

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

EIGHTY-THIRD LEGISLATURE  
REGULAR SESSION, 2018  
SIXTIETH DAY

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Charleston, West Virginia, Saturday, March 10, 2018

The Senate met at 11:41 a.m.

(Senator Carmichael, Mr. President, in the Chair.)

Prayer was offered by Bishop Joe Thomas, Nondenominational Fellowship Pentecostal Ministries, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Ryan W. Weld, a senator from the first district.

Pastor Debbie Thomas, Nondenominational Fellowship Pentecostal Ministries, Charleston, West Virginia, then proceeded in the singing of "There's a Blessing in This House".

Pending the reading of the Journal of Friday, March 9, 2018,

At the request of Senator Romano, unanimous consent being granted, the Journal was approved and the further reading thereof dispensed with.

The Senate proceeded to the second order of business and the introduction of guests.

The Clerk presented the following communications from various state agencies as required by the provisions of law:

Motor Vehicles, Division of (Motorcycle Safety Awareness Program Board) (§17B-1D-8)

Treasurer (Debt Capacity) (§12-6A-6)

The Senate proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Com. Sub. for Senate Bill 152, Budget Bill.**

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

#### TITLE I – GENERAL PROVISIONS.

**Section 1. General policy.** – The purpose of this bill is to appropriate money necessary for the economical and efficient discharge of the duties and responsibilities of the state and its agencies during the fiscal year 2019.

**Sec. 2. Definitions.** — For the purpose of this bill:

“Governor” shall mean the Governor of the State of West Virginia.

“Code” shall mean the Code of West Virginia, one thousand nine hundred thirty-one, as amended.

“Spending unit” shall mean the department, bureau, division, office, board, commission, agency or institution to which an appropriation is made.

The “fiscal year 2019” shall mean the period from July 1, 2018, through June 30, 2019.

“General revenue fund” shall mean the general operating fund of the state and includes all moneys received or collected by the state except as provided in W.Va. Code §12-2-2 or as otherwise provided.

“Special revenue funds” shall mean specific revenue sources which by legislative enactments are not required to be accounted for as general revenue, including federal funds.

“From collections” shall mean that part of the total appropriation which must be collected by the spending unit to be available for expenditure. If the authorized amount of collections is not collected, the total appropriation for the spending unit shall be reduced automatically by the amount of the deficiency in the collections. If the amount collected exceeds the amount designated “from collections,” the excess shall be set aside in a special surplus fund and may be expended for the purpose of the spending unit as provided by Article 2, Chapter 11B of the Code.

**Sec. 3. Classification of appropriations.** — An appropriation for:

“Personal services” shall mean salaries, wages and other compensation paid to full-time, part-time and temporary employees of the spending unit but shall not include fees or contractual payments paid to consultants or to independent contractors engaged by the spending unit. “Personal services” shall include “annual increment” for “eligible employees” and shall be disbursed only in accordance with Article 5, Chapter 5 of the Code.

Unless otherwise specified, appropriations for “personal services” shall include salaries of heads of spending units.

“Employee benefits” shall mean social security matching, workers’ compensation, unemployment compensation, pension and retirement contributions, public employees insurance matching, personnel fees or any other benefit normally paid by the employer as a direct cost of

employment. Should the appropriation be insufficient to cover such costs, the remainder of such cost shall be paid by each spending unit from its "unclassified" appropriation, or its "current expenses" appropriation or other appropriate appropriation. Each spending unit is hereby authorized and required to make such payments in accordance with the provisions of Article 2, Chapter 11B of the Code.

Each spending unit shall be responsible for all contributions, payments or other costs related to coverage and claims of its employees for unemployment compensation and workers compensation. Such expenditures shall be considered an employee benefit.

"BRIM Premiums" shall mean the amount charged as consideration for insurance protection and includes the present value of projected losses and administrative expenses. Premiums are assessed for coverages, as defined in the applicable policies, for claims arising from, inter alia, general liability, wrongful acts, property, professional liability and automobile exposures.

Should the appropriation for "BRIM Premium" be insufficient to cover such cost, the remainder of such costs shall be paid by each spending unit from its "unclassified" appropriation, its "current expenses" appropriation or any other appropriate appropriation to the Board of Risk and Insurance Management. Each spending unit is hereby authorized and required to make such payments. If there is no appropriation for "BRIM Premium" such costs shall be paid by each spending unit from its "current expenses" appropriation, "unclassified" appropriation or other appropriate appropriation.

West Virginia Council for Community and Technical College Education and Higher Education Policy Commission entities operating with special revenue funds and/or federal funds shall pay their proportionate share of the Board of Risk and Insurance Management total insurance premium cost for their respective institutions.

"Current expenses" shall mean operating costs other than personal services and shall not include equipment, repairs and alterations, buildings or lands. Each spending unit shall be responsible for and charged monthly for all postage meter service and shall reimburse the appropriate revolving fund monthly for all such amounts. Such expenditures shall be considered a current expense.

"Equipment" shall mean equipment items which have an appreciable and calculable period of usefulness in excess of one year.

"Repairs and alterations" shall mean routine maintenance and repairs to structures and minor improvements to property which do not increase the capital assets.

"Buildings" shall include new construction and major alteration of existing structures and the improvement of lands and shall include shelter, support, storage, protection or the improvement of a natural condition.

"Lands" shall mean the purchase of real property or interest in real property.

"Capital outlay" shall mean and include buildings, lands or buildings and lands, with such category or item of appropriation to remain in effect as provided by W.Va. Code §12-3-12.

From appropriations made to the spending units of state government, upon approval of the Governor there may be transferred to a special account an amount sufficient to match federal funds under any federal act.

Appropriations classified in any of the above categories shall be expended only for the purposes as defined above and only for the spending units herein designated: *Provided*, That the secretary of each department shall have the authority to transfer within the department those general revenue funds appropriated to the various agencies of the department: *Provided, however*, That no more than five percent of the general revenue funds appropriated to any one agency or board may be transferred to other agencies or boards within the department: and no funds may be transferred to a "personal services and employee benefits" appropriation unless the source funds are also wholly from a "personal services and employee benefits" line, or unless the source funds are from another appropriation that has exclusively funded employment expenses for at least twelve consecutive months prior to the time of transfer and the position(s) supported by the transferred funds are also permanently transferred to the receiving agency or board within the department: *Provided further*, That the secretary of each department and the director, commissioner, executive secretary, superintendent, chairman or any other agency head not governed by a departmental secretary as established by Chapter 5F of the Code shall have the authority to transfer funds appropriated to "personal services and employee benefits," "current expenses," "repairs and alterations," "equipment," "other assets," "land," and "buildings" to other appropriations within the same account and no funds from other appropriations shall be transferred to the "personal services and employee benefits" or the "unclassified" appropriation except that for funds appropriated in Title II – Section 3, 6, or 7 funds may be transferred to the "personal services and employee benefits" appropriation of the same fund in an amount not to exceed 5% of the enrolled appropriation for "personal services and employee benefits": *And provided further*, That no authority exists hereunder to transfer funds into appropriations to which no funds are legislatively appropriated: *And provided further*, That if the Legislature consolidates, reorganizes or terminates agencies, boards or functions, the secretary or other appropriate agency head, or in the case of the termination of a spending unit of the state, the Director of the State Budget Office, in the absence of general law providing otherwise, may transfer the funds formerly appropriated to such agency, board or function, allocating items of appropriation as may be necessary if only part of the item may be allocated, in order to implement such consolidation, reorganization or termination. No funds may be transferred from a Special Revenue Account, dedicated account, capital expenditure account or any other account or fund specifically exempted by the Legislature from transfer, except that the use of the appropriations from the State Road Fund for the office of the Secretary of the Department of Transportation is not a use other than the purpose for which such funds were dedicated and is permitted.

Appropriations otherwise classified shall be expended only where the distribution of expenditures for different purposes cannot well be determined in advance or it is necessary or desirable to permit the spending unit the freedom to spend an appropriation for more than one of the above classifications.

**Sec. 4. Method of expenditure.** — Money appropriated by this bill, unless otherwise specifically directed, shall be appropriated and expended according to the provisions of Article 3, Chapter 12 of the Code or according to any law detailing a procedure specifically limiting that article.

**Sec. 5. Maximum expenditures.** — No authority or requirement of law shall be interpreted as requiring or permitting 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.

**Section 1. Appropriations from general revenue.** – From the State Fund, General Revenue, there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B the following amounts, as itemized, for expenditure during the fiscal year 2019.

**LEGISLATIVE**

*1 - Senate*

Fund 0165 FY 2019 Org 2100

		<b>General Revenue Fund</b>	<b>Appro- priation</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 Contingent Fund (R) .....	02100	276,392
5	Repairs and Alterations (R) .....	06400	50,000
6	Computer Supplies (R).....	10100	20,000
7	Computer Systems (R).....	10200	60,000
8	Printing Blue Book (R).....	10300	125,000
9	Expenses of Members (R) .....	39900	370,000
10	BRIM Premium (R).....	91300	<u>29,482</u>
11	Total.....		\$ 5,952,206

The appropriations for the Senate for the fiscal year 2018 are to remain in full force and effect and are hereby reappropriated to June 30, 2019. Any balances so reappropriated may be transferred and credited to the fiscal year 2018 accounts.

Upon the written request of the Clerk of the Senate, the Auditor shall transfer amounts between items of the total appropriation in order to protect or increase the efficiency of the service.

The Clerk of the Senate, with the approval of the President, is authorized to draw his or her requisitions upon the Auditor, payable out of the Current Expenses and Contingent Fund of the Senate, for any bills for supplies and services that may have been incurred by the Senate and not included in the appropriation bill, for supplies and services incurred in preparation for the opening, the conduct of the business and after adjournment of any regular or extraordinary session, and for the necessary operation of the Senate offices, the requisitions for which are to be accompanied by bills to be filed with the Auditor.

