Music Festival (McDowell) \$1,485,  
229 Mountain State Apple Harvest Festival (Berkeley) \$4,456,  
230 Mountain State Arts & Crafts Fair Cedar Lakes (Jackson)  
231 \$26,732, Mountaineer Hot Air Balloon Festival (Monongalia)  
232 \$2,376, Mullens Dogwood Festival (Wyoming) \$4,158, Multi-  
233 Cultural Festival of West Virginia (Kanawha) \$11,881, Music and  
234 Barbecue - Banks District VFD (Upshur) \$1,278, New  
235 Cumberland Christmas Parade (Hancock) \$1,782, New  
236 Cumberland 4th of July (Hancock) \$2,970, New River Bridge Day  
237 Festival (Fayette) \$23,762, Newburg Volunteer Fireman's Field  
238 Day (Preston) \$684, Nicholas County Fair \$2,970, Nicholas  
239 County Potato Festival \$2,079, Oak Leaf Festival (Fayette)  
240 \$6,253, Oceana Heritage Festival (Wyoming) \$3,564, Oglebay  
241 City Park - Festival of Lights (Ohio) \$47,524, Oglebay Festival  
242 (Ohio) \$5,940, Ohio County Country Fair \$5,346, Ohio River  
243 Fest (Jackson) \$4,320, Ohio Valley Beef Association (Wood)  
244 \$1,485, Ohio Valley Black Heritage Festival (Ohio) \$3,267, Old  
245 Central City Fair (Cabell) \$2,970, Old Century City Fair  
246 (Barbour) \$1,250, Old Tyme Christmas (Jefferson) \$1,425,  
247 Paden City Labor Day Festival (Wetzel) \$3,861, Parkersburg  
248 Homecoming (Wood) \$8,754, Patty Fest (Monongalia) \$1,188,  
249 Paw Paw District Fair (Marion) \$2,079, Pax Reunion Committee  
250 (Fayette) \$2,970, Pendleton County 4-H Weekend \$1,188,  
251 Pendleton County Committee for Arts \$8,910, Pendleton County  
252 Fair \$6,253, Pennsboro Country Road Festival (Ritchie) \$1,188,



253 Petersburg 4th of July Celebration (Grant) \$11,881, Petersburg  
254 HS Celebration (Grant) \$5,940, Piedmont-Annual Back Street  
255 Festival (Mineral) \$2,376, Pinch Reunion (Kanawha) \$891, Pine  
256 Bluff Fall Festival (Harrison) \$2,376, Pine Grove 4th of July  
257 Festival (Wetzel) \$4,158, Pineville Festival (Wyoming) \$3,564,  
258 Pleasants County Agriculture Youth Fair \$2,970, Poca Heritage  
259 Days (Putnam) \$1,782, Pocahontas County Pioneer Days \$4,159,  
260 Point Pleasant Stern Wheel Regatta (Mason) \$2,970, Pratt Fall  
261 Festival (Kanawha) \$1,485, Princeton Autumnfest (Mercer)  
262 \$1,563, Princeton Street Fair (Mercer) \$2,970, Putnam County  
263 Fair \$2,970, Quartets on Parade (Hardy) \$2,376, Rainelle Fall  
264 Festival (Greenbrier) \$3,127, Rand Community Center Festival  
265 (Kanawha) \$1,485, Randolph County Community Arts Council  
266 \$1,782, Randolph County Fair \$4,158, Randolph County Ramp  
267 and Rails \$1,188, Ranson Christmas Festival (Jefferson) \$2,970,  
268 Ranson Festival (Jefferson) \$2,970, Renick Liberty Festival  
269 (Greenbrier) \$684, Ripley 4th of July (Jackson) \$8,910, Ritchie  
270 County Fair and Exposition \$2,970, Ritchie County Pioneer Days  
271 \$684, River City Festival (Preston) \$684, Roane County  
272 Agriculture Field Day \$1,782, Rock the Park (Kanawha) \$3,240,  
273 Rocket Boys Festival (Raleigh) \$1,710, Romney Heritage Days  
274 (Hampshire) \$1,876, Ronceverte River Festival (Greenbrier)  
275 \$2,970, Rowlesburg Labor Day Festival (Preston) \$684, Rupert  
276 Country Fling (Greenbrier) \$1,876, Saint Spyridon Greek Festival  
277 (Harrison) \$1,485, Salem Apple Butter Festival (Harrison)  
278 \$2,376, Sistersville 4th of July (Tyler) \$3,267, Skirmish on the  
279 River (Mingo) \$1,250, Smoke on the Water (Wetzel) \$1,782,  
280 South Charleston Summerfest (Kanawha) \$5,940, Southern  
281 Wayne County Fall Festival \$684, Spirit of Grafton Celebration  
282 (Taylor) \$5,940, Springfield Peach Festival (Hampshire) \$738,  
283 St. Albans City of Lights - December (Kanawha) \$2,970,  
284 Sternwheel Festival (Wood) \$1,782, Stoco Reunion (Raleigh)  
285 \$1,485, Stonewall Jackson Heritage Arts & Crafts Jubilee (Lewis)  
286 \$6,534, Stonewall Jackson's Roundhouse Raid (Berkeley) \$7,200,  
287 Storytelling Festival (Lewis) \$400, Strawberry Festival (Upshur)  
288 \$17,821, Sylvester Big Coal River Festival \$1,944, Tacy Fair  
289 (Barbour) \$684, Taste of Parkersburg (Wood) \$2,970, Taylor  
290 County Fair \$3,267, Terra Alta VFD 4th of July Celebration  
291 (Preston) \$684, The Gathering at Sweet Creek (Wood) \$1,782,

292 Three Rivers Coal Festival (Marion) \$4,604, Thunder on the  
293 Tygart - Mothers' Day Celebration (Taylor) \$8,910, Town of  
294 Delbarton 4th of July Celebration (Mingo) \$1,782, Town of  
295 Fayetteville Heritage Festival (Fayette) \$4,456, Town of Matoaka  
296 Hog Roast (Mercer) \$684, Town of Rivesville 4th of July Festival  
297 (Marion) \$3,127, Town of Winfield - Putnam County  
298 Homecoming \$3,240, St. Albans Train Fest (Kanawha) \$6,120,  
299 Treasure Mountain Festival (Pendleton) \$14,851, Tri-County Fair  
300 (Grant) \$22,548, Tucker County Arts Festival and Celebration  
301 \$10,692, Tucker County Fair \$2,821, Tucker County Health Fair  
302 \$1,188, Tunnelton Depot Days (Preston) \$684, Tunnelton  
303 Volunteer Fire Department Festival (Preston) \$684, Turkey  
304 Festival (Hardy) \$1,782, Tyler County Fair \$3,088, Tyler County  
305 4th of July \$400, Tyler County OctoberFest \$720, Union  
306 Community Irish Festival (Barbour) \$648, Uniquely West  
307 Virginia Festival (Morgan) \$1,188, Upper Kanawha Valley  
308 Oktoberfest (Kanawha) \$1,485, Upper Ohio Valley Italian  
309 Festival (Ohio) \$7,128, Upshur County Youth Livestock Show  
310 \$1,440, Valley District Fair (Preston) \$2,079, Veterans Welcome  
311 Home Celebration (Cabell) \$938, Vietnam Veterans of America  
312 # 949 Christmas Party (Cabell) \$684, Volcano Days at  
313 Mountwood Park (Wood) \$2,970, War Homecoming Fall Festival  
314 (McDowell) \$891, Wardensville Fall Festival (Hardy) \$2,970,  
315 Wayne County Fair \$2,970, Wayne County Fall Festival \$2,970,  
316 Webster County Fair \$3,600, Webster County Wood Chopping  
317 Festival \$8,910, Webster Wild Water Weekend \$1,188, Weirton  
318 July 4th Celebration (Hancock) \$11,881, Welcome Home Family  
319 Day (Wayne) \$1,900, Wellsburg 4th of July Celebration (Brooke)  
320 \$4,456, Wellsburg Apple Festival of Brooke County \$2,970, West  
321 Virginia Blackberry Festival (Harrison) \$2,970, West Virginia  
322 Chestnut Festival (Preston) \$684, West Virginia Coal Festival  
323 (Boone) \$5,940, West Virginia Coal Show (Mercer) \$1,563,  
324 West Virginia Dairy Cattle Show (Lewis) \$5,940, West Virginia  
325 Dandelion Festival (Greenbrier) \$2,970, West Virginia Day at the  
326 Railroad Museum (Mercer) \$1,800, West Virginia Fair and  
327 Exposition (Wood) \$4,812, West Virginia Fireman's Rodeo  
328 (Fayette) \$1,485, West Virginia Oil and Gas Festival (Tyler)  
329 \$6,534, West Virginia Peach Festival (Hampshire) \$3,240, West  
330 Virginia Polled Hereford Association (Braxton) \$891, West

331 Virginia Poultry Festival (Hardy) \$2,970, West Virginia Pumpkin  
 332 Festival (Cabell) \$5,940, West Virginia State Folk Festival  
 333 (Gilmer) \$2,970, West Virginia Water Festival - City of Hinton  
 334 (Summers) \$9,144, Weston VFD 4th of July Firemen Festival  
 335 (Lewis) \$1,188, Wetzel County Autumnfest \$3,267, Wetzel  
 336 County Town and Country Days \$10,098, Wheeling Celtic  
 337 Festival (Ohio) \$1,166, Wheeling City of Lights (Ohio) \$4,752,  
 338 Wheeling Sternwheel Regatta (Ohio) \$5,940, Wheeling Vintage  
 339 Raceboat Regatta (Ohio) \$11,881, Whipple Community Action  
 340 (Fayette) \$1,485, Wileyville Homecoming (Wetzel) \$2,376,  
 341 Wine Festival and Mountain Music Event (Harrison) \$2,970,  
 342 Winter Festival of the Waters (Berkeley) \$2,970, Wirt County  
 343 Fair \$1,485, Wirt County Pioneer Days \$1,188, Wyoming  
 344 County Civil War Days \$1,296, Youth Stockman Beef Expo  
 345 (Lewis) \$1,188.

346 Any unexpended balances remaining in the appropriations  
 347 for Preservation West Virginia (fund 3534, appropriation 09200),  
 348 Fairs and Festivals (fund 3534, appropriation 12200),  
 349 Archeological Curation/Capital Improvements (fund 3534,  
 350 appropriation 24600), Historic Preservation Grants (fund 3534,  
 351 appropriation 31100), Grants for Competitive Arts Program (fund  
 352 3534, appropriation 62400), and Project ACCESS (fund 3534,  
 353 appropriation 86500) at the close of the fiscal year 2018 are hereby  
 354 reappropriated for expenditure during the fiscal year 2019.

355 Any Fairs & Festivals awards shall be funded in addition  
 356 to, and not in lieu of, individual grant allocations derived from the  
 357 Arts Council and the Cultural Grant Program allocations.

*295 - Library Commission –*

*Lottery Education Fund*

(WV Code Chapter 10)

Fund 3559 FY 2019 Org 0433

1	Books and Films .....	17900	\$	360,784
2	Services to Libraries .....	18000		550,000
3	Grants to Public Libraries .....	18200		9,439,571

4	Digital Resources .....	30900	219,992
5	Infomine Network .....	88400	<u>884,109</u>
6	Total .....		\$ 11,454,456

7 Any unexpended balance remaining in the appropriation  
 8 for Libraries – Special Projects (fund 3559, appropriation 62500)  
 9 at the close of fiscal year 2018 is hereby reappropriated for  
 10 expenditure during the fiscal year 2019.

*296 - Bureau of Senior Services –*

*Lottery Senior Citizens Fund*

(WV Code Chapter 29)

Fund 5405 FY 2019 Org 0508

1	Personal Services and		
2	Employee Benefits .....	00100	\$ 198,745
3	Current Expenses .....	13000	332,284
4	Repairs and Alterations .....	06400	1,000
5	Local Programs Service		
6	Delivery Costs .....	20000	2,435,250
7	Silver Haired Legislature .....	20200	18,500
8	Transfer to Division of Human Services for		
9	Health Care and Title XIX Waiver		
10	for Senior Citizens .....	53900	4,615,503
11	Roger Tompkins Alzheimer's		
12	Respite Care .....	64300	2,298,312
13	WV Alzheimer's Hotline .....	72400	45,000
14	Regional Aged and Disabled		
15	Resource Center .....	76700	425,000
16	Senior Services Medicaid Transfer .....	87100	14,502,312
17	Legislative Initiatives for the Elderly .....	90400	9,671,239
18	Long Term Care Ombudsman .....	90500	297,226
19	BRIM Premium .....	91300	7,718
20	In-Home Services and Nutrition for		
21	Senior Citizens .....	91700	<u>4,320,941</u>
22	Total .....		\$ 39,169,030

23 Any unexpended balance remaining in the appropriation  
 24 for Senior Citizen Centers and Programs (fund 5405, appropriation  
 25 46200) at the close of the fiscal year 2018 is hereby reappropriated  
 26 for expenditure during the fiscal year 2019.

27 Included in the above appropriation for Current Expenses  
 28 (fund 5405, appropriation 13000), is funding to support an in-home  
 29 direct care workforce registry.

30 The above appropriation for Transfer to Division of Human  
 31 Services for Health Care and Title XIX Waiver for Senior Citizens  
 32 (appropriation 53900) along with the federal moneys generated  
 33 thereby shall be used for reimbursement for services provided  
 34 under the program.

*297 - Higher Education Policy Commission –*

*Lottery Education –*

*Higher Education Policy Commission –*

*Control Account*

(WV Code Chapters 18B and 18C)

Fund 4925 FY 2019 Org 0441

1	RHI Program and Site Support (R).....03600	\$	1,912,491
2	RHI Program and Site Support –		
3	RHEP Program Administration .....03700		146,653
4	RHI Program and Site Support – Grad Med		
5	Ed and Fiscal Oversight (R) .....03800		87,777
6	Minority Doctoral Fellowship (R) .....16600		129,604
7	Health Sciences Scholarship (R).....17600		222,417
8	Vice Chancellor for Health Sciences –		
9	Rural Health Residency		
10	Program (R).....60100		62,725
11	WV Engineering, Science, and		
12	Technology Scholarship Program.....86800		452,831
13	Total.....	\$	3,014,498

14 Any unexpended balances remaining in the appropriations  
 15 for RHI Program and Site Support (fund 4925, appropriation  
 16 03600), RHI Program and Site Support – Grad Med Ed and Fiscal  
 17 Oversight (fund 4925, appropriation 03800), Minority Doctoral  
 18 Fellowship (fund 4925, appropriation 16600), Health Sciences  
 19 Scholarship (fund 4925, appropriation 17600), and Vice  
 20 Chancellor for Health Sciences – Rural Health Residency Program  
 21 (fund 4925, appropriation 60100) at the close of fiscal year 2018  
 22 are hereby reappropriated for expenditure during the fiscal year  
 23 2019.

24 The above appropriation for WV Engineering, Science, and  
 25 Technology Scholarship Program (appropriation 86800) shall be  
 26 transferred to the West Virginia Engineering, Science and  
 27 Technology Scholarship Fund (fund 4928, org 0441) established  
 28 by W.Va. Code §18C-6-1.

*298 - Community and Technical College –*

*Capital Improvement Fund*

(WV Code Chapter 18B)

Fund 4908 FY 2019 Org 0442

1 Debt Service – Total .....31000 \$ 5,000,000

2 Any unexpended balance remaining in the appropriation  
 3 for Capital Outlay and Improvements – Total (fund 4908,  
 4 appropriation 84700) at the close of fiscal year 2018 is hereby  
 5 reappropriated for expenditure during the fiscal year 2019.

*299 - Higher Education Policy Commission –*

*Lottery Education –*

*West Virginia University – School of Medicine*

(WV Code Chapter 18B)

Fund 4185 FY 2019 Org 0463

1	WVU Health Sciences –		
2	RHI Program and Site Support (R).....03500	\$	1,132,812
3	MA Public Health Program and		
4	Health Science Technology (R).....2300		52,445
5	Health Sciences Career Opportunities		
6	Program (R) .....	86900	325,138
7	HSTA Program (R) .....	87000	1,680,240
8	Center for Excellence in		
9	Disabilities (R).....96700		<u>303,739</u>
10	Total.....	\$	<u>3,494,374</u>

11           Any unexpended balances remaining in the appropriations  
12 for WVU Health Sciences – RHI Program and Site Support (fund  
13 4185, appropriation 03500), MA Public Health Program and  
14 Health Science Technology (fund 4185, appropriation 62300),  
15 Health Sciences Career Opportunities Program (fund 4185,  
16 appropriation 86900), HSTA Program (fund 4185, appropriation  
17 87000), and Center for Excellence in Disabilities (fund 4185,  
18 appropriation 96700) at the close of fiscal year 2018 are hereby  
19 reappropriated for expenditure during the fiscal year 2019.

*300 - Higher Education Policy Commission –*

*Lottery Education –*

*Marshall University – School of Medicine*

(WV Code Chapter 18B)

Fund 4896 FY 2019 Org 0471

1	Marshall Medical School –		
2	RHI Program and Site Support (R).....03300	\$	408,216
3	Vice Chancellor for Health Sciences –		
4	Rural Health Residency		
5	Program (R) .....	60100	<u>166,770</u>
6	Total.....	\$	<u>574,986</u>

7           Any unexpended balances remaining in the appropriations  
8 for Marshall Medical School – RHI Program and Site Support  
9 (fund 4896, appropriation 03300) and Vice Chancellor for Health

10 Sciences – Rural Health Residency Program (fund 4896,  
11 appropriation 60100) at the close of fiscal year 2018 are hereby  
12 reappropriated for expenditure during the fiscal year 2019.

13 Total TITLE II, Section 4 –

14 Lottery Revenue..... \$ 123,308,000

1 **Sec. 5. Appropriations from state excess lottery revenue**  
2 **fund.** — In accordance with W.Va. Code §29-22-18a, §29-22A-  
3 10d, §29-22A-10e, §29-22C-27a and §29-25-22b, the following  
4 appropriations shall be deposited and disbursed by the Director of  
5 the Lottery to the following accounts in this section in the amounts  
6 indicated.

7 After first funding the appropriations required by W.Va.  
8 Code §29-22-18a, §29-22A-10d, §29-22A-10e, §29-22C-27a and  
9 §29-25-22b, the Director of the Lottery shall provide funding from  
10 the State Excess Lottery Revenue Fund for the remaining  
11 appropriations in this section to the extent that funds are available.  
12 In the event that revenues to the State Excess Lottery Revenue  
13 Fund are sufficient to meet all the appropriations required made  
14 pursuant to this section, then the Director of the Lottery shall then  
15 provide the funds available for fund 5365, appropriation 18900.

*301 - Lottery Commission –*

*Refundable Credit*

Fund 7207 FY 2019 Org 0705

	<b>Appro- piation</b>	<b>Excess Lottery Funds</b>
1 Directed Transfer .....	70000	\$ 10,000,000

2 The above appropriation shall be transferred to the General  
3 Revenue Fund to provide reimbursement for the refundable credit  
4 allowable under W.Va. Code §11-21-21. The amount of the  
5 required transfer shall be determined solely by the State Tax



6 Commissioner and shall be completed by the Director of the  
7 Lottery upon the commissioner’s request.

*302 - Lottery Commission –*

*General Purpose Account*

Fund 7206 FY 2019 Org 0705

1 General Revenue Fund – Transfer .....70011 \$ 65,000,000

2 The above appropriation shall be transferred to the General  
3 Revenue Fund as determined by the Director of the Lottery in  
4 accordance with W.Va. Code §29-22-18a.

*303 - Higher Education Policy Commission –*

*Education Improvement Fund*

Fund 4295 FY 2019 Org 0441

1 PROMISE Scholarship – Transfer .....80000 \$ 29,000,000

2 The above appropriation shall be transferred to the  
3 PROMISE Scholarship Fund (fund 4296, org 0441) established by  
4 W.Va. Code §18C-7-7.

5 The Legislature has explicitly set a finite amount of  
6 available appropriations and directed the administrators of the  
7 Program to provide for the award of scholarships within the limits  
8 of available appropriations.

*304 - Economic Development Authority –*

*Economic Development Project Fund*

Fund 9065 FY 2019 Org 0944

1 Debt Service – Total .....31000 \$ 19,000,000

2 Pursuant to W.Va. Code §29-22-18a, subsection (f), excess  
3 lottery revenues are authorized to be transferred to the lottery fund  
4 as reimbursement of amounts transferred to the economic

5 development project fund pursuant to section four of this title and  
6 W.Va. Code §29-22-18, subsection (f).