The Clerk of the Senate, with the approval of the President, or the President of the Senate shall have authority to employ such staff personnel during any session of the Legislature as shall be needed in addition to staff personnel authorized by the Senate resolution adopted during any such session. The Clerk of the Senate, with the approval of the President, or the President of the Senate shall have authority to employ such staff personnel between sessions of the Legislature as shall be needed, the compensation of all staff personnel during and between sessions of the Legislature, notwithstanding any such Senate resolution, to be fixed by the President of the Senate. The Clerk is hereby authorized to draw his or her requisitions upon the Auditor for the payment of all such staff personnel for such services, payable out of the appropriation for

Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the Senate.

For duties imposed by law and by the Senate, the Clerk of the Senate shall be paid a monthly salary as provided by the Senate resolution, unless increased between sessions under the authority of the President, payable out of the appropriation for Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the Senate.

The distribution of the blue book shall be by the office of the Clerk of the Senate and shall include 75 copies for each member of the Legislature and two copies for each classified and approved high school and junior high or middle school and one copy for each elementary school within the state.

Included in the above appropriation for Senate (fund 0165, appropriation 02100), an amount not less than \$5,000 is to be used for the West Virginia Academy of Family Physicians - Doc of the 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 Contingent Fund (R) .....	02100		3,909,031
5	Expenses of Members (R) .....	39900		1,350,000
6	BRIM Premium (R).....	91300		<u>70,000</u>
7	Total .....		\$	8,904,031

The appropriations for the House of Delegates for the fiscal year 2018 are to remain in full force and effect and are hereby reappropriated to June 30, 2019. Any balances so reappropriated may be transferred and credited to the fiscal year 2018 accounts.

Upon the written request of the Clerk of the House of Delegates, the Auditor shall transfer amounts between items of the total appropriation in order to protect or increase the efficiency of the service.

The Clerk of the House of Delegates, with the approval of the Speaker, is authorized to draw his or her requisitions upon the Auditor, payable out of the Current Expenses and Contingent Fund of the House of Delegates, for any bills for supplies and services that may have been incurred by the House of Delegates and not included in the appropriation bill, for bills for services and supplies incurred in preparation for the opening of the session and after adjournment, and for the necessary operation of the House of Delegates' offices, the requisitions for which are to be accompanied by bills to be filed with the Auditor.

The Speaker of the House of Delegates, upon approval of the House committee on rules, shall have authority to employ such staff personnel during and between sessions of the Legislature as shall be needed, in addition to personnel designated in the House resolution, and the compensation of all personnel shall be as fixed in such House resolution for the session, or fixed by the Speaker, with the approval of the House committee on rules, during and between sessions of the Legislature, notwithstanding such House resolution. The Clerk of the House of Delegates is hereby authorized to draw requisitions upon the Auditor for such services, payable out of the appropriation for the Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the House of Delegates.

For duties imposed by law and by the House of Delegates, including salary allowed by law as keeper of the rolls, the Clerk of the House of Delegates shall be paid a monthly salary as provided in the House resolution, unless increased between sessions under the authority of the Speaker, with the approval of the House committee on rules, and payable out of the appropriation for Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the House of Delegates.

Included in the above appropriation for House of Delegates (fund 0170, appropriation 02100), an amount not less than \$5,000 is to be used for the West Virginia Academy of Family Physicians - Doc of the Day Program.

### 3 - Joint Expenses

(WV Code Chapter 4)

#### Fund 0175 FY 2019 Org 2300

1	Joint Committee on Government and Finance (R) .....	10400	\$	5,725,138
2	Legislative Printing (R) .....	10500		760,000
3	Legislative Rule-Making Review Committee (R).....	10600		147,250
4	Legislative Computer System (R).....	10700		1,447,500
5	BRIM Premium (R).....	91300		<u>60,569</u>
6	Total.....		\$	8,140,457

The appropriations for the Joint Expenses for the fiscal year 2018 are to remain in full force and effect and are hereby reappropriated to June 30, 2019. Any balances reappropriated may be transferred and credited to the fiscal year 2018 accounts.

Upon the written request of the Clerk of the Senate, with the approval of the President of the Senate, and the Clerk of the House of Delegates, with the approval of the Speaker of the House of Delegates, and a copy to the Legislative Auditor, the Auditor shall transfer amounts between items of the total appropriation in 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 Employee Benefits (R).....	00100	\$ 102,856,258
2	Children's Protection Act (R).....	09000	214,700
3	Current Expenses (R) .....	13000	32,882,879
4	Repairs and Alterations (R).....	06400	236,450
5	Equipment (R).....	07000	1,800,000
6	Judges' Retirement System (R) .....	11000	779,000
7	Buildings (R) .....	25800	100,000
8	Other Assets (R) .....	69000	200,000
9	BRIM Premium (R).....	91300	<u>690,383</u>
10	Total.....		\$ 139,759,670

The appropriations to the Supreme Court of Appeals for the fiscal years 2017 and 2018 are to remain in full force and effect and are hereby reappropriated to June 30, 2019. Any balances so reappropriated may be transferred and credited to the fiscal year 2018 accounts.

This fund shall be administered by the Administrative Director of the Supreme Court of Appeals, who shall draw requisitions for warrants in payment in the form of payrolls, making deductions there from as required by law for taxes and other items.

The appropriation for the Judges' Retirement System (fund 0180, appropriation 11000) is to be transferred to the Consolidated Public Retirement Board, in accordance with the law relating thereto, upon requisition of the Administrative Director of the Supreme Court of Appeals.

**EXECUTIVE***5 - Governor's Office*

(WV Code Chapter 5)

Fund 0101 FY 2019 Org 0100

1	Personal Services and Employee Benefits.....	00100	\$ 3,171,318
2	Current Expenses (R) .....	13000	760,888
3	Repairs and Alterations.....	06400	2,000
4	National Governors Association.....	12300	60,700

5	Herbert Henderson Office of Minority Affairs .....	13400	146,726
6	BRIM Premium.....	91300	183,645
7	Total .....		\$ 4,325,277

Any unexpended balances remaining in the appropriations for Unclassified (fund 0101, appropriation 09900), and Current Expenses (fund 0101, appropriation 13000) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

The above appropriation for Herbert Henderson Office of Minority Affairs (fund 0101, appropriation 13400) shall be 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 Employee Benefits.....	00100	\$ 364,421
2	Current Expenses (R) .....	13000	183,158
3	Repairs and Alterations.....	06400	5,000
4	Total .....		\$ 552,579

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0102, appropriation 13000) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

Appropriations are to be used for current general expenses, including compensation of employees, household maintenance, cost of official functions and additional household expenses occasioned by such official functions.

*7 - Governor's Office –*

*Civil Contingent Fund*

(WV Code Chapter 5)

Fund 0105 FY 2019 Org 0100

Any unexpended balances remaining in the appropriations for Business and Economic Development Stimulus – Surplus (fund 0105, appropriation 08400), Civil Contingent Fund – Total (fund 0105, appropriation 11400), 2012 Natural Disasters – Surplus (fund 0105, appropriation 13500), Civil Contingent Fund – Total – Surplus (fund 0105, appropriation 23800), Civil Contingent Fund – Surplus (fund 0105, appropriation 26300), Business and Economic Development Stimulus (fund 0105, appropriation 58600), Civil Contingent Fund (fund 0105,

appropriation 61400), and Natural Disasters – Surplus (fund 0105, appropriation 76400) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year.

From this fund there may be expended, at the discretion of the Governor, an amount not to exceed \$1,000 as West Virginia's contribution to the interstate oil compact commission.

The above fund is intended to provide contingency funding for accidental, unanticipated, emergency or unplanned events which may occur during the fiscal year and is not to be expended 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

Personal Services and Employee Benefits.....	00100	\$	2,694,191
Current Expenses (R) .....	13000		13,429
BRIM Premium.....	91300		<u>12,077</u>
Total .....		\$	2,719,697

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0116, appropriation 13000) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0116, appropriation 00100), is \$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 Employee Benefits.....	00100	\$	2,480,419
2 Unclassified .....	09900		30,415
3 Current Expenses (R) .....	13000		475,100
4 Abandoned Property Program.....	11800		41,794
5 Other Assets .....	69000		10,000
6 ABLE Program .....	69202		150,000
7 BRIM Premium.....	91300		<u>59,169</u>

8 Total..... \$ 3,246,897

Any unexpended balances remaining in the appropriation for Current Expenses (fund 0126, appropriation 13000) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0126, appropriation 00100), is \$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 Employee Benefits.....	00100	\$	5,301,277
2	Animal Identification Program .....	03900		126,318
3	State Farm Museum.....	05500		87,759
4	Current Expenses (R) .....	13000		141,960
5	Gypsy Moth Program (R) .....	11900		954,230
6	WV Farmers Market.....	12801		150,467
7	Black Fly Control.....	13700		453,164
8	Donated Foods Program.....	36300		45,000
9	Veterans to Agriculture Program .....	36301		250,000
10	Predator Control (R).....	47000		176,400
11	Bee Research .....	69100		67,822
12	Microbiology Program .....	78500		97,016
13	Moorefield Agriculture Center.....	78600		933,624
14	Chesapeake Bay Watershed.....	83000		106,803
15	Livestock Care Standards Board.....	84300		8,820
16	BRIM Premium.....	91300		138,905
17	State FFA-FHA Camp and Conference Center .....	94101		613,246
18	Threat Preparedness .....	94200		70,731
19	WV Food Banks .....	96900		126,000

20	Senior’s Farmers’ Market Nutrition Coupon Program .....	97000	<u>55,835</u>
21	Total .....		\$ 9,905,377

Any unexpended balances remaining in the appropriations for Gypsy Moth Program (fund 0131, appropriation 11900), Current Expenses (fund 0131, appropriation 13000), Predator Control (fund 0131, appropriation 47000), and Agricultural Disaster and Mitigation Needs – Surplus (fund 0131, appropriation 85000) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0131, appropriation 00100), is \$95,000 for the Salary of the Commissioner.