*305 - Department of Education –*

*School Building Authority*

Fund 3514 FY 2019 Org 0402

1 Debt Service – Total .....31000 \$ 19,000,000

*306 - West Virginia Infrastructure Council –*

*West Virginia Infrastructure Transfer Fund*

Fund 3390 FY 2019 Org 0316

1 Directed Transfer .....70000 \$ 46,000,000

2 The above appropriation shall be allocated pursuant to  
3 W.Va. Code §29-22-18d and §31-15-9.

*307 - Higher Education Policy Commission –*

*Higher Education Improvement Fund*

Fund 4297 FY 2019 Org 0441

1 Directed Transfer .....70000 \$ 15,000,000

2 The above appropriation shall be transferred to fund 4903,  
3 org 0442 as authorized by Senate Concurrent Resolution No. 41.

*308 - Division of Natural Resources –*

*State Park Improvement Fund*

Fund 3277 FY 2019 Org 0310

1	Current Expenses (R).....	13000	\$	2,438,300
2	Repairs and Alterations (R) .....	06400		2,161,200
3	Equipment (R).....	07000		200,000
4	Buildings (R).....	25800		100,000

5	Other Assets (R).....	69000	100,500
6	Total.....		\$ 5,000,000

7           Any unexpended balances remaining in the above  
 8 appropriations for Repairs and Alterations (fund 3277,  
 9 appropriation 06400), Equipment (fund 3277, appropriation  
 10 07000), Unclassified – Total (fund 3277, appropriation 09600),  
 11 Unclassified (fund 3277, appropriation 09900), Current Expenses  
 12 (fund 3277, appropriation 13000), Buildings (fund 3277,  
 13 appropriation 25800), and Other Assets (fund 3277, appropriation  
 14 69000) at the close of the fiscal year 2018 are hereby  
 15 reappropriated for expenditure during the fiscal year 2019.

*309 - Economic Development Authority –*

*Cacapon and Beech Fork State Parks –*

*Lottery Revenue Debt Service*

Fund 9067 FY 2019 Org 0944

1	Debt Service.....	04000	\$ 2,032,000
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*310 - Racing Commission –*

Fund 7308 FY 2019 Org 0707

1	Special Breeders Compensation		
2	(WVC §29-22-18a, subsection (l)) .....	21800	\$ 2,000,000

*311 - Lottery Commission –*

*Distributions to Statutory Funds and Purposes*

Fund 7213 FY 2019 Org 0705

1	Parking Garage Fund – Transfer .....	70001	\$ 500,000
2	2004 Capitol Complex Parking		
3	Garage Fund – Transfer .....	70002	216,478
4	Capitol Dome and Improvements		
5	Fund – Transfer.....	70003	1,796,256

6	Capitol Renovation and Improvement		
7	Fund – Transfer.....	70004	2,381,252
8	Development Office Promotion		
9	Fund – Transfer.....	70005	1,298,864
10	Research Challenge Fund – Transfer .....	70006	1,731,820
11	Tourism Promotion Fund – Transfer .....	70007	4,808,142
12	Cultural Facilities and Capitol Resources		
13	Matching Grant Program		
14	Fund – Transfer .....	70008	1,250,535
15	State Debt Reduction		
16	Fund – Transfer.....	70010	20,000,000
17	General Revenue Fund – Transfer .....	70011	1,167,799
18	West Virginia Racing Commission		
19	Racetrack Video Lottery Account .....	70012	3,463,637
20	Historic Resort Hotel Fund .....	70013	24,010
21	Licensed Racetrack Regular Purse Fund ...	70014	<u>11,383,247</u>
22	Total.....		\$ 50,022,040

*312 - Governor's Office*

(WV Code Chapter 5)

Fund 1046 FY 2019 Org 0100

1           Any unexpended balance remaining in the appropriation  
2 for Publication of Papers and Transition Expenses – Lottery  
3 Surplus (fund 1046, appropriation 06600) at the close of the fiscal  
4 year 2018 is hereby reappropriated for expenditure during the fiscal  
5 year 2019.

*313 - West Virginia Development Office*

(WV Code Chapter 5B)

Fund 3170 FY 2019 Org 0307

1           Any unexpended balances remaining in the appropriations  
2 for Unclassified – Total (fund 3170, appropriation 09600),  
3 Recreational Grants or Economic Development Loans (fund 3170,  
4 appropriation 25300), and Connectivity Research and  
5 Development – Lottery Surplus (fund 3170, appropriation 92300)

6 at the close of the fiscal year 2018 are hereby reappropriated for  
7 expenditure during the fiscal year 2019.

*314 - Higher Education Policy Commission –*

*Administration –*

*Control Account*

(WV Code Chapter 18B)

Fund 4932 FY 2019 Org 0441

1 Any unexpended balance remaining in the appropriation  
2 for Advanced Technology Centers (fund 4932, appropriation  
3 02800) at the close of the fiscal year 2018 is hereby reappropriated  
4 for expenditure during the fiscal year 2019.

*315 - Division of Human Services*

(WV Code Chapters 9, 48 and 49)

Fund 5365 FY 2019 Org 0511

1 Medical Services.....18900 \$ 28,202,960

*316 - Division of Corrections –*

*Correctional Units*

(WV Code Chapters 25, 28, 49 and 62)

Fund 6283 FY 2019 Org 0608

1 Any unexpended balance remaining in the appropriation  
2 for Capital Outlay and Maintenance (fund 6283, appropriation  
3 75500) at the close of the fiscal year 2018 is hereby reappropriated  
4 for expenditure during the fiscal year 2019.

5 Total TITLE II, Section 5 – Excess

6 Lottery Funds..... \$ 290,257,000

1           **Sec. 6. Appropriations of federal funds.** — In accordance  
 2 with Article 11, Chapter 4 of the Code from federal funds there are  
 3 hereby appropriated conditionally upon the fulfillment of the  
 4 provisions set forth in Article 2, Chapter 11B of the Code the  
 5 following amounts, as itemized, for expenditure during the fiscal  
 6 year 2019.

### LEGISLATIVE

#### *317 - Crime Victims Compensation Fund*

(WV Code Chapter 14)

Fund 8738 FY 2019 Org 2300

	<b>Appro- priation</b>		<b>Federal Funds</b>
1	Economic Loss Claim Payment Fund.....33400	\$	2,360,125

### JUDICIAL

#### *318 - Supreme Court*

Fund 8867 FY 2019 Org 2400

1	Personal Services and		
2	Employee Benefits.....00100	\$	2,008,000
3	Current Expenses .....13000		<u>1,992,000</u>
4	Total.....	\$	4,000,000

### EXECUTIVE

#### *319 - Department of Agriculture*

(WV Code Chapter 19)

Fund 8736 FY 2019 Org 1400

1	Personal Services and		
2	Employee Benefits.....00100	\$	2,563,760
3	Unclassified.....09900		50,534
4	Current Expenses .....13000		3,828,661

5	Repairs and Alterations.....	06400		650,000
6	Equipment.....	07000		910,500
7	Buildings.....	25800		1,000,000
8	Other Assets.....	69000		<u>50,000</u>
9	Total.....		\$	9,053,455

*320 - Department of Agriculture –*

*Meat Inspection Fund*

(WV Code Chapter 19)

Fund 8737 FY 2019 Org 1400

1	Personal Services and			
2	Employee Benefits.....	00100	\$	610,830
3	Unclassified.....	09900		8,755
4	Current Expenses.....	13000		136,012
5	Repairs and Alterations.....	06400		5,500
6	Equipment.....	07000		<u>114,478</u>
7	Total.....		\$	875,575

*321 - Department of Agriculture –*

*State Conservation Committee*

(WV Code Chapter 19)

Fund 8783 FY 2019 Org 1400

1	Personal Services and			
2	Employee Benefits.....	00100	\$	97,250
3	Current Expenses.....	13000		<u>15,599,974</u>
4	Total.....		\$	15,697,224

*322 - Department of Agriculture –*

*Land Protection Authority*

Fund 8896 FY 2019 Org 1400

1 Personal Services and

2	Employee Benefits.....00100	\$	46,526
3	Unclassified.....09900		5,004
4	Current Expenses .....13000		<u>448,920</u>
5	Total.....	\$	500,450

**323 - Secretary of State –**

*State Election Fund*

(WV Code Chapter 3)

Fund 8854 FY 2019 Org 1600

1	Personal Services and		
2	Employee Benefits.....00100	\$	210,240
3	Unclassified.....09900		7,484
4	Current Expenses .....13000		415,727
5	Repairs and Alterations.....06400		15,000
6	Other Assets.....69000		<u>100,000</u>
7	Total.....	\$	748,451

**DEPARTMENT OF COMMERCE**

**324 - Division of Forestry**

(WV Code Chapter 19)

Fund 8703 FY 2019 Org 0305

1	Personal Services and		
2	Employee Benefits.....00100	\$	1,578,347
3	Unclassified.....09900		51,050
4	Current Expenses .....13000		5,232,560
5	Repairs and Alterations.....06400		155,795
6	Equipment.....07000		100,000
7	Other Assets.....69000		<u>1,808,300</u>
8	Total.....	\$	8,926,052

**325 - Geological and Economic Survey**

(WV Code Chapter 29)



Fund 8704 FY 2019 Org 0306

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 54,432
3	Unclassified.....	09900	2,803
4	Current Expenses .....	13000	195,639
5	Repairs and Alterations.....	06400	5,000
6	Equipment.....	07000	7,500
7	Other Assets.....	69000	<u>15,000</u>
8	Total.....		\$ 280,374

*326 - West Virginia Development Office*

(WV Code Chapter 5B)

Fund 8705 FY 2019 Org 0307

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 745,981
3	Unclassified.....	09900	50,000
4	Current Expenses .....	13000	<u>4,504,019</u>
5	Total.....		\$ 5,300,000

*327 - West Virginia Development Office –**Office of Economic Opportunity*

(WV Code Chapter 5)

Fund 8901 FY 2019 Org 0307

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 497,289
3	Repairs and Alterations.....	06400	250
4	Equipment.....	07000	6,000
5	Unclassified.....	09900	106,795
6	Current Expenses .....	13000	<u>10,069,166</u>
7	Total.....		\$ 10,679,500

*328 - Division of Labor*

(WV Code Chapters 21 and 47)

Fund 8706 FY 2019 Org 0308

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 384,072
3	Unclassified.....	09900	5,572
4	Current Expenses .....	13000	167,098
5	Repairs and Alterations.....	06400	<u>500</u>
6	Total.....		\$ 557,242

*329 - Division of Natural Resources*

(WV Code Chapter 20)

Fund 8707 FY 2019 Org 0310

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 7,912,218
3	Unclassified.....	09900	107,693
4	Current Expenses .....	13000	5,556,594
5	Repairs and Alterations.....	06400	289,400
6	Equipment.....	07000	1,815,182
7	Buildings .....	25800	951,000
8	Other Assets .....	69000	6,951,000
9	Land .....	73000	<u>6,001,000</u>
10	Total.....		\$ 29,584,087

*330 - Division of Miners' Health,**Safety and Training*

(WV Code Chapter 22)

Fund 8709 FY 2019 Org 0314

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 613,177
3	Current Expenses .....	13000	<u>150,000</u>
4	Total.....		\$ 763,177

*331 - WorkForce West Virginia*

(WV Code Chapter 23)

Fund 8835 FY 2019 Org 0323

1	Unclassified.....09900	\$	5,127
2	Current Expenses .....13000		507,530
3	Reed Act 2002 – Unemployment		
4	Compensation .....62200		2,850,000
5	Reed Act 2002 – Employment Services ....63000		<u>1,650,000</u>
6	Total.....	\$	5,012,657

7 Pursuant to the requirements of 42 U.S.C. 1103, Section  
 8 903 of the Social Security Act, as amended, and the provisions of  
 9 W.Va. Code §21A-9-9, the above appropriation to Unclassified  
 10 and Current Expenses shall be used by WorkForce West Virginia  
 11 for the specific purpose of administration of the state’s  
 12 unemployment insurance program or job service activities, subject  
 13 to each and every restriction, limitation or obligation imposed on  
 14 the use of the funds by those federal and state statutes.

*332 - Office of Energy*

(WV Code Chapter 5B)

Fund 8892 FY 2019 Org 0328

1	Personal Services and		
2	Employee Benefits.....00100	\$	411,574
3	Unclassified.....09900		7,350
4	Current Expenses .....13000		<u>2,816,076</u>
5	Total.....	\$	3,235,000

**DEPARTMENT OF EDUCATION**

*333 - State Board of Education –*

*State Department of Education*

(WV Code Chapters 18 and 18A)

Fund 8712 FY 2019 Org 0402

1	Personal Services and		
2	Employee Benefits.....00100	\$	5,628,855

3	Unclassified.....	09900	2,000,000
4	Current Expenses .....	13000	212,367,820
5	Repairs and Alterations.....	06400	10,000
6	Equipment.....	07000	10,000
7	Other Assets.....	69000	<u>10,000</u>
8	Total.....		\$ 220,026,675

*334 - State Board of Education –*

*School Lunch Program*

(WV Code Chapters 18 and 18A)

Fund 8713 FY 2019 Org 0402

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,812,648
3	Unclassified.....	09900	1,150,500
4	Current Expenses .....	13000	148,281,265
5	Repairs and Alterations.....	06400	20,000
6	Equipment.....	07000	100,000
7	Other Assets.....	69000	<u>25,000</u>
8	Total.....		\$ 151,389,413

*335 - State Board of Education –*

*Vocational Division*

(WV Code Chapters 18 and 18A)

Fund 8714 FY 2019 Org 0402

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,819,972
3	Unclassified.....	09900	155,000
4	Current Expenses .....	13000	14,320,081
5	Repairs and Alterations.....	06400	10,000
6	Equipment.....	07000	10,000
7	Other Assets.....	69000	<u>10,000</u>
8	Total.....		\$ 16,325,053

**336 - State Board of Education –***Aid for Exceptional Children*

(WV Code Chapters 18 and 18A)

Fund 8715 FY 2019 Org 0402

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 3,344,940
3	Unclassified.....	09900	1,000,000
4	Current Expenses .....	13000	108,346,390
5	Repairs and Alterations.....	06400	10,000
6	Equipment.....	07000	10,000
7	Other Assets .....	69000	<u>10,000</u>
8	Total.....		\$ 112,721,330

**DEPARTMENT OF EDUCATION AND THE ARTS****337 - Department of Education and the Arts –***Office of the Secretary*

(WV Code Chapter 5F)

Fund 8841 FY 2019 Org 0431

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 416,675
3	Current Expenses .....	13000	5,587,325
4	Repairs and Alterations.....	06400	<u>1,000</u>
5	Total.....		\$ 6,005,000

**338 - Division of Culture and History**

(WV Code Chapter 29)

Fund 8718 FY 2019 Org 0432

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 743,046
3	Current Expenses .....	13000	1,947,372

4	Repairs and Alterations.....	06400		1,000
5	Equipment.....	07000		1,000
6	Buildings.....	25800		1,000
7	Other Assets.....	69000		1,000
8	Land.....	73000		<u>360</u>
9	Total.....		\$	2,694,778

*339 - Library Commission*

(WV Code Chapter 10)

Fund 8720 FY 2019 Org 0433

1	Personal Services and			
2	Employee Benefits.....	00100	\$	333,648
3	Current Expenses.....	13000		1,076,162
4	Equipment.....	07000		<u>543,406</u>
5	Total.....		\$	1,953,216

*340 - Educational Broadcasting Authority*

(WV Code Chapter 10)

Fund 8721 FY 2019 Org 0439

1	Equipment.....	07000	\$	200,000
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*341 - State Board of Rehabilitation –*

*Division of Rehabilitation Services*

(WV Code Chapter 18)

Fund 8734 FY 2019 Org 0932

1	Personal Services and			
2	Employee Benefits.....	00100	\$	11,248,930
3	Current Expenses.....	13000		39,440,940
4	Repairs and Alterations.....	06400		350,400
5	Equipment.....	07000		<u>1,275,870</u>
6	Total.....		\$	52,316,140

*342 - State Board of Rehabilitation –**Division of Rehabilitation Services –**Disability Determination Services*

(WV Code Chapter 18)

Fund 8890 FY 2019 Org 0932

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 13,730,634
3	Current Expenses .....	13000	11,383,206
4	Repairs and Alterations.....	06400	1,100
5	Equipment.....	07000	<u>83,350</u>
6	Total.....		\$ 25,198,290

**DEPARTMENT OF ENVIRONMENTAL PROTECTION***343 - Division of Environmental Protection*

(WV Code Chapter 22)

Fund 8708 FY 2019 Org 0313

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 30,084,598
3	Current Expenses .....	13000	169,448,731
4	Repairs and Alterations.....	06400	738,283
5	Equipment.....	07000	1,712,238
6	Unclassified.....	09900	2,062,978
7	Other Assets.....	69000	2,151,011
8	Land .....	73000	<u>100,000</u>
9	Total.....		\$ 206,297,839

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES***344 - Consolidated Medical Service Fund*

(WV Code Chapter 16)

Fund 8723 FY 2019 Org 0506

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 750,876
3	Unclassified.....	09900	73,307
4	Current Expenses .....	13000	<u>17,330,086</u>
5	Total.....		\$ 18,154,269

*345 - Division of Health –*

*Central Office*

(WV Code Chapter 16)

Fund 8802 FY 2019 Org 0506

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 13,744,404
3	Unclassified.....	09900	947,948
4	Current Expenses .....	13000	79,110,551
5	Equipment.....	07000	456,972
6	Buildings.....	25800	155,000
7	Other Assets.....	69000	<u>380,000</u>
8	Total.....		\$ 94,794,875

*346 - Division of Health –*

*West Virginia Safe Drinking Water Treatment*

(WV Code Chapter 16)

Fund 8824 FY 2019 Org 0506

1	West Virginia Drinking Water Treatment		
2	Revolving Fund – Transfer.....	68900	\$ 16,000,000

*347 - Human Rights Commission*

(WV Code Chapter 5)

Fund 8725 FY 2019 Org 0510

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 625,349



3	Unclassified.....	09900	5,482
4	Current Expenses .....	13000	<u>140,389</u>
5	Total.....		\$ 771,220

*348 - Division of Human Services*

(WV Code Chapters 9, 48, and 49)

Fund 8722 FY 2019 Org 0511

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 69,213,619
3	Unclassified.....	09900	22,855,833
4	Current Expenses .....	13000	112,085,005
5	Medical Services.....	18900	3,404,265,405
6	Medical Services Administrative Costs .....	78900	132,045,119
7	CHIP Administrative Costs.....	85601	4,500,000
8	CHIP Services.....	85602	47,422,974
9	Federal Economic Stimulus .....	89100	<u>5,000,000</u>
10	Total.....		\$3,797,387,955

**DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC  
SAFETY**

*349 - Office of the Secretary*

(WV Code Chapter 5F)

Fund 8876 FY 2019 Org 0601

1	Unclassified.....	09900	\$ 47,800
2	Current Expenses .....	13000	4,727,200
3	Repairs and Alterations.....	06400	<u>5,000</u>
4	Total.....		\$ 4,780,000

*350 - Adjutant General –*

*State Militia*

(WV Code Chapter 15)

Fund 8726 FY 2019 Org 0603

1	Unclassified.....	09900	\$	982,705
2	Mountaineer ChalleNGe Academy .....	70900		4,550,000
3	Martinsburg Starbase .....	74200		410,000
4	Charleston Starbase.....	74300		400,000
5	Military Authority .....	74800		<u>91,927,900</u>
6	Total.....		\$	98,270,605

7           The Adjutant General shall have the authority to transfer  
8 between appropriations.

*351 - Adjutant General –*

*West Virginia National Guard Counterdrug Forfeiture Fund*

(WV Code Chapter 15)

Fund 8785 FY 2019 Org 0603

1	Personal Services and			
2	Employee Benefits.....	00100	\$	1,350,000
3	Current Expenses .....	13000		300,000
4	Equipment.....	07000		<u>350,000</u>
5	Total.....		\$	2,000,000

*352 - Division of Homeland Security and*

*Emergency Management*

(WV Code Chapter 15)

Fund 8727 FY 2019 Org 0606

1	Personal Services and			
2	Employee Benefits.....	00100	\$	721,650
3	Current Expenses .....	13000		20,429,281
4	Repairs and Alterations.....	06400		5,000
5	Equipment.....	07000		<u>100,000</u>
6	Total.....		\$	21,255,931

*353 - Division of Corrections*

(WV Code Chapters 25, 28, 49 and 62)

Fund 8836 FY 2019 Org 0608

1	Unclassified.....	09900	\$	1,100
2	Current Expenses .....	13000		<u>108,900</u>
3	Total.....		\$	110,000

*354 - West Virginia State Police*

(WV Code Chapter 15)

Fund 8741 FY 2019 Org 0612

1	Personal Services and			
2	Employee Benefits.....	00100	\$	2,461,129
3	Current Expenses .....	13000		2,125,971
4	Repairs and Alterations.....	06400		42,000
5	Equipment.....	07000		2,502,285
6	Buildings.....	25800		750,500
7	Other Assets.....	69000		144,500
8	Land.....	73000		<u>500</u>
9	Total.....		\$	8,026,885