The above appropriation for Predator Control (fund 0131, appropriation 47000) is to be made available to the United States Department of Agriculture, Wildlife Services to administer the Predator Control Program.

A portion of the Current Expenses appropriation may be transferred to a special revenue fund for the purpose of matching federal funds for marketing and development activities.

From the above appropriation for WV Food Banks (fund 0131, appropriation 96900), \$20,000 is for House of Hope and the remainder of the appropriation shall be allocated to the Huntington 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 Employee Benefits.....	00100	\$ 754,823
2	Unclassified .....	09900	77,059
3	Current Expenses (R) .....	13000	317,848
4	Soil Conservation Projects (R) .....	12000	6,649,447
5	BRIM Premium.....	91300	<u>34,428</u>
6	Total .....		\$ 7,833,605

Any unexpended balances remaining in the appropriations for Soil Conservation Projects (fund 0132, appropriation 12000), and Current Expenses (fund 0132, appropriation 13000) at the close of the fiscal year 2018 are hereby reappropriated for 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 Employee Benefits.....	00100	\$	640,093
2	Unclassified .....	09900		7,090
3	Current Expenses .....	13000		<u>82,605</u>
4	Total .....		\$	729,788

Any part or all of this appropriation may be transferred to a special revenue fund for the purpose of matching federal funds 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 4-H Clubs and FFA/FHA .....	57700	\$	15,000
2	Commissioner's Awards and Programs .....	73700		<u>39,250</u>
3	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 Employee Benefits.....	00100	\$	96,735
2	Unclassified .....	09900		<u>950</u>
3	Total .....		\$	97,685

*15 - Attorney General*

(WV Code Chapters 5, 14, 46A and 47)

Fund 0150 FY 2019 Org 1500

1	Personal Services and Employee Benefits (R).....	00100	\$	2,537,784
2	Unclassified (R).....	09900		24,428
3	Current Expenses (R) .....	13000		762,097

4	Repairs and Alterations.....	06400	1,000
5	Equipment.....	07000	1,000
6	Criminal Convictions and Habeas Corpus Appeals (R) .....	26000	923,582
7	Better Government Bureau .....	74000	275,194
8	BRIM Premium.....	91300	<u>120,654</u>
9	Total.....		\$ 4,645,739

Any unexpended balances remaining in the above appropriations for Personal Services and Employee Benefits (fund 0150, appropriation 00100), Unclassified (fund 0150, appropriation 09900), Current Expenses (fund 0150, appropriation 13000), Criminal Convictions and Habeas Corpus Appeals (fund 0150, appropriation 26000), and Agency Client Revolving Liquidity Pool (fund 0150, appropriation 36200) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0150, appropriation 00100), is \$95,000 for the Salary of the Attorney General.

When legal counsel or secretarial help is appointed by the Attorney General for any state spending unit, this account shall be reimbursed from such spending units specifically appropriated account or from accounts appropriated by general language contained within this bill: *Provided*, That the spending unit shall reimburse at a rate and upon terms agreed to by the state spending unit and the Attorney General: *Provided, however*, That if the spending unit and the Attorney General are unable to agree on the amount and terms of the reimbursement, the spending unit and the Attorney General shall submit their proposed reimbursement rates 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 Employee Benefits.....	00100	\$ 118,794
2	Unclassified (R).....	09900	9,555
3	Current Expenses (R) .....	13000	805,948
4	BRIM Premium.....	91300	<u>23,297</u>
5	Total.....		\$ 957,594

Any unexpended balances remaining in the appropriations for Unclassified (fund 0155, appropriation 09900) and Current Expenses (fund 0155, appropriation 13000) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

Included in the above appropriation to Personal Services and Employee Benefits (fund 0155, appropriation 00100), is \$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 Employee Benefits.....	00100	\$	2,477
2	Unclassified .....	09900		75
3	Current Expenses .....	13000		<u>4,956</u>
4	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 Employee Benefits.....	00100	\$	591,118
2	Unclassified .....	09900		9,177
3	Current Expenses .....	13000		85,446
4	Repairs and Alterations.....	06400		100
5	Equipment.....	07000		1,000
6	Financial Advisor (R).....	30400		27,546
7	Lease Rental Payments .....	51600		15,000,000
8	Design-Build Board.....	54000		4,000
9	Other Assets .....	69000		100
10	BRIM Premium.....	91300		<u>6,299</u>
11	Total.....		\$	15,724,786

Any unexpended balance remaining in the appropriation for Financial Advisor (fund 0186, appropriation 30400) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.



The appropriation for Lease Rental Payments (fund 0186, appropriation 51600) shall be disbursed as provided by W.Va. Code §31-15-6b.

*19 - Consolidated Public Retirement Board*

(WV Code Chapter 5)

Fund 0195 FY 2019 Org 0205

The Division of Highways, Division of Motor Vehicles, Public Service Commission and other departments, bureaus, divisions, or commissions operating from special revenue funds and/or federal funds shall pay their proportionate share of the retirement costs for their respective divisions. When specific appropriations are not made, such payments may be made from the balances in the various special revenue funds in excess of specific appropriations.

*20 - Division of Finance*

(WV Code Chapter 5A)

Fund 0203 FY 2019 Org 0209

1	Personal Services and Employee Benefits.....	00100	\$	64,696
2	Unclassified .....	09900		1,400
3	Current Expenses .....	13000		66,721
4	GAAP Project (R).....	12500		593,684
5	BRIM Premium.....	91300		<u>7,517</u>
6	Total.....		\$	734,018

Any unexpended balance remaining in the appropriation for GAAP Project (fund 0203, appropriation 12500) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

*21 - Division of General Services*

(WV Code Chapter 5A)

Fund 0230 FY 2019 Org 0211

1	Personal Services and Employee Benefits.....	00100	\$	2,593,147
2	Unclassified .....	09900		20,000
3	Current Expenses .....	13000		728,849
4	Repairs and Alterations.....	06400		500
5	Equipment.....	07000		5,000

6	Fire Service Fee.....	12600	14,000
7	Buildings (R) .....	25800	500
8	Preservation and Maintenance of Statues and Monuments		
9	on Capitol Grounds .....	37100	68,000
10	Capital Outlay, Repairs and Equipment (R).....	58900	14,078,888
11	Other Assets .....	69000	500
12	Land (R).....	73000	500
13	BRIM Premium.....	91300	<u>129,983</u>
14	Total.....		\$ 17,639,867

Any unexpended balances remaining in the above appropriations for Buildings (fund 0230, appropriation 25800), Capital Outlay, Repairs and Equipment (fund 0230, appropriation 58900), Capital Outlay, Repairs and Equipment – Surplus (fund 0230, appropriation 67700), and Land (fund 0230, appropriation 73000) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

From the above appropriation for Preservation and Maintenance of Statues and Monuments on Capitol Grounds (fund 0230, appropriation 37100), the Division shall consult the Division of Culture and History and Capitol Building Commission in all aspects of planning, assessment, maintenance and restoration.

The above appropriation for Capital Outlay, Repairs and Equipment (fund 0230, appropriation 58900) shall be expended for capital improvements, maintenance, repairs and equipment for state-owned buildings.

*22 - Division of Purchasing*

(WV Code Chapter 5A)

Fund 0210 FY 2019 Org 0213

1	Personal Services and Employee Benefits.....	00100	\$ 1,023,307
2	Unclassified .....	09900	144
3	Current Expenses .....	13000	1,285
4	Repairs and Alterations.....	06400	200
5	BRIM Premium.....	91300	<u>6,922</u>
6	Total.....		\$ 1,031,858

The Division of Highways shall reimburse Fund 2031 within the Division of Purchasing for all actual expenses incurred 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 Employee Benefits.....	00100	\$	779,867
2	Unclassified .....	09900		12,032
3	Current Expenses .....	13000		440,247
4	Repairs and Alterations.....	06400		1,000
5	Equipment.....	07000		5,000
6	Buildings (R) .....	25800		100
7	Other Assets .....	69000		<u>100</u>
8	Total .....		\$	1,238,346

Any unexpended balance remaining in the appropriation for Buildings (fund 0615, appropriation 25800) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the 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
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To pay expenses for members of the commission on uniform state laws.

*25 - West Virginia Public Employees Grievance Board*

(WV Code Chapter 6C)

Fund 0220 FY 2019 Org 0219

1	Personal Services and Employee Benefits.....	00100	\$	935,883
2	Unclassified .....	09900		1,000
3	Current Expenses .....	13000		143,754
4	Equipment.....	07000		50

5	BRIM Premium.....	91300	<u>10,281</u>
6	Total .....		\$ 1,090,968

*26 - Ethics Commission*

(WV Code Chapter 6B)

Fund 0223 FY 2019 Org 0220

1	Personal Services and Employee Benefits.....	00100	\$ 588,831
2	Unclassified .....	09900	2,200
3	Current Expenses .....	13000	104,501
4	Repairs and Alterations.....	06400	500
5	Other Assets .....	69000	100
6	BRIM Premium.....	91300	<u>5,574</u>
7	Total .....		\$ 701,706

*27 - Public Defender Services*

(WV Code Chapter 29)

Fund 0226 FY 2019 Org 0221

1	Personal Services and Employee Benefits.....	00100	\$ 1,367,785
2	Unclassified .....	09900	314,700
3	Current Expenses .....	13000	12,740
4	Public Defender Corporations .....	35200	19,204,999
5	Appointed Counsel Fees (R).....	78800	10,723,115
6	BRIM Premium.....	91300	<u>10,575</u>
7	Total .....		\$ 31,633,914

Any unexpended balance remaining in the above appropriation for Appointed Counsel Fees (fund 0226, appropriation 78800) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

The director shall have the authority to transfer funds from the appropriation to Public Defender Corporations (fund 0226, appropriation 35200) to Appointed Counsel Fees (fund 0226, 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 Employee Benefits.....	00100	\$	3,187
2	Current Expenses .....	13000		868
3	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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The Division of Highways, Division of Motor Vehicles, Public Service Commission and other departments, bureaus, divisions, or commissions operating from special revenue funds and/or federal funds shall pay their proportionate share of the public employees health insurance cost for their respective divisions.

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.

*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		101,418
3	Total .....		\$	241,029

Any unexpended balances remaining in the appropriations for Forensic Medical Examinations (fund 0557, appropriation 68300) and Federal Funds/Grant Match (fund 0557, appropriation 74900) at the close of the fiscal year 2018 are hereby 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 Employee Benefits.....	00100	\$	660,855
2	Unclassified .....	09900		1,000
3	Current Expenses .....	13000		138,631
4	Repairs and Alterations.....	06400		100
5	Equipment.....	07000		2,500
6	BRIM Premium.....	91300		<u>8,534</u>
7	Total.....		\$	811,620

**DEPARTMENT OF COMMERCE**

*32 - Division of Forestry*

(WV Code Chapter 19)

Fund 0250 FY 2019 Org 0305

1	Personal Services and Employee Benefits.....	00100	\$	2,743,667
2	Unclassified .....	09900		21,435
3	Current Expenses .....	13000		338,953
4	Repairs and Alterations.....	06400		80,000
5	Equipment (R).....	07000		2,061
6	BRIM Premium.....	91300		<u>98,754</u>
7	Total.....		\$	3,284,870

Any unexpended balance remaining in the appropriation for Equipment (fund 0250, Appropriation 07000) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

Out of the above appropriations a sum may be used to match federal funds for cooperative studies or other funds for similar purposes.

*33 - Geological and Economic Survey*

(WV Code Chapter 29)

Fund 0253 FY 2019 Org 0306

1	Personal Services and Employee Benefits.....	00100	\$	1,614,784
2	Unclassified .....	09900		27,678
3	Current Expenses .....	13000		51,524
4	Repairs and Alterations.....	06400		968
5	Mineral Mapping System (R).....	20700		1,114,009
6	BRIM Premium.....	91300		<u>24,486</u>
7	Total.....		\$	2,833,449

Any unexpended balance remaining in the appropriation for Mineral Mapping System (fund 0253, appropriation 20700) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

The above Unclassified and Current Expense appropriations include funding to secure federal and other contracts and may be transferred to a special revolving fund (fund 3105) for 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 Employee Benefits.....	00100	\$	4,204,485
2	Unclassified .....	09900		108,687
3	Current Expenses .....	13000		3,769,645
4	National Youth Science Camp .....	13200		241,570
5	Local Economic Development Partnerships (R) .....	13300		792,000
6	ARC Assessment.....	13600		152,585
7	Infrastructure and Economic Development Projects.....	23401		3,000,000
8	Guaranteed Work Force Grant (R).....	24200		970,955
9	Mainstreet Program .....	79400		164,655
10	BRIM Premium.....	91300		3,157
11	Hatfield McCoy Recreational Trail.....	96000		<u>198,415</u>

12 Total..... \$ 13,606,154

Any unexpended balances remaining in the appropriations for Unclassified – Surplus (fund 0256, appropriation 09700), Partnership Grants (fund 0256, appropriation 13100), Local Economic Development Partnerships (fund 0256, appropriation 13300), Guaranteed Work Force Grant (fund 0256, appropriation 24200), Industrial Park Assistance (fund 0256, appropriation 48000), and Local Economic Development Assistance (fund 0256, appropriation 81900) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

The above appropriation to Local Economic Development Partnerships (fund 0256, appropriation 13300) shall be used by the West Virginia Development Office for the award of funding assistance to county and regional economic development corporations or authorities participating in the Certified Development Community Program developed under the provisions of W.Va. Code §5B-2-14. The West Virginia Development Office shall award the funding assistance through a matching grant program, based upon a formula whereby funding assistance may not exceed \$34,000 per county served by an economic 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 Employee Benefits.....	00100	\$	1,500,000
2	Current Expenses .....	13000		227,000
3	Repairs and Alterations.....	06400		28,000
4	Equipment.....	07000		15,000
5	BRIM Premium.....	91300		<u>8,500</u>
6	Total.....		\$	1,778,500

*36 - Division of Natural Resources*

(WV Code Chapter 20)

Fund 0265 FY 2019 Org 0310

1	Personal Services and Employee Benefits.....	00100	\$	16,193,634
2	Unclassified .....	09900		184,711
3	Current Expenses .....	13000		196,302
4	Repairs and Alterations.....	06400		100



5	Equipment.....	07000	100
6	Buildings .....	25800	100
7	Capital Outlay – Parks.....	28800	3,000,000
8	Litter Control Conservation Officers .....	56400	142,712
9	Upper Mud River Flood Control.....	65400	163,385
10	Other Assets .....	69000	100
11	Land (R).....	73000	100
12	Law Enforcement .....	80600	2,473,246
13	BRIM Premium.....	91300	<u>45,141</u>
14	Total.....		\$ 22,399,631

Any unexpended balances remaining in the appropriations for Buildings (fund 0265, appropriation 25800), Land (fund 0265, appropriation 73000), and State Park Improvements – Surplus (fund 0265, appropriation 76300) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

Any revenue derived from mineral extraction at any state park shall be deposited in a special revenue account of the Division of Natural Resources, first for bond debt payment purposes and with any remainder to be for park operation and improvement purposes.

*37 - Division of Miners' Health, Safety and Training*

(WV Code Chapter 22)

Fund 0277 FY 2019 Org 0314

1	Personal Services and Employee Benefits.....	00100	\$ 9,249,358
2	Unclassified .....	09900	111,016
3	Current Expenses .....	13000	1,396,141
4	Coal Dust and Rock Dust Sampling .....	27000	482,128
5	BRIM Premium.....	91300	<u>80,668</u>
6	Total.....		\$ 11,319,311

Included in the above appropriation for Current Expenses (fund 0277, appropriation 13000) is \$500,000 to be used for coal mine training activities at an established mine training facility in 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 Employee Benefits.....	00100	\$	231,169
2	Unclassified .....	09900		3,480
3	Current Expenses .....	13000		<u>118,138</u>
4	Total .....		\$	352,787

Included in the above appropriation for Current Expenses (fund 0280, appropriation 13000) up to \$29,000 shall be used for 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 Employee Benefits.....	00100	\$	51,433
2	Unclassified .....	09900		593
3	Current Expenses .....	13000		<u>7,337</u>
4	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 Employee Benefits.....	00100	\$	555,128
2	Unclassified .....	09900		3,500
3	Current Expenses .....	13000		<u>15,089</u>
4	Total .....		\$	573,717

*41 - Office of Energy*

(WV Code Chapter 5B)

Fund 0612 FY 2019 Org 0328

1	Personal Services and Employee Benefits.....	00100	\$	195,487
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2	Unclassified .....	09900	12,395
3	Current Expenses .....	13000	1,029,679
4	BRIM Premium.....	91300	<u>3,894</u>
5	Total .....		\$ 1,241,455

From the above appropriation for Current Expenses (fund 0612, appropriation 13000) \$558,247 is for West Virginia University and \$308,247 is for Southern West Virginia Community and Technical College for the Mine Training and Energy 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 Employee Benefits.....	00100	\$ 335,494
2	Current Expenses .....	13000	<u>2,118,865</u>
3	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 Employee Benefits.....	00100	\$ 4,387,599
2	Teachers' Retirement Savings Realized.....	09500	35,000,000
3	Unclassified (R).....	09900	300,000
4	Current Expenses (R) .....	13000	2,572,000
5	Equipment.....	07000	5,000
6	Increased Enrollment .....	14000	2,910,000
7	Safe Schools.....	14300	4,869,447
8	Teacher Mentor.....	15800	550,000

9	National Teacher Certification (R) .....	16100	300,000
10	Buildings (R) .....	25800	1,000
11	Technology Repair and Modernization .....	29800	951,003
12	HVAC Technicians .....	35500	506,851
13	Early Retirement Notification Incentive.....	36600	300,000
14	MATH Program .....	36800	336,532
15	Assessment Programs .....	39600	1,339,588
16	21st Century Fellows.....	50700	274,899
17	English as a Second Language.....	52800	96,000
18	Teacher Reimbursement.....	57300	297,188
19	Hospitality Training .....	60000	270,103
20	Hi-Y Youth in Government .....	61600	100,000
21	High Acuity Special Needs (R) .....	63400	1,500,000
22	Foreign Student Education.....	63600	100,013
23	Principals Mentorship.....	64900	69,250
24	State Board of Education Administrative Costs .....	68400	271,779
25	Other Assets .....	69000	1,000
26	IT Academy (R).....	72100	500,000
27	Land (R).....	73000	1,000
28	Early Literacy Program.....	75600	5,700,000
29	School Based Truancy Prevention (R) .....	78101	2,015,366
30	Communities in Schools.....	78103	400,000
31	21st Century Learners (R).....	88600	1,726,944
32	BRIM Premium.....	91300	342,859
33	21st Century Assessment and Professional Development .....	93100	2,004,447
34	21st Century Technology Infrastructure Network		

35	Tools and Support.....	93300	7,636,586
36	Educational Program Allowance .....	99600	<u>516,250</u>
37	Total.....		\$ 78,152,704

The above appropriations include funding for the state board of education and their executive office.