*355 - Fire Commission*

(WV Code Chapter 29)

Fund 8819 FY 2019 Org 0619

1	Current Expenses .....	13000	\$	80,000
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*356 - Division of Justice and Community Services*

(WV Code Chapter 15)

Fund 8803 FY 2019 Org 0620

1	Personal Services and			
2	Employee Benefits.....	00100	\$	1,058,570
3	Unclassified.....	09900		25,185
4	Current Expenses .....	13000		18,771,973
5	Repairs and Alterations.....	06400		<u>1,750</u>
6	Total.....		\$	19,857,478

**DEPARTMENT OF REVENUE***357 - Insurance Commissioner*

(WV Code Chapter 33)

Fund 8883 FY 2019 Org 0704

1	Current Expenses .....	13000	\$	3,000,000
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**DEPARTMENT OF TRANSPORTATION***358 - Division of Motor Vehicles*

(WV Code Chapter 17B)

Fund 8787 FY 2019 Org 0802

1	Personal Services and			
2	Employee Benefits .....	00100	\$	501,394
3	Current Expenses .....	13000		10,498,106
4	Repairs and Alterations .....	06400		<u>500</u>
5	Total .....		\$	11,000,000

*359 - Division of Public Transit*

(WV Code Chapter 17)

Fund 8745 FY 2019 Org 0805

1	Personal Services and			
2	Employee Benefits .....	00100	\$	702,637
3	Current Expenses .....	13000		9,163,149
4	Repairs and Alterations .....	06400		2,500
5	Equipment .....	07000		2,801,714
6	Buildings .....	25800		650,000
7	Other Assets .....	69000		<u>200,000</u>
8	Total .....		\$	13,520,000

**DEPARTMENT OF VETERANS' ASSISTANCE***360 - Department of Veterans' Assistance*

## (WV Code Chapter 9A)

Fund 8858 FY 2019 Org 0613

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,751,100
3	Current Expenses .....	13000	3,925,900
4	Repairs and Alterations.....	06400	50,000
5	Equipment.....	07000	200,000
6	Buildings.....	25800	600,000
7	Other Assets.....	69000	100,000
8	Land .....	73000	<u>100,000</u>
9	Total.....		\$ 7,727,000

*361 - Department of Veterans' Assistance –**Veterans' Home*

## (WV Code Chapter 9A)

Fund 8728 FY 2019 Org 0618

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 877,915
3	Current Expenses .....	13000	844,092
4	Repairs and Alterations.....	06400	220,000
5	Equipment.....	07000	198,000
6	Buildings.....	25800	296,000
7	Other Assets.....	69000	20,000
8	Land .....	73000	<u>10,000</u>
9	Total.....		\$ 2,466,007

**BUREAU OF SENIOR SERVICES***362 - Bureau of Senior Services*

## (WV Code Chapter 29)

Fund 8724 FY 2019 Org 0508

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 721,393

3	Current Expenses .....	13000	13,811,853
4	Repairs and Alterations .....	06400	<u>3,000</u>
5	Total.....		\$ 14,536,246

### MISCELLANEOUS BOARDS AND COMMISSIONS

#### 363 - Public Service Commission –

##### *Motor Carrier Division*

(WV Code Chapter 24A)

Fund 8743 FY 2019 Org 0926

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,286,913
3	Current Expenses .....	13000	368,953
4	Repairs and Alterations .....	06400	<u>40,000</u>
5	Total.....		\$ 1,695,866

#### 364 - Public Service Commission –

##### *Gas Pipeline Division*

(WV Code Chapter 24B)

Fund 8744 FY 2019 Org 0926

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 596,600
3	Current Expenses .....	13000	124,628
4	Equipment.....	07000	3,000
5	Unclassified.....	09900	<u>4,072</u>
6	Total.....		\$ 728,300

#### 365 - National Coal Heritage Area Authority

(WV Code Chapter 29)

Fund 8869 FY 2019 Org 0941

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 159,235

3	Current Expenses .....	13000	631,365
4	Repairs and Alterations .....	06400	5,000
5	Equipment .....	07000	3,000
6	Other Assets .....	69000	<u>2,000</u>
7	Total .....		<u>\$ 800,600</u>
8	Total TITLE II, Section 6 - Federal Funds .....		<u>\$ 5,029,664,340</u>

**Sec. 7. Appropriations from federal block grants. —**

The following items are hereby appropriated from federal block grants to be available for expenditure during the fiscal year 2019.

*366 - West Virginia Development Office –*

*Community Development*

Fund 8746 FY 2019 Org 0307

1	Personal Services and		
2	Employee Benefits .....	00100	\$ 10,648,117
3	Unclassified .....	09900	2,375,000
4	Current Expenses .....	13000	<u>224,476,883</u>
5	Total .....		<u>\$ 237,500,000</u>

*367 - Department of Commerce*

*West Virginia Development Office –*

*Office of Economic Opportunity –*

*Community Services*

Fund 8902 FY 2019 Org 0307

1	Personal Services and		
2	Employee Benefits .....	00100	\$ 362,389
3	Unclassified .....	09900	125,000
4	Current Expenses .....	13000	12,002,111
5	Repairs and Alterations .....	06400	1,500
6	Equipment .....	07000	<u>9,000</u>
7	Total .....		<u>\$ 12,500,000</u>

**368 - WorkForce West Virginia –***Workforce Investment Act*Fund 8749 FY 2019 Org 0323

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,912,606
3	Unclassified.....	09900	23,023
4	Current Expenses .....	13000	39,263,511
5	Repairs and Alterations.....	06400	1,600
6	Equipment.....	07000	500
7	Buildings.....	25800	<u>1,100</u>
8	Total.....		\$ 42,202,340

**369 - Division of Health –***Maternal and Child Health*Fund 8750 FY 2019 Org 0506

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 2,124,294
3	Unclassified.....	09900	110,017
4	Current Expenses .....	13000	<u>8,767,420</u>
5	Total.....		\$ 11,001,731

**370 - Division of Health –***Preventive Health*Fund 8753 FY 2019 Org 0506

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 265,868
3	Unclassified.....	09900	22,457
4	Current Expenses .....	13000	1,895,366
5	Equipment.....	07000	<u>165,642</u>
6	Total.....		\$ 2,349,333

**371 - Division of Health –**



*Substance Abuse Prevention and Treatment*Fund 8793 FY 2019 Org 0506

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 822,766
3	Unclassified.....	09900	115,924
4	Current Expenses .....	13000	<u>10,653,740</u>
5	Total.....		\$ 11,592,430

*372 - Division of Health –**Community Mental Health Services*Fund 8794 FY 2019 Org 0506

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 936,557
3	Unclassified.....	09900	33,533
4	Current Expenses .....	13000	<u>3,083,307</u>
5	Total.....		\$ 4,053,397

*373 - Division of Human Services –**Energy Assistance*Fund 8755 FY 2019 Org 0511

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 1,514,312
3	Unclassified.....	09900	350,000
4	Current Expenses .....	13000	<u>33,181,300</u>
5	Total.....		\$ 35,045,612

*374 - Division of Human Services –**Social Services*Fund 8757 FY 2019 Org 0511

1	Personal Services and		
2	Employee Benefits.....	00100	\$ 14,231,684

3	Unclassified.....09900	171,982
4	Current Expenses .....13000	<u>2,870,508</u>
5	Total.....	\$ 17,274,174

*375 - Division of Human Services –*

*Temporary Assistance for Needy Families*

Fund 8816 FY 2019 Org 0511

1	Personal Services and	
2	Employee Benefits.....00100	\$ 18,371,875
3	Unclassified.....09900	1,250,000
4	Current Expenses .....13000	<u>105,847,136</u>
5	Total.....	\$ 125,469,011

*376 - Division of Human Services –*

*Child Care and Development*

Fund 8817 FY 2019 Org 0511

1	Personal Services and	
2	Employee Benefits.....00100	\$ 4,682,166
3	Unclassified.....09900	350,000
4	Current Expenses .....13000	<u>31,999,456</u>
5	Total.....	\$ <u>37,031,622</u>

6	Total TITLE II, Section 7 –	
7	Federal Block Grants .....	<u>\$ 536,019,650</u>

1           **Sec. 8. Awards for claims against the state.** — There are  
 2 hereby appropriated for fiscal year 2018, from the fund as  
 3 designated, in the amounts as specified, general revenue funds in  
 4 the amount of \$1,753,740 special revenue funds in the amount of  
 5 \$226,619 and state road funds in the amount of \$408,830 for  
 6 payment of claims against the state.

1           **Sec. 9. Appropriations from general revenue surplus**  
 2 **accrued.** — The following item is hereby appropriated from the  
 3 state fund, general revenue, and is to be available for expenditure  
 4 during the fiscal year 2019 out of surplus funds only, accrued from

5 the fiscal year ending June 30, 2018, subject to the terms and  
6 conditions set forth in this section.

7 It is the intent and mandate of the Legislature that the  
8 following appropriation be payable only from surplus as of July 31,  
9 2018 from the fiscal year ending June 30, 2018, only after first  
10 meeting requirements of W.Va. Code §11B-2-20(b).

11 In the event that surplus revenues available on July 31,  
12 2018, are not sufficient to meet the appropriation made pursuant to  
13 this section, then the appropriation shall be made to the extent that  
14 surplus funds are available as of the date mandated to meet the  
15 appropriation in this section and shall be allocated first to provide  
16 the necessary funds to meet the first appropriation of this section  
17 and each subsequent appropriation in the order listed in this  
18 section.

*377 - Division of Health –*

*Central Office*

(WV Code Chapter 16)

Fund 0407 FY 2019 Org 0506

1 Office of Drug Control Policy –  
2 Surplus .....##### \$ 5,000,00

*378 - Division of Homeland Security and*

*Emergency Management*

(WV Code Chapter 15)

Fund 0443 FY 2019 Org 0606

1 West Virginia Water Gaging Council –  
2 Surplus .....##### \$ 765,000

*379 - West Virginia Tourism Office*

*(WV Code Chapter 5B)*

Fund 0246 FY 2019 Org 0304

1 Tourism – Marketing – Surplus .....##### \$ 2,500,000

*380 - West Virginia Development Office*

(WV Code Chapter 5B)

Fund 0256 FY 2019 Org 0307

1 Sales and Marketing Enhancement –  
2 Surplus .....##### \$ 2,500,000

*381 - Auditor’s Office*

*General Administration*

(WV Code Chapter 12)

Fund 0116 FY 2019 Org 1200

1 Port Authority – Surplus .....44399 \$ 2,000,000

*382 - Public Port Authority*

(WV Code Chapter 17)

Fund 0581 FY 2019 Org 0806

1 Port Authority – Surplus .....44399 \$ 1,000,000

2 The above appropriation to Port Authority - Surplus (fund  
3 0581, appropriation 44399) shall serve as reimbursement for  
4 expenses incurred by the State Road Fund related construction  
5 and operation of the Heartland Intermodal Gateway in Wayne  
6 County.