Any unexpended balances remaining in the appropriations for Unclassified (fund 0313, appropriation 09900), Current Expenses (fund 0313, appropriation 13000), National Teacher Certification (fund 0313, appropriation 16100), Buildings (fund 0313, appropriation 25800), High Acuity Special Needs (fund 0313, appropriation 63400), IT Academy (fund 0313, appropriation 72100), Land (fund 0313, appropriation 73000), School Based Truancy Prevention (fund 0313, appropriation 78101), and 21st Century Learners (fund 0313, appropriation 88600) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

The above appropriation for Teachers' Retirement Savings Realized (fund 0313, appropriation 09500) shall be transferred to the Employee Pension and Health Care Benefit Fund (fund 2044).

The above appropriation for Hospitality Training (fund 0313, appropriation 60000), shall be allocated only to entities that have a plan approved for funding by the Department of Education, at the funding level determined by the State Superintendent of Schools. Plans shall be submitted to the State Superintendent of Schools to be considered for funding.

From the above appropriation for Educational Program Allowance (fund 0313, appropriation 99600), \$100,000 shall be expended for Webster County Board of Education for Hacker Valley; \$150,000 shall be for the Randolph County Board of Education for Pickens School; \$100,000 shall be for the Preston County Board of Education for the Aurora School; \$100,000 shall be for the Fayette County Board of Education for Meadow Bridge; 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 Juveniles and Adults (R) .....	47200	<u>18,472,954</u>
6	Total.....		\$ 30,228,979

Any unexpended balance remaining in the appropriation for Education of Institutionalized Juveniles and Adults (fund 0314, appropriation 47200) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

From the above appropriations, the superintendent shall have authority to expend funds for the costs of special education 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	21st Century Strategic Technology Learning Growth .....	93600	<u>21,584,131</u>
10	Basic Foundation Allowances .....		1,610,736,640
11	Less Local Share .....		(458,622,709)
12	Adjustments .....		<u>(1,694,701)</u>
13	Total Basic State Aid.....		1,150,419,230
14	Public Employees' Insurance Matching.....	01200	232,810,116
15	Teachers' Retirement System.....	01900	72,719,190
16	School Building Authority .....	45300	23,420,520
17	Retirement Systems – Unfunded Liability.....	77500	<u>353,640,000</u>
18	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 Employee Benefits.....	00100	\$	1,305,125
2	Unclassified .....	09900		268,800
3	Current Expenses .....	13000		883,106
4	Wood Products – Forestry Vocational Program.....	14600		73,715
5	Albert Yanni Vocational Program .....	14700		132,123
6	Vocational Aid.....	14800		23,239,266
7	Adult Basic Education .....	14900		4,894,607
8	Program Modernization.....	30500		884,313
9	High School Equivalency Diploma Testing (R) .....	72600		790,743
10	FFA Grant Awards .....	83900		11,496
11	Pre-Engineering Academy Program.....	84000		<u>265,294</u>
12	Total.....		\$	32,748,588

Any unexpended balance remaining in the appropriation for High School Equivalency Diploma Testing (fund 0390, appropriation 72600) at the close of the fiscal year 2018 is hereby 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 Employee Benefits.....	00100	\$	11,588,010
2	Unclassified .....	09900		110,000
3	Current Expenses .....	13000		2,145,469
4	Repairs and Alterations.....	06400		85,000
5	Equipment.....	07000		70,000

6	Buildings (R) .....	25800	50,000
7	Capital Outlay and Maintenance (R) .....	75500	82,500
8	BRIM Premium.....	91300	<u>140,842</u>
9	Total .....		\$ 14,271,821

Any unexpended balances remaining in the appropriations for Buildings (fund 0320, appropriation 25800) and Capital Outlay and Maintenance (fund 0320, appropriation 75500) at the close of the fiscal year 2018 are hereby reappropriated for expenditure 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 Employee Benefits.....	00100	\$ 533,834
2	Unclassified .....	09900	35,000
3	Center for Professional Development (R).....	11500	1,511,331
4	Current Expenses .....	13000	7,162
5	WV Humanities Council .....	16800	250,000
6	Benedum Professional Development Collaborative (R).....	42700	429,775
7	Governor's Honors Academy (R) .....	47800	1,059,270
8	Educational Enhancements.....	69500	573,500
9	S.T.E.M. Education and Grant Program (R).....	71900	492,262
10	Energy Express.....	86100	382,935
11	BRIM Premium.....	91300	5,336
12	Special Olympic Games.....	96600	<u>25,000</u>
13	Total .....		\$ 5,305,405

Any unexpended balances remaining in the appropriations for Center for Professional Development (fund 0294, appropriation 11500), Benedum Professional Development Collaborative (fund 0294, appropriation 42700), Governor's Honors Academy (fund 0294,



appropriation 47800), and S.T.E.M. Education and Grant Program (fund 0294, appropriation 71900) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

From the above appropriation for Educational Enhancements (fund 0294, appropriation 69500), \$73,500 shall be 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 Employee Benefits.....	00100	\$	3,299,919
2	Current Expenses .....	13000		610,843
3	Repairs and Alterations.....	06400		1,000
4	Equipment.....	07000		1
5	Unclassified (R).....	09900		28,483
6	Buildings (R) .....	25800		1
7	Other Assets .....	69000		1
8	Land (R).....	73000		1
9	Culture and History Programming .....	73200		231,573
10	Capital Outlay and Maintenance (R) .....	75500		19,600
11	Historical Highway Marker Program.....	84400		57,548
12	BRIM Premium.....	91300		<u>39,337</u>
13	Total .....		\$	4,288,307

Any unexpended balances remaining in the appropriations for Unclassified (fund 0293, appropriation 09900), Buildings (fund 0293, appropriation 25800), Capital Outlay, Repairs and Equipment (fund 0293, appropriation 58900), Capital Improvements – Surplus (fund 0293, appropriation 66100), Capital Outlay, Repairs and Equipment – Surplus (fund 0293, appropriation 67700), Land (fund 0293, appropriation 73000), and Capital Outlay and Maintenance (fund 0293, appropriation 75500) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

The Current Expense appropriation includes funding for the arts funds, department programming funds, grants, fairs and festivals and Camp Washington Carver and shall be expended only upon authorization of the Division of Culture and History and in accordance with the provisions of Chapter 5A, Article 3, and Chapter 12 of the Code.

*50 - Library Commission*

(WV Code Chapter 10)

Fund 0296 FY 2019 Org 0433

1	Personal Services and Employee Benefits.....	00100	\$	1,261,316
2	Current Expenses .....	13000		139,624
3	Repairs and Alterations.....	06400		6,500
4	Services to Blind & Handicapped.....	18100		161,717
5	BRIM Premium.....	91300		<u>18,205</u>
6	Total.....		\$	1,587,362

*51 - Educational Broadcasting Authority*

(WV Code Chapter 10)

Fund 0300 FY 2019 Org 0439

1	Personal Services and Employee Benefits.....	00100	\$	1,767,321
2	Current Expenses .....	13000		1,591,805
3	Mountain Stage.....	24900		300,000
4	Capital Outlay and Maintenance (R) .....	75500		50,000
5	BRIM Premium.....	91300		<u>48,453</u>
6	Total.....		\$	3,757,579

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 0300, appropriation 75500) at the close of the fiscal year 2018 is hereby reappropriated 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 Employee Benefits.....	00100	\$	10,953,816
2	Independent Living Services .....	00900		429,418

3	Current Expenses .....	13000	558,815
4	Workshop Development.....	16300	1,817,427
5	Supported Employment Extended Services .....	20600	77,960
6	Ron Yost Personal Assistance Fund.....	40700	333,828
7	Employment Attendant Care Program.....	59800	131,575
8	BRIM Premium.....	91300	<u>77,464</u>
9	Total.....		\$ 14,380,303

From the above appropriation for Workshop Development (fund 0310, appropriation 16300), funds shall be used exclusively with the private nonprofit community rehabilitation program organizations known as work centers or sheltered workshops. The appropriation shall also be used to continue the support of the program, services, and individuals with disabilities currently in 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 Employee Benefits.....	00100	\$ 76,915
2	Current Expenses .....	13000	29,353
3	Repairs and Alterations.....	06400	100
4	Equipment.....	07000	300
5	Other Assets .....	69000	400
6	BRIM Premium.....	91300	<u>791</u>
7	Total.....		\$ 107,859

*54 - Division of Environmental Protection*

(WV Code Chapter 22)

Fund 0273 FY 2019 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$ 4,051,891
2	Water Resources Protection and Management.....	06800	570,654

3	Current Expenses .....	13000	96,916
4	Repairs and Alterations.....	06400	1,500
5	Unclassified .....	09900	14,825
6	Dam Safety .....	60700	212,186
7	West Virginia Stream Partners Program.....	63700	77,396
8	Meth Lab Cleanup.....	65600	199,616
9	WV Contributions to River Commissions.....	77600	148,485
10	Office of Water Resources Non-Enforcement Activity .....	85500	<u>934,525</u>
11	Total.....		\$ 6,307,994