7 Total TITLE II, Section 9 – General

8 Revenue Surplus Accrued..... \$ 13,765,000

1 **Sec. 10. Appropriations from lottery net profits surplus**  
2 **accrued.** — The following item is hereby appropriated from the  
3 lottery net profits, and is to be available for expenditure during the

4 fiscal year 2019 out of surplus funds only, as determined by the  
5 director of lottery, accrued from the fiscal year ending June 30,  
6 2018, subject to the terms and conditions set forth in this section.

7 It is the intent and mandate of the Legislature that the  
8 following appropriation be payable only from surplus accrued from  
9 the fiscal year ending June 30, 2018.

10 In the event that surplus revenues available from the fiscal  
11 year ending June 30, 2018, are not sufficient to meet the  
12 appropriation made pursuant to this section, then the  
13 appropriation shall be made to the extent that surplus funds are  
14 available.

*383 - Bureau of Senior Services –*

*Lottery Senior Citizens Fund*

(WV Code Chapter 29)

Fund 5405 FY 2019 Org 0508

1	Senior Services Medicaid Transfer –		
2	Lottery Surplus .....	68199	\$ 6,000,000
3	Total TITLE II, Section 10 –		
4	Surplus Accrued .....		<u>\$ 6,000,000</u>

1 **Sec. 11. Appropriations from state excess lottery**  
2 **revenue surplus accrued.** — The following item is hereby  
3 appropriated from the state excess lottery revenue fund, and is to  
4 be available for expenditure during the fiscal year 2019 out of  
5 surplus funds only, as determined by the director of lottery, accrued  
6 from the fiscal year ending June 30, 2018, subject to the terms and  
7 conditions set forth in this section.

8 It is the intent and mandate of the Legislature that the  
9 following appropriation be payable only from surplus accrued from  
10 the fiscal year ending June 30, 2018.

11 In the event that surplus revenues available from the fiscal  
12 year ending June 30, 2018, are not sufficient to meet the

13 appropriation made pursuant to this section, then the  
14 appropriation shall be made to the extent that surplus funds are  
15 available.

*384 - Division of Human Services*

(WV Code Chapters 9, 48 and 49)

Fund 5365 FY 2019 Org 0511

1 Medical Services – Lottery Surplus.....68100 \$ 8,000,000

2 Total TITLE II, Section 11 –

3 Surplus Accrued ..... \$ 8,000,000

1 **Sec. 12. Special revenue appropriations.** — There are  
2 hereby appropriated for expenditure during the fiscal year 2019  
3 appropriations made by general law from special revenues which  
4 are not paid into the state fund as general revenue under the  
5 provisions of W.Va. Code §12-2-2: *Provided*, That none of the  
6 money so appropriated by this section shall be available for  
7 expenditure except in compliance with the provisions of W.Va.  
8 Code §12-2 and 3, and W.Va. Code §11B-2, unless the spending  
9 unit has filed with the director of the budget and the legislative  
10 auditor prior to the beginning of each fiscal year:

11 (a) An estimate of the amount and sources of all revenues  
12 accruing to such fund; and

13 (b) A detailed expenditure schedule showing for what  
14 purposes the fund is to be expended.

15 **Sec. 13. State improvement fund appropriations.** —  
16 Bequests or donations of nonpublic funds, received by the  
17 Governor on behalf of the state during the fiscal year 2019, for the  
18 purpose of making studies and recommendations relative to  
19 improvements of the administration and management of spending  
20 units in the executive branch of state government, shall be  
21 deposited in the state treasury in a separate account therein  
22 designated state improvement fund.

23           There are hereby appropriated all moneys so deposited  
24 during the fiscal year 2019 to be expended as authorized by the  
25 Governor, for such studies and recommendations which may  
26 encompass any problems of organization, procedures, systems,  
27 functions, powers or duties of a state spending unit in the executive  
28 branch, or the betterment of the economic, social, educational,  
29 health and general welfare of the state or its citizens.

1           **Sec. 14. Specific funds and collection accounts.** — A  
2 fund or collection account which by law is dedicated to a specific  
3 use is hereby appropriated in sufficient amount to meet all lawful  
4 demands upon the fund or collection account and shall be expended  
5 according to the provisions of Article 3, Chapter 12 of the Code.

1           **Sec. 15. Appropriations for refunding erroneous**  
2 **payment.** — Money that has been erroneously paid into the state  
3 treasury is hereby appropriated out of the fund into which it was  
4 paid, for refund to the proper person.

5           When the officer authorized by law to collect money for  
6 the state finds that a sum has been erroneously paid, he or she shall  
7 issue his or her requisition upon the Auditor for the refunding of  
8 the proper amount. The Auditor shall issue his or her warrant to the  
9 Treasurer and the Treasurer shall pay the warrant out of the fund  
10 into which the amount was originally paid.

1           **Sec. 16. Sinking fund deficiencies.** — There is hereby  
2 appropriated to the Governor a sufficient amount to meet any  
3 deficiencies that may arise in the mortgage finance bond insurance  
4 fund of the West Virginia housing development fund which is  
5 under the supervision and control of the municipal bond  
6 commission as provided by W.Va. Code §31-18-20b, or in the  
7 funds of the municipal bond commission because of the failure of  
8 any state agency for either general obligation or revenue bonds or  
9 any local taxing district for general obligation bonds to remit funds  
10 necessary for the payment of interest and sinking fund  
11 requirements. The Governor is authorized to transfer from time to  
12 time such amounts to the municipal bond commission as may be  
13 necessary for these purposes.

14           The municipal bond commission shall reimburse the state  
15 of West Virginia through the Governor from the first remittance  
16 collected from the West Virginia housing development fund or  
17 from any state agency or local taxing district for which the  
18 Governor advanced funds, with interest at the rate carried by the  
19 bonds for security or payment of which the advance was made.

1           **Sec. 17. Appropriations for local governments.** — There  
2 are hereby appropriated for payment to counties, districts and  
3 municipal corporations such amounts as will be necessary to pay  
4 taxes due counties, districts and municipal corporations and which  
5 have been paid into the treasury:

6           (a) For redemption of lands;

7           (b) By public service corporations;

8           (c) For tax forfeitures.

1           **Sec. 18. Total appropriations.** — Where only a total sum  
2 is appropriated to a spending unit, the total sum shall include  
3 personal services and employee benefits, annual increment, current  
4 expenses, repairs and alterations, buildings, equipment, other  
5 assets, land, and capital outlay, where not otherwise specifically  
6 provided and except as otherwise provided in TITLE I –  
7 GENERAL PROVISIONS, Sec. 3.

1           **Sec. 19. General school fund.** — The balance of the  
2 proceeds of the general school fund remaining after the payment of  
3 the appropriations made by this act is appropriated for expenditure  
4 in accordance with W.Va. Code §18-9A-16.

### TITLE III – ADMINISTRATION

1           **Sec. 1. Appropriations conditional.** — The expenditure  
2 of the appropriations made by this act, except those appropriations  
3 made to the legislative and judicial branches of the state  
4 government, are conditioned upon the compliance by the spending  
5 unit with the requirements of Article 2, Chapter 11B of the Code.



6           Where spending units or parts of spending units have been  
7 absorbed by or combined with other spending units, it is the intent  
8 of this act that appropriations and reappropriations shall be to the  
9 succeeding or later spending unit created, unless otherwise  
10 indicated.

1           **Sec. 2. Constitutionality.** — If any part of this act is  
2 declared unconstitutional by a court of competent jurisdiction, its  
3 decision shall not affect any portion of this act which remains, but  
4 the remaining portion shall be in full force and effect as if the  
5 portion declared unconstitutional had never been a part of the act.

### **Conference Committee Report Availability**

At 6:41 p.m., the Clerk announced that the report of the Committee of Conference on **Com. Sub. for H. B. 2995**, Permitting certain animal euthanasia technicians who have been certified by other states be certified animal euthanasia technicians in West Virginia, shall be available in the Clerk's Office.

At 6:44 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 8:30 p.m.

\* \* \* \* \*

### **Evening Session**

\* \* \* \* \*

The House of Delegates was called to order by the Honorable Tim Armstead, Speaker.

### **Special Calendar**

#### **Third Reading**

- continued -

**Com. Sub. for H. B. 4019** was taken up for further consideration.

Delegate Folk moved to amend the amendment offered by Delegate Nelson, on page seventy, section ninety-nine, line one, by striking out the dollar amount “\$93,559,659” and inserting in lieu thereof the amount “\$92,859,659”.

On page seventy, section ninety-nine, line six, by striking out the dollar amount “\$105,909,995” and inserting in lieu thereof the amount “\$105,209,995”.

On page seventy-three, section one hundred three, line one, by striking out the dollar amount “\$5,600,993” and inserting in lieu thereof the amount “\$5,700,993”.

On page seventy-three, section one hundred four, line one, by striking out the dollar amount “\$8,552,843” and inserting in lieu thereof the amount “\$8,672,843”. On page seventy-three, section one hundred six, line one, by striking out the dollar amount “\$5,885,700” and inserting in lieu thereof the amount “\$5,985,700”.

On page seventy-three, section one hundred seven, line one, by striking out the dollar amount “\$9,671,542” and inserting in lieu thereof the amount “\$9,871,542”.

And,

On page seventy-three, section one hundred eight, line one, by striking out the dollar amount “\$7,823,727” and inserting in lieu thereof the amount “\$8,023,727”.

Delegate Folk asked and obtained unanimous consent to reform his amendment as follows:

On page on page seventy, section ninety-nine, line one, by striking out the dollar amount “\$93,559,659” and inserting in lieu thereof the amount “\$92,859,659”.

On page seventy, section 99, line six, by striking out the dollar amount “\$105,909,995” and inserting in lieu thereof the amount “\$105,209,995”.

On page seventy-three, section 103, line one, by striking out the dollar amount “\$5,600,993” and inserting in lieu thereof the amount “\$5,700,993”.

On page seventy-three, section 104, line one, by striking out the dollar amount “\$8,552,843” and inserting in lieu thereof the amount “\$8,652,843”.

On page seventy-three, section 106, line one, by striking out the dollar amount “\$5,885,700” and inserting in lieu thereof the amount “\$5,985,700”.