A portion of the appropriations for Current Expense (fund 0273, appropriation 13000) and Dam Safety (fund 0273, appropriation 60700) may be transferred to the special revenue fund Dam Safety Rehabilitation Revolving Fund (fund 3025) for 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 Employee Benefits.....	00100	\$ 60,737
2	Current Expenses .....	13000	12,462
3	Repairs and Alterations.....	06400	50
4	Equipment.....	07000	300
5	Other Assets .....	69000	200
6	BRIM Premium.....	91300	<u>2,304</u>
7	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 Employee Benefits.....	00100	\$	379,014
2	Unclassified .....	09900		6,459
3	Current Expenses .....	13000		50,613
4	Commission for the Deaf and Hard of Hearing.....	70400		<u>219,910</u>
5	Total.....		\$	655,996

Any unexpended balance remaining in the appropriation for the Women's Commission (fund 0400, appropriation 19100) at the close of the fiscal year 2018 is hereby reappropriated for 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 Employee Benefits.....	00100	\$	12,446,690
2	Chief Medical Examiner .....	04500		6,618,003
3	Unclassified .....	09900		671,795
4	Current Expenses .....	13000		4,677,059
5	State Aid for Local and Basic Public Health Services.....	18400		12,652,756
6	Safe Drinking Water Program (R).....	18700		2,188,827
7	Women, Infants and Children.....	21000		38,621
8	Early Intervention .....	22300		8,134,060
9	Cancer Registry .....	22500		200,682
10	Statewide EMS Program Support (R).....	38300		1,835,429
11	Black Lung Clinics.....	46700		170,885
12	Vaccine for Children.....	55100		335,423
13	Tuberculosis Control .....	55300		372,366
14	Maternal and Child Health Clinics, Clinicians			
15	Medical Contracts and Fees (R) .....	57500		6,335,115

16	Epidemiology Support.....	62600	1,513,869
17	Primary Care Support .....	62800	4,245,849
18	Sexual Assault Intervention and Prevention .....	72300	125,000
19	Health Right Free Clinics .....	72700	2,750,000
20	Capital Outlay and Maintenance (R) .....	75500	100,000
21	Maternal Mortality Review .....	83400	47,712
22	Diabetes Education and Prevention .....	87300	97,125
23	BRIM Premium.....	91300	169,791
24	State Trauma and Emergency Care System .....	91800	<u>2,004,450</u>
25	Total.....		\$ 67,731,507

Any unexpended balances remaining in the appropriations for Safe Drinking Water Program (fund 0407, appropriation 18700), Statewide EMS Program Support (fund 0407, appropriation 38300), Maternal and Child Health Clinics, Clinicians and Medical Contracts and Fees (fund 0407, appropriation 57500), Capital Outlay and Maintenance (fund 0407, appropriation 75500), Emergency Response Entities – Special Projects (fund 0407, appropriation 82200).

From the above appropriation for Current Expenses (fund 0407, appropriation 13000), an amount not less than \$100,000 is for the West Virginia Cancer Coalition; \$50,000 shall be expended for the West Virginia Aids Coalition; \$100,000 is for Adolescent Immunization Education; \$73,065 is for informal dispute resolution relating to nursing home administrative appeals; and \$50,000 is for Hospital Hospitality House of Huntington.

From the above appropriation for Maternal and Child Health Clinics, Clinicians and Medical Contracts and Fees (fund 0407, appropriation 57500) up to \$400,000 may be transferred to the Breast and Cervical Cancer Diagnostic Treatment Fund (fund 5197) and \$11,000 is for the Marshall County Health Department for dental services.

*58 - Consolidated Medical Services Fund*

(WV Code Chapter 16)

Fund 0525 FY 2019 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$ 1,590,408
2	Current Expenses .....	13000	14,113
3	Behavioral Health Program (R) .....	21900	64,462,622
4	Family Support Act.....	22100	251,226
5	Institutional Facilities Operations (R).....	33500	134,223,239

6	Substance Abuse Continuum of Care (R) .....	35400	5,000,000
7	Capital Outlay and Maintenance (R) .....	75500	950,000
8	Renaissance Program.....	80400	165,996
9	BRIM Premium.....	91300	<u>1,296,098</u>
10	Total.....		\$ 207,953,702

Any unexpended balances remaining in the appropriations for Behavioral Health Program (fund 0525, appropriation 21900), Institutional Facilities Operations (fund 0525, appropriation 33500), Substance Abuse Continuum of Care (fund 0525, appropriation 35400), and Capital Outlay and Maintenance (fund 0525, appropriation 75500) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

Notwithstanding the provisions of Title I, section three of this bill, the secretary of the Department of Health and Human Resources shall have the authority to transfer funds within the above appropriations: *Provided*, That no more than five percent of the funds appropriated to one appropriation may be transferred to other appropriations: *Provided, however*, That no funds from other appropriations shall be transferred to the personal services and employee benefits appropriation.

Included in the above appropriation for Behavioral Health Program (fund 0525, appropriation 21900) is \$100,000 for the Healing Place of Huntington.

From the above appropriation for Institutional Facilities Operations (fund 0525, appropriation 33500), together with available funds from the Division of Health – Hospital Services Revenue Account (fund 5156, appropriation 33500), on July 1, 2018, the sum of \$160,000 shall be transferred to the Department of Agriculture – Land Division – Farm Operating Fund (1412) as advance payment for the purchase of food products; actual payments for such purchases shall not be required until such credits have been completely expended.

The above appropriation for Institutional Facilities Operations (fund 0525, appropriation 33500) contains prior year salary increases due to the Hartley court order in the amount of \$2,202,013 for William R. Sharpe Jr. Hospital, and \$2,067,984 for Mildred Mitchel-Bateman Hospital.

From the above appropriation for Substance Abuse Continuum of Care (fund 0525, appropriation 35400), the funding will be consistent with the goal areas outlined in the Comprehensive Substance Abuse Strategic Action Plan.

Additional funds have been appropriated in fund 5156, fiscal year 2019, organization 0506, for the operation of the institutional facilities. The secretary of the Department of Health and Human Resources is authorized to utilize up to ten percent of the funds from the Institutional Facilities Operations appropriation to facilitate cost effective and cost saving services at the community level.

(WV Code Chapter 16)

Fund 0561 FY 2019 Org 0506

1	West Virginia Drinking Water Treatment			
2	Revolving Fund-Transfer .....	68900	\$	647,500

The above appropriation for Drinking Water Treatment Revolving Fund – Transfer shall be transferred to the West Virginia Drinking Water Treatment Revolving Fund or appropriate bank depository and the Drinking Water Treatment Revolving – Administrative Expense Fund as provided by Chapter 16 of the Code.

*60 - Human Rights Commission*

(WV Code Chapter 5)

Fund 0416 FY 2019 Org 0510

1	Personal Services and Employee Benefits.....	00100	\$	1,028,561
2	Unclassified .....	09900		4,024
3	Current Expenses .....	13000		331,304
4	BRIM Premium.....	91300		<u>10,764</u>
5	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 Employee Benefits.....	00100	\$	45,354,625
2	Unclassified .....	09900		5,688,944
3	Current Expenses .....	13000		11,404,008
4	Child Care Development .....	14400		4,090,908
5	Medical Services.....	18900		413,957,363
6	Social Services .....	19500		154,183,734
7	Family Preservation Program.....	19600		1,565,000
8	Family Resource Networks .....	27400		1,762,464
9	Domestic Violence Legal Services Fund .....	38400		400,000



10	James "Tiger" Morton Catastrophic Illness Fund.....	45500	102,883
11	I/DD Waiver .....	46600	88,753,483
12	Child Protective Services Case Workers.....	46800	23,473,825
13	OSCAR and RAPIDS.....	51500	6,453,502
14	Title XIX Waiver for Seniors .....	53300	13,593,620
15	WV Teaching Hospitals Tertiary/Safety Net .....	54700	6,356,000
16	Child Welfare System.....	60300	1,291,873
17	In-Home Family Education.....	68800	1,000,000
18	WV Works Separate State Program.....	69800	1,935,000
19	Child Support Enforcement .....	70500	6,487,501
20	Temporary Assistance for Needy Families/ Maintenance of Effort .....	70700	25,819,096
22	Child Care – Maintenance of Effort Match.....	70800	5,693,743
23	Grants for Licensed Domestic Violence Programs and Statewide Prevention .....	75000	2,500,000
25	Capital Outlay and Maintenance (R) .....	75500	11,875
26	Community Based Services and Pilot Programs for Youth.....	75900	1,000,000
27	Medical Services Administrative Costs.....	78900	38,127,412
28	Traumatic Brain Injury Waiver .....	83500	800,000
29	Indigent Burials (R) .....	85100	2,050,000
30	BRIM Premium.....	91300	892,642
31	Rural Hospitals Under 150 Beds .....	94000	2,596,000
32	Children's Trust Fund – Transfer.....	95100	<u>220,000</u>
33	Total.....		\$ 867,565,501

Any unexpended balances remaining in the appropriations for Capital Outlay and Maintenance (fund 0403, appropriation 75500) and Indigent Burials (fund 0403, appropriation 85100) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

Notwithstanding the provisions of Title I, section three of this bill, the secretary of the Department of Health and Human Resources shall have the authority to transfer funds within the above appropriations: *Provided*, That no more than five percent of the funds appropriated to one appropriation may be transferred to other appropriations: *Provided, however*, That no funds from other appropriations shall be transferred to the personal services and employee benefits appropriation.

The secretary shall have authority to expend funds for the educational costs of those children residing in out-of-state placements, excluding the costs of special education programs.

Included in the above appropriation for Social Services (fund 0403, appropriation 19500) is funding for continuing education requirements relating to the practice of social work.

The above appropriation for Domestic Violence Legal Services Fund (fund 0403, appropriation 38400) shall be transferred to the Domestic Violence Legal Services Fund (fund 5455).

The above appropriation for James "Tiger" Morton Catastrophic Illness Fund (fund 0403, appropriation 45500) shall be transferred to the James "Tiger" Morton Catastrophic Illness Fund (fund 5454) as provided by Article 5Q, Chapter 16 of the Code.

The above appropriation for WV Works Separate State Program (fund 0403, appropriation 69800), shall be transferred to the WV Works Separate State College Program Fund (fund 5467), and the WV Works Separate State Two-Parent Program Fund (fund 5468) as determined by the secretary of the Department of Health and Human Resources.

From the above appropriation for Child Support Enforcement (fund 0403, appropriation 70500) an amount not to exceed \$300,000 may be transferred to a local banking depository to be utilized to offset funds determined to be uncollectible.

From the above appropriation for the Grants for Licensed Domestic Violence Programs and Statewide Prevention (fund 0403, appropriation 75000), 50% of the total shall be divided equally and distributed among the fourteen (14) licensed programs and the West Virginia Coalition Against Domestic Violence (WVCADV). The balance remaining in the appropriation for Grants for Licensed Domestic Violence Programs and Statewide Prevention (fund 0403, appropriation 75000), shall be distributed according to the formula established by the Family Protection Services Board.

The above appropriation for Children's Trust Fund – Transfer (fund 0403, appropriation 95100) shall be transferred to 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 Employee Benefits.....	00100	\$	732,256
2	Unclassified (R).....	09900		18,949
3	Current Expenses .....	13000		58,320
4	Repairs and Alterations.....	06400		2,500
5	Equipment.....	07000		2,500
6	Fusion Center (R) .....	46900		542,430
7	Other Assets .....	69000		2,500
8	Directed Transfer .....	70000		32,000
9	BRIM Premium.....	91300		18,190
10	WV Fire and EMS Survivor Benefit (R) .....	93900		200,000
11	Homeland State Security Administrative Agency (R).....	95300		<u>318,890</u>
12	Total .....		\$	1,928,535

Any unexpended balances remaining in the appropriations for Unclassified (fund 0430, appropriation 09900), Fusion Center (fund 0430, appropriation 46900), Justice Reinvestment Training – Surplus (fund 0430, appropriation 69900), WV Fire and EMS Survivor Benefit (fund 0430, appropriation 93900), and Homeland State Security Administrative Agency (fund 0430, appropriation 95300) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

The above appropriation for Directed Transfer (fund 0430, appropriation 70000) shall be transferred to the Law-Enforcement, Safety and Emergency Worker Funeral Expense Payment Fund (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

Any unexpended balance remaining in the appropriations for Unclassified (fund 0433, appropriation 09900) and Military Authority (fund 0433, appropriation 74800) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

From the above appropriations an amount approved by the Adjutant General and the secretary of Military Affairs and Public Safety may be transferred to the State Armory Board for operation and maintenance of National Guard Armories.

The adjutant general shall have the authority to transfer between appropriations.

From the above appropriation and other state and federal funding, the Adjutant General shall provide an amount not less than \$4,500,000 to the Mountaineer ChalleNGe Academy to meet anticipated program demand.

*64 - Adjutant General –*

*Military Fund*

(WV Code Chapter 15)

Fund 0605 FY 2019 Org 0603

1	Personal Services and Employee Benefits.....	00100	\$ 100,000
2	Current Expenses .....	13000	<u>57,775</u>
3	Total .....		\$ 157,775

*65 - West Virginia Parole Board*

(WV Code Chapter 62)

Fund 0440 FY 2019 Org 0605

1	Personal Services and Employee Benefits.....	00100	\$ 402,254
2	Current Expenses .....	13000	365,234
3	Salaries of Members of West Virginia Parole Board.....	22700	609,833
4	BRIM Premium.....	91300	<u>6,149</u>
5	Total .....		\$ 1,383,470

The above appropriation for Salaries of Members of West Virginia Parole Board (fund 0440, appropriation 22700) includes funding for salary, annual increment (as provided for in W.Va. 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 Employee Benefits.....	00100	\$	1,268,402
2	Unclassified .....	09900		26,342
3	Current Expenses .....	13000		53,024
4	Repairs and Alterations.....	06400		600
5	Radiological Emergency Preparedness .....	55400		17,052
6	SIRN.....	55401		600,000
7	Federal Funds/Grant Match (R) .....	74900		663,463
8	Mine and Industrial Accident Rapid			
9	Response Call Center .....	78100		461,355
10	Early Warning Flood System (R).....	87700		475,832
11	BRIM Premium.....	91300		96,529
12	WVU Charleston Poison Control Hotline .....	94400		<u>712,942</u>
13	Total.....		\$	4,375,541

Any unexpended balances remaining in the appropriations for Federal Funds/Grant Match (fund 0443, appropriation 74900), Early Warning Flood System (fund 0443, appropriation 87700), and Disaster Mitigation (fund 0443, appropriation 95200) at the close of the fiscal year 2018 are hereby reappropriated for 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 Employee Benefits.....	00100	\$	621,000
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2	Current Expenses .....	13000	<u>2,400</u>
3	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 Administration (R) .....	38600	1,274,200
6	Charleston Correctional Center .....	45600	3,026,773
7	Beckley Correctional Center.....	49000	2,027,265
8	Anthony Correctional Center .....	50400	5,468,335
9	Huttonsville Correctional Center.....	51400	20,907,772
10	Northern Correctional Center .....	53400	7,205,041
11	Inmate Medical Expenses (R) .....	53500	21,226,064
12	Pruntytown Correctional Center .....	54300	7,630,256
13	Corrections Academy.....	56900	1,666,247
14	Information Technology Services .....	59901	2,259,052
15	Martinsburg Correctional Center .....	66300	3,856,727
16	Parole Services.....	68600	5,361,413
17	Special Services .....	68700	7,100,452
18	Investigative Services .....	71600	3,129,759
19	Capital Outlay and Maintenance (R) .....	75500	2,000,000
20	Salem Correctional Center.....	77400	10,260,770

21	McDowell County Correctional Center .....	79000	2,542,590
22	Stevens Correctional Center .....	79100	7,863,195
23	Parkersburg Correctional Center.....	82800	3,412,708
24	St. Mary's Correctional Center .....	88100	12,939,805
25	Denmar Correctional Center .....	88200	4,666,171
26	Ohio County Correctional Center .....	88300	1,874,033
27	Mt. Olive Correctional Complex.....	88800	20,063,054
28	Lakin Correctional Center .....	89600	9,510,551
29	BRIM Premium.....	91300	<u>2,527,657</u>
30	Total.....		\$ 194,626,274

Any unexpended balances remaining in the appropriations for Children's Protection Act (fund 0450, appropriation 09000), Unclassified – Surplus (fund 0450, appropriation 09700), Current Expenses (fund 0450, appropriation 13000), Facilities Planning and Administration (fund 0450, appropriation 38600), Inmate Medical Expenses (fund 0450, appropriation 53500), Capital Improvements – Surplus (fund 0450, appropriation 66100), Capital Outlay, Repairs and Equipment – Surplus (fund 0450, appropriation 67700), Capital Outlay and Maintenance (fund 0450, appropriation 75500), and Security System Improvements – Surplus (fund 0450, appropriation 75501) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

The Commissioner of Corrections shall have the authority to transfer between appropriations to the individual correctional units above and may transfer funds from the individual correctional units to Current Expenses (fund 0450, appropriation 13000) or Inmate Medical Expenses (fund 0450, appropriation 53500).

From the above appropriation to Unclassified (fund 0450, appropriation 09900), on July 1, 2018, the sum of \$300,000 shall be transferred to the Department of Agriculture – Land Division – Farm Operating Fund (1412) as advance payment for the purchase of food products; actual payments for such purchases shall not be required until such credits have been completely expended.

From the above appropriation to Current Expenses (fund 0450, appropriation 13000) payment shall be made to house Division of Corrections inmates in federal, county, and /or regional jails.

Any realized savings from Energy Savings Contract may be transferred to Facilities Planning and Administration (fund 0450, appropriation 38600).

*69 - West Virginia State Police*

(WV Code Chapter 15)

Fund 0453 FY 2019 Org 0612

1	Personal Services and Employee Benefits.....	00100	\$	58,857,744
2	Children's Protection Act.....	09000		972,973
3	Current Expenses .....	13000		10,384,394
4	Repairs and Alterations.....	06400		450,523
5	Trooper Class .....	52100		4,000,000
6	Barracks Lease Payments .....	55600		237,898
7	Communications and Other Equipment (R).....	55800		570,968
8	Trooper Retirement Fund.....	60500		5,584,775
9	Handgun Administration Expense .....	74700		72,268
10	Capital Outlay and Maintenance (R) .....	75500		250,000
11	Retirement Systems – Unfunded Liability.....	77500		15,415,000
12	Automated Fingerprint Identification System .....	89800		3,185,756
13	BRIM Premium.....	91300		<u>5,743,921</u>
14	Total.....		\$	105,726,220

Any unexpended balances remaining in the appropriations for Communications and Other Equipment (fund 0453, appropriation 55800), and Capital Outlay and Maintenance (fund 0453, appropriation 75500) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

From the above appropriation for Personal Services and Employee Benefits (fund 0453, appropriation 00100), an amount not less than \$25,000 shall be expended to offset the costs associated with providing police services for the West Virginia State Fair.