On page seventy-three, section 107, line one, by striking out the dollar amount “\$9,671,542” and inserting in lieu thereof the amount “\$9,871,542”.

And,

On page seventy-three, section 108, line one, by striking out the dollar amount “\$7,823,727” and inserting in lieu thereof the amount “\$8,023,727”.

Delegate Folk was addressing the House, when Delegate Lane arose to a point of order regarding the content of his remarks. The Speaker instructed the Delegate to confine his remarks to the question before the House.

On the adoption of the amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 423**), and there were—yeas 18, nays 80, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Barrett, Blair, Boggs, Dean, Ellington, E. Evans, Folk, Gearheart, Hanshaw, Hill, Martin, McGeehan, Moore, Paynter, Robinson, Shott, Upson and Wilson.

Absent and Not Voting: Deem.

So, a majority of the members present and voting not having voted in the affirmative, the amendment was rejected.

On motion of Delegate Nelson, the amendment was amended on page one hundred eighty-eight, Item 381, following the words, 381 - Auditor’s Office General Administration (WV Code Chapter 12) Fund 0116 FY 2019 Org 1200, by striking out the numbers and words “1 Port Authority – Surplus ..... 44399” and inserting in lieu thereof the numbers and words “1 VFD Workers’ Compensation Subsidy - Surplus ..... #####”.

Delegates Sponaugle, Barrett, Boggs, Byrd, Caputo and Rowe moved to amend the amendment on page sixty-two, under Item 75, on line seven, by striking out the number “\$5,000,000”;

On page thirty-three, Item 43, line eight, by striking out the number “550,000” and inserting in lieu thereof the number “600,000”.

On page thirty-three , following line twenty-nine, by inserting the following:

“Mastery Based Education  
 Program .....##### 125,000”

On page thirty-four, following line thirty-six, by inserting the following:

“CTE Credentialing Program .....##### 600,000”,

And reconciling the amount on line eleven accordingly.

On page thirty-five, Item 44, on line two, by striking out the number “32,858,654” and inserting in lieu thereof the number “3,876,819”.

On page thirty-five, Item 44, on line four, by striking out the number “625,614” and inserting in lieu thereof, the number “629,715”.

On page thirty-five, Item 44, line five, by striking out the number “18,472,954” and inserting in lieu thereof, the number “18,580,014” and reconciling the amount on line 6 accordingly.

On page thirty-six, Item 46, line four, by striking out the number “73,715” and inserting in lieu thereof, the number “74,423”.

On page thirty-six, Item 46, line six, by striking out the number “23,239,266” and inserting in lieu thereof, the number “23,342,921”.

On page thirty-six, Item 46, line six, by striking out the number “4,894,607” and inserting in lieu thereof, the number “4,934,759; and reconciling the amount on line twelve of page thirty-seven accordingly.

On page sixty-seven, Item 90, by striking out the number “5,099,246” and inserting in lieu thereof, the number “5,558,234.

On page sixty-seven, Item 91, by striking out the number “9,495,037” and inserting in lieu thereof, the number “9,918,767”.

On page sixty-seven, Item 94, by striking out the number “1,812,537” and inserting in lieu thereof, the number “2,301,209”; and reconciling the amount on line 12 of page 37 accordingly

On page fifty-six, Item 69, following line forty-nine, following line twelve, by inserting the following:

“Criminal History Expungement .....##### 250,000”,  
renumbering and reconciling lines 10 and 11 accordingly.

On page seventy-one, Item 101, line two, by striking out the number “96,203” and inserting in lieu thereof the number “201,508”.

On page seventy-three, Item 106, line one, by striking out the number “5,885,700” and inserting in lieu thereof, the number “6,336,662”.

On page seventy-three, Item 107, line one, by striking out the number “9,671,542” and inserting in lieu thereof, the number “10,113,978”.

On page seventy-four, Item 109, line two, by striking out the number “1,586,340” and inserting in lieu thereof, the number “2,948,530”, and reconciling line 3 accordingly.

And,

On page one hundred eighty-seven, following the appropriation for Office of Drug Control Policy, by inserting the following:

“383 - Tax Division

(WV Code Chapter 11)

Fund 0470 FY 2019 Org 0702

Integrated Tax Assessment System.....29200        5,000,000”

Delegate Sponaugle asked and obtained unanimous consent to offer a revised amendment as follows:

On page sixty-two, under Item 75, on line seven, by striking out the number \$5,000,000”.

On page thirty-three, Item 43, line eight, by striking out the number “550,000” and inserting in lieu thereof the number “600,000”.

On page thirty-three, following line twenty-nine, by inserting the following:

“Mastery Based Education Program .....#####        125,000”

On page thirty-four, following line thirty-six, by inserting the following:

“CTE Credentialing Program.....#####        600,000”.

And reconciling the amount on line 11 accordingly.

On page thirty-five, Item 44, on line two by striking out the number “32,858,654” and inserting in lieu thereof the number “32,876,819”.

On page thirty-five , Item 44, on line four, by striking out the number “625,614” and inserting in lieu thereof, the number “629,715”.

On page thirty-five, Item 44, line five, by striking out the number “18,472,954” and inserting in lieu thereof, the number “18,580,014” and reconciling the amount on line 6 accordingly.

On page thirty-six, Item 46, line four, by striking out the number “73,715” and inserting in lieu thereof, the number “74,423”.

On page thirty-six, Item 46, line six, by striking out the number “23,239,266” and inserting in lieu thereof, the number “23,342,921”.

On page thirty-six, Item 46, line 6, by striking out the number “4,894,607” and inserting in lieu thereof, the number “4,934,759; and reconciling the amount on line 12 of page 37 accordingly.

On page sixty-seven, Item 90, by striking out the number “5,099,246” and inserting in lieu thereof, the number “5,558,234.

On page sixty-seven, Item 91, by striking out the number “9,495,037” and inserting in lieu thereof, the number “9,918,767”.

On page sixty-seven , Item 94, by striking out the number “1,812,537” and inserting in lieu thereof, the number “2,301,209”; and reconciling the amount on line 12 of page 37 accordingly.

On page fifty-six, Item 69, following line forty-nine, following line twelve, by inserting the following:

“Criminal History Expungement .....##### 250,000”,

And renumbering and reconciling lines 10 and 11 accordingly.

On page seventy-one, Item 101, line two, by striking out the number “96,203” and inserting in lieu thereof the number “201,508”.

On page seventy-three, Item 106, line one, by striking out the number “5,885,700” and inserting in lieu thereof, the number “6,336,662”.

On page seventy-one, Item 107, line one, by striking out the number “9,671,542” and inserting in lieu thereof, the number “10,113,978”.

On page seventy-one, Item 109, line two, by striking out the number “1,586,340” and inserting in lieu thereof, the number “2,948,530”, and reconciling line 3 accordingly.

And

On page one hundred eight-seven, following the appropriation for Office of Drug Control Policy, by inserting the following:

*“I- Tax Division*

(WV Code Chapter 11)

Fund 0470 FY 2019 Org 0702

Integrated Tax Assessment System.....	29200	5,000,000”
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On the adoption of the amendment to the amendment, Delegate Sponaugle demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 424**), and there were—yeas 40, nays 58, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Anderson, Barrett, Bates, Boggs, Brewer, Byrd, Campbell, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Kelly, Longstreth, Love, Lovejoy, Lynch, Marcum, McGeehan, Miley, R. Miller, Moye, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Thompson and Williams.

Absent and Not Voting: Deem.



So, a majority of the members present and voting not having voted in the affirmative, the amendment to the amendment was not adopted.

Delegates Barrett, Boggs and Longstreth moved to amend the amendment on page one hundred eight-seven, following the appropriation for Office of Drug Control Policy, by inserting the following:

*“383-Shephard University*

*(WV Code Chapter 18B)*

Fund 0366 FY 2019 Org 0486

Shephard University.....##### \$ 500,000

*384-Blue Ridge Community and Technical College*

*(WV Code Chapter 18B)*

Fund 0601 FY 2019 Org 0477

Blue Ridge Community and  
Technical College .....##### \$ 500,000

*385-Eastern West Virginia Community and Technical  
College*

*(WV Code Chapter 18B)*

Fund 0587 FY 2019 Org 0492

Eastern West Virginia Community and  
Technical College .....##### \$ 500,000

*387-West Virginia University at Parkersburg*

*(WV Code Chapter 18B)*

Fund 0351 FY 2019 Org 0464

West Virginia University at Parkersburg .....	#####	\$	500,000
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*389-Glenville State College*

(WV Code Chapter 18B)

Fund 0363 FY 2019 Org 0485

Glenville State College .....	#####	\$	500,000”
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And,

On page one hundred eighty-eight, Section 9, by striking out line 5, and inserting in lieu thereof the following:

“Total TITLE II, Section 9 –  
 General Revenue Surplus Accrued..... \$ 16,765,000”

And,

Renumbering subsequent paragraphs and references accordingly.

On the adoption of the amendment to the amendment, Delegate Barrett demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 425**), and there were—yeas 42, nays 56, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Anderson, Barrett, Bates, Boggs, Brewer, Byrd, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Hanshaw, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Kelly, Longstreth, Love, Lovejoy, Lynch, Miley, R. Miller, Moore, Moye, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaule, Thompson, Upson, Ward, Williams and Wilson.

Absent and Not Voting: Deem.

So, a majority of the members present and voting not having voted in the affirmative, the amendment to the amendment was rejected.

Delegate Eldridge moved to amend the amendment on page one hundred eighty-seven, following the appropriation for Office of Drug Control Policy, by inserting the following:

*“383-Division of Culture and History*

*(WV Code Chapter 29)*

Fund 3534 FY 2019 Org 0432

Preservation WV (R) for

West Virginia Music Hall of Fame.....##### \$ 8,000”

And,

On page one hundred eighty-eight, Section 9, by striking out line five, and inserting in lieu thereof, the following:

“Total TITLE II, Section 9 –

General Revenue Surplus Accrued.....\$ 13,773,000”

And,

Renumbering subsequent paragraphs and references accordingly.

On the adoption of the amendment to the amendment, Delegate Eldridge demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 426**), and there were—yeas 39, nays 59, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Barrett, Bates, Boggs, Brewer, Byrd, Campbell, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Marcum, Miley, R. Miller, Moye, Paynter, Pethtel, Phillips, Pushkin, Pyles, Robinson,

Rodighiero, Rowe, Sponaugle, Thompson, Ward, White and Williams.

Absent and Not Voting: Deem.

So, a majority of the members present and voting not having voted in the affirmative, the amendment to the amendment was rejected.

Delegates Moye and Bates moved to amend the amendment on page one hundred eighty-seven, following the appropriation for the Office of Drug Control Policy, by inserting the following:

*“383-Health Right Free Clinics*

(WV Code Chapter 16)

Fund 0407 FY 2019 Org 0506

Health Right Free Clinics.....##### \$ 500,000

*384-Concord University*

(WV Code Chapter 18B)

Fund 0357 FY 2019 Org 0483

Concord University.....##### \$ 500,000

*385-West Virginia University Institute of Technology*

(WV Code Chapter 18B)

Fund 0344 FY 2019 Org 0463

West Virginia University  
Institute of Technology.....##### \$ 500,000

*386-New River Community and Technical College*

(WV Code Chapter 18B)

Fund 0600 FY 2019 Org 0445

New River Community and

Technical College .....##### \$ 250,000”

On page one hundred eighty-eight, Section 9, by striking out line five, and inserting in lieu thereof, the following:

“Total TITLE II, Section 9 –  
General Revenue Surplus Accrued.....\$ 15,515,000”

And,

Renumbering subsequent paragraphs and references accordingly.

The question on the adoption of the amendment, the same was put and did not prevail.

An amendment to the amendment offered by Delegate Moye, was reported by the Clerk, on page seventy-one, Item 101, line two, by striking out the number “96,203” and inserting in lieu thereof the number “105,305”.

Whereupon, Delegate Moye asked and obtained unanimous consent to withdraw the amendment.

An amendment to the amendment, offered by Delegates Moye and Hornbuckle, was reported by the Clerk on page thirty-three, Item 43, line eight, by striking out the number “550,000” and inserting in lieu thereof the number “600,000”;

And,

On page thirty, following line thirty-six, by inserting the following:

“CTE Credentialing Program.....##### 600,000”,

And reconciling line thirty-seven accordingly.

Whereupon,

Delegate Moye asked and obtained unanimous consent to withdraw the amendment.

Delegate Rowe moved to amend the amendment on page one hundred eighty-seven, following the appropriation for Office of Drug Control Policy, by inserting the following:

*“383-Shephard University*

*(WV Code Chapter 18B)*

Fund 0366 FY 2019 Org 0486

Shephard University.....##### \$ 500,000

*384-Blue Ridge Community and Technical College*

*(WV Code Chapter 18B)*

Fund 0601 FY 2019 Org 0477

Blue Ridge Community and  
Technical College .....##### \$ 500,000

*385-Eastern West Virginia Community and Technical  
College*

*(WV Code Chapter 18B)*

Fund 0587 FY 2019 Org 0492

Eastern West Virginia Community and  
Technical College .....##### \$ 500,000

*386-Pierpont Community and Technical College*

*(WV Code Chapter 18B)*

Fund 0597 FY 2019 Org 0466

Pierpont Community and  
Technical College .....##### \$ 500,000

*387-West Virginia University at Parkersburg*

*(WV Code Chapter 18B)*

Fund 0351 FY 2019 Org 0464

West Virginia University  
at Parkersburg .....##### \$ 500,000

*389-Glenville State College*  
(WV Code Chapter 18B)

Fund 0363 FY 2019 Org 0485

Glenville State College .....##### \$ 500,000

And,

Concord University .....##### \$ 500,000

*385-West Virginia University Institute of Technology*  
(WV Code Chapter 18B)

Fund 0344 FY 2019 Org 0463

West Virginia University  
Institute of Technology .....##### \$ 500,000

*386-New River Community and Technical College*  
(WV Code Chapter 18B)

Fund 0600 FY 2019 Org 0445

New River Community and  
Technical College .....##### \$ 500,000

*387-Bluefield State College*  
(WV Code Chapter 18B)

Fund 0354 FY 2019 Org 0482

Bluefield State College .....##### \$ 500,000

*388- Fairmont State University*

(WV Code Chapter 18B)

Fund 0360 FY 2019 Org 0484

Fairmont State University .....##### \$ 500,000

*389-West Liberty University*

(WV Code Chapter 18B)

Fund 0370 FY 2019 Org 0488

West Liberty University .....##### \$ 500,000

*390-West Virginia State University*

(WV Code Chapter 18B)

Fund 0373 FY 2019 Org 0490

West Virginia State University .....##### \$ 500,000

*391-Mountwest Community and Technical College*

(WV Code Chapter 18B)

Fund 0599 FY 2019 Org 0444

Mountwest Community and  
Technical College .....##### \$ 500,000

*392-Southern West Virginia Community and Technical College*

(WV Code Chapter 18B)

Fund 0380 FY 2019 Org 0487

Southern West Virginia Community and  
Technical College .....##### \$ 500,000



*393-West Virginia Northern Community and Technical College*

(WV Code Chapter 18B)

Fund 0383 FY 2019 Org 0489

West Virginia Northern Community and  
Technical College .....##### \$ 500,000

*394- BridgeValley Community and Technical College*

(WV Code Chapter 18B)

Fund 0618 FY 2019 Org 0493

BridgeValley Community and  
Technical College .....##### \$ 500,000”

On page one hundred eighty-eight, Section 9, by striking out line five, and inserting in lieu thereof, the following:

“Total TITLE II, Section 9 – General  
Revenue Surplus Accrued..... \$ 22,265,000”

And,

Renumbering subsequent paragraphs and references accordingly.

On the adoption of the amendment to the amendment, Delegate Rowe demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 427**), and there were—yeas 37, nays 60, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Barrett, Bates, Boggs, Brewer, Byrd, Campbell, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Folk, Hartman, Hicks, Hornbuckle, Iaquinta, Isner, Longstreth, Love, Lovejoy, Lynch, Miley, R. Miller, Moye, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaule, Thompson, Ward and Williams.

Absent and Not Voting: Deem and Upson.

So, a majority of the members present and voting not having voted in the affirmative, the amendment to the amendment was rejected.

Delegate Rowe moved to amend the amendment on page twenty-five, Item 29, line eight, following the words “aggregate premium”, by inserting the words “costs of retirees and the aggregate premium”.

Delegates Anderson, Ambler, and E. Evans requested to be excused from voting on the adoption of the amendment under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegates would be as a member of a class of persons possibly to be affected by the adoption of the amendment, and refused to excuse the Members from voting.

The Speaker informed members that if any others had similar Rule 49 requests, any impact on them would be as a member of a class of persons possibly to be affected by the adoption of the amendment, and they would not be excused from voting. He further stated that any such members wishing to have this noted in the Journal should inform the Clerk, which was done by Delegates Ferro, Iaquina, Lynch, Moye, Rowan, McGeehan and Wagner.

On the adoption of the amendment to the amendment, Delegate Rowe demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 428**), and there were—yeas 37, nays 60, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Barrett, Bates, Boggs, Brewer, Byrd, Campbell, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaule, Thompson, Ward and Williams.

Absent and Not Voting: Deem and Upson.

So, a majority of the members present and voting not having voted in the affirmative, the amendment to the amendment was rejected.

Delegate Byrd moved to amend the amendment on page fifty-six, Item 69, following line twelve, by inserting the following:

“Criminal History Expungement .....##### 250,000”,

And renumbering and reconciling lines 10 and 11 accordingly.

On the adoption of the amendment to the amendment, Delegate Byrd demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 429**), and there were—yeas 39, nays 59, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Barrett, Bates, Boggs, Brewer, Byrd, Campbell, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hanshaw, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Kessinger, Longstreth, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Paynter, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaule, Thompson, Ward and Williams.

Absent and Not Voting: Deem.

So, a majority of the members present and voting not having voted in the affirmative, the amendment to the amendment was rejected.

The amendment offered by Delegate Nelson, as amended, was then adopted.

Having been engrossed, the bill was then read a third time.

Delegate Frich requested to be excused from voting on the passage of Com. Sub. for H. B. 4019 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The Speaker informed members that if any others had similar Rule 49 requests due to PEIA participation or the budget, any impact on them would be as a member of a class of persons possibly to be affected by the adoption of the amendment, and they would not be excused from voting. He further stated that any such members wishing to have this noted in the Journal should inform the Clerk, which was done by Delegates Anderson, E. Evans, Frich, Ambler, Ferro, Iaquinta, Lynch, Moye, Rowan, McGeehan, Wagner and Mr. Speaker, Mr. Armstead.

On the passage of the bill, the yeas and nays were taken (**Roll No. 430**), and there were—yeas 98, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4019) passed.

Delegate Cowles moved that the bill take effect from its passage.

On this question, the yeas and nays were taken (**Roll No. 431**), and there were—yeas 98, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Deem.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4019) takes effect from its passage.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence therein.

### Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

**Com. Sub. for S. B. 152** - “A Bill making appropriations of public money out of the Treasury in accordance with section 51, article VI of the Constitution”.

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the bill (Com. Sub. for S. B. 152) to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

Delegate Cowles moved to dispense with the constitutional rule requiring the bill to be fully and distinctly read on three different days.

On this question, the yeas and nays were taken (**Roll No. 432**), and there were—yeas 62, nays 36, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Barrett, Bates, Boggs, Brewer, Byrd, Campbell, Canestraro, Caputo, Diserio, Eldridge, E. Evans, Ferro, Fleischauer, Fluharty, Hartman, Hicks, Hornbuckle, Iaquina, Isner, Longstreth, Love, Lovejoy, Lynch, Marcum, Miley, R. Miller, Moye, Pethel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaule, Thompson and Williams.

Absent and Not Voting: Deem.

So, four fifths of the members present not having voted in the affirmative, the motion to dispense with the constitutional rule was rejected.

### Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leave of absence for the day was granted Delegate Deem.

**Miscellaneous Business**

Pursuant to House Rule 132, unanimous consent was requested and obtained to print the remarks of the following Members in the Appendix to the Journal:

- Delegate Shott regarding the second amendment offered by Delegate Sponaugle on Com. Sub. for S. J. R. 3
- Delegates Love and Zatezalo during the debate on the amendment offered by Delegate Eldridge to Com. Sub. for H. B. 4019

Pursuant to House Rule 94b, forms were filed with the Clerk's Office to be removed as a cosponsor of the following bills:

- Delegate Frich for H. B. 4311 and H. B. 4449

Delegate Nelson noted to the Clerk that he was absent on today when the vote was taken on Roll No. 396, and that had he been present, he would have voted "Yea" thereon.

Delegate Bates noted to the Clerk that he was absent on today when the vote was taken on the passage and effective date of Com. Sub. for S. B. 261, and that had he been present, he would have voted "Yea" thereon.

At 10:57 p.m., the House of Delegates adjourned until 9:00 a.m., Friday, March 9, 2018.