*70 - Fire Commission*

(WV Code Chapter 29)

Fund 0436 FY 2019 Org 0619

1	Current Expenses .....	13000	\$	64,021
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*71 - Division of Justice and Community Services*

(WV Code Chapter 15)

Fund 0546 FY 2019 Org 0620



1	Personal Services and Employee Benefits.....	00100	\$	550,620
2	Current Expenses .....	13000		133,360
3	Repairs and Alterations.....	06400		1,804
4	Child Advocacy Centers (R).....	45800		1,704,001
5	Community Corrections (R).....	56100		6,919,589
6	Statistical Analysis Program.....	59700		48,272
7	Sexual Assault Forensic Examination Commission (R).....	71400		76,963
8	Qualitative Analysis and Training for Youth Services (R) .....	76200		332,446
9	Law Enforcement Professional Standards.....	83800		157,692
10	BRIM Premium.....	91300		<u>2,123</u>
11	Total.....		\$	9,926,870

Any unexpended balances remaining in the appropriations for Child Advocacy Centers (fund 0546, appropriation 45800), Community Corrections (fund 0546, appropriation 56100), Sexual Assault Forensic Examination Commission (fund 0546, appropriation 71400), and Qualitative Analysis and Training for Youth Services (fund 0546, appropriation 76200) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

From the above appropriation for Child Advocacy Centers (fund 0546, appropriation 45800), the division may retain an amount not to exceed four percent of the appropriation for 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 Juvenile Center (R).....	98000	5,325,233
9	Vicki Douglas Juvenile Center.....	98100	2,083,190
10	Northern Regional Juvenile Center .....	98200	2,876,302
11	Lorrie Yeager Jr. Juvenile Center.....	98300	2,118,510
12	Sam Perdue Juvenile Center .....	98400	2,220,766
13	Tiger Morton Center.....	98500	2,322,188
14	Donald R. Kuhn Juvenile Center .....	98600	4,465,381
15	J.M. "Chick" Buckbee Juvenile Center .....	98700	<u>2,227,993</u>
16	Total.....		\$ 41,376,775

Any unexpended balances remaining in the appropriations for Resident Medical Expenses (fund 0570, appropriation 53501), Capital Outlay and Maintenance (fund 0570, appropriation 75500), and Kenneth Honey Rubenstein Juvenile Center (fund 0570, appropriation 98000) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

From the above appropriations, on July 1, 2018, the sum of \$50,000 shall be transferred to the Department of Agriculture – Land Division – Farm Operating Fund (1412) as advance payment for the purchase of food products; actual payments for such purchases shall not be required until such credits have been completely expended.

The Director of Juvenile Services shall have the authority to transfer between appropriations to the individual juvenile centers above and may transfer funds from the individual juvenile centers 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 Employee Benefits.....	00100	\$ 2,894,483
2	Unclassified (R).....	09900	21,991
3	Current Expenses .....	13000	443,357
4	Repairs and Alterations.....	06400	8,500
5	Equipment (R).....	07000	64,171
6	BRIM Premium.....	91300	<u>12,226</u>
7	Total.....		\$ 3,444,728

Any unexpended balances remaining in the appropriations for Equipment (fund 0585, appropriation 07000), and Unclassified (fund 0585, appropriation 09900) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

**DEPARTMENT OF REVENUE**

*74 - Office of the Secretary*

(WV Code Chapter 11)

Fund 0465 FY 2019 Org 0701

1	Personal Services and Employee Benefits.....	00100	\$	502,846
2	Unclassified .....	09900		5,837
3	Current Expenses .....	13000		81,594
4	Repairs and Alterations.....	06400		1,262
5	Equipment.....	07000		8,000
6	Other Assets .....	69000		<u>500</u>
7	Total .....		\$	600,039

Any unexpended balance remaining in the appropriation for Unclassified – Total (fund 0465, appropriation 09600) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

*75 - Tax Division*

(WV Code Chapter 11)

Fund 0470 FY 2019 Org 0702

1	Personal Services and Employee Benefits (R).....	00100	\$	18,211,688
2	Unclassified (R).....	09900		224,578
3	Current Expenses (R) .....	13000		5,770,589
4	Repairs and Alterations.....	06400		10,000
5	Equipment.....	07000		50,000
6	Tax Technology Upgrade.....	09400		3,700,000
7	Integrated Tax Assessment System.....	29200		5,000,000
8	Multi State Tax Commission.....	65300		77,958

9	Other Assets .....	69000	10,000
10	BRIM Premium.....	91300	<u>15,579</u>
11	Total .....		\$ 33,070,392

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits (fund 0470, appropriation 00100), Unclassified (fund 0470, appropriation 09900), and Current Expenses (fund 0470, appropriation 13000) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

*76 - State Budget Office*

(WV Code Chapter 11B)

Fund 0595 FY 2019 Org 0703

1	Personal Services and Employee Benefits.....	00100	\$ 672,446
2	Unclassified (R).....	09900	<u>1,199</u>
3	Total .....		\$ 673,645

Any unexpended balance remaining in the appropriation for Unclassified (fund 0595, appropriation 09900) at the close of the fiscal year 2018 is hereby reappropriated for expenditure 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 Employee Benefits.....	00100	\$ 438,046
2	Current Expenses (R) .....	13000	93,022
3	Unclassified .....	09900	5,255
4	BRIM Premium.....	91300	<u>3,062</u>
5	Total .....		\$ 539,385

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0593, appropriation 13000) at the close of the fiscal year 2018 is hereby reappropriated for expenditure 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 Employee Benefits.....	00100	\$	7,200
2	Current Expenses .....	13000		<u>29,611</u>
3	Total .....		\$	36,811

**DEPARTMENT OF TRANSPORTATION**

*79 - State Rail Authority*

(WV Code Chapter 29)

Fund 0506 FY 2019 Org 0804

1	Personal Services and Employee Benefits.....	00100	\$	319,933
2	Current Expenses .....	13000		287,707
3	Other Assets (R) .....	69000		1,303,277
4	BRIM Premium.....	91300		<u>201,541</u>
5	Total .....		\$	2,112,458

Any unexpended balance remaining in the appropriation Other Assets (fund 0506, appropriation 69000) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the 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

Any unexpended balances remaining in the appropriations for Equipment (fund 0510, appropriation 07000), Current Expenses (fund 0510, appropriation 13000), Buildings (fund 0510, appropriation 25800), and Other Assets (fund 0510, appropriation 69000) at the close of the fiscal year 2018 are hereby 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 Employee Benefits.....	00100	\$	200,000
2	Current Expenses .....	13000		<u>300,000</u>
3	Total .....		\$	500,000

*82 - Aeronautics Commission*

(WV Code Chapter 29)

Fund 0582 FY 2019 Org 0807

1	Personal Services and Employee Benefits.....	00100	\$	170,304
2	Current Expenses (R) .....	13000		591,839
3	Repairs and Alterations.....	06400		100
4	BRIM Premium.....	91300		<u>4,438</u>
5	Total .....		\$	766,681

Any unexpended balances remaining in the appropriations for Unclassified (fund 0582, appropriation 09900) and Current Expenses (fund 0582, appropriation 13000) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the 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 Employee Benefits.....	00100	\$	1,887,475
2	Unclassified .....	09900		20,000
3	Current Expenses .....	13000		140,161
4	Repairs and Alterations.....	06400		5,000
5	Veterans' Field Offices .....	22800		248,345
6	Veterans' Nursing Home (R) .....	28600		5,770,950
7	Veterans' Toll Free Assistance Line .....	32800		2,015
8	Veterans' Reeducation Assistance (R).....	32900		29,502
9	Veterans' Grant Program (R) .....	34200		30,741

10	Veterans' Grave Markers .....	47300	10,254
11	Veterans' Transportation.....	48500	625,000
12	Veterans Outreach Programs.....	61700	162,107
13	Memorial Day Patriotic Exercise .....	69700	20,000
14	Veterans Cemetery .....	80800	382,085
15	BRIM Premium.....	91300	<u>25,530</u>
16	Total.....		\$ 9,359,165

Any unexpended balances remaining in the appropriations for Veterans' Nursing Home (fund 0456, appropriation 28600), Veterans' Reeducation Assistance (fund 0456, appropriation 32900), Veterans' Grant Program (fund 0456, appropriation 34200), Veterans' Bonus – Surplus (fund 0456, appropriation 34400), and Educational Opportunities for Children of Deceased Veterans (fund 0456, appropriation 85400) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

*84 - Department of Veterans' Assistance –*

*Veterans' Home*

(WV Code Chapter 9A)

Fund 0460 FY 2019 Org 0618

1	Personal Services and Employee Benefits.....	00100	\$ 1,148,764
2	Current Expenses .....	13000	<u>46,759</u>
3	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 Services for Health Care		
2	and Title XIX Waiver for Senior Citizens.....	53900	\$ 29,950,955

The above appropriation for Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens (fund 0420, appropriation 53900) along with the federal moneys generated thereby shall be used for reimbursement for services provided under the program.

The above appropriation is in addition to funding provided 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 Development (R) .....	87800	2,784,901
5	College Transition Program.....	88700	278,222
6	West Virginia Advance Workforce Development (R) .....	89300	3,118,172
7	Technical Program Development (R) .....	89400	<u>1,800,735</u>
8	Total .....		\$ 8,747,123

Any unexpended balances remaining in the appropriations for West Virginia Council for Community and Technical Education (fund 0596, appropriation 39200), Capital Improvements – Surplus (fund 0596, appropriation 66100), Community College Workforce Development (fund 0596, appropriation 87800), West Virginia Advance Workforce Development (fund 0596, appropriation 89300), and Technical Program Development (fund 0596, appropriation 89400) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

From the above appropriation for the Community College Workforce Development (fund 0596, appropriation 87800), \$200,000 shall be expended on the Mine Training Program in Southern West Virginia.

Included in the above appropriation for West Virginia Advance Workforce Development (fund 0596, appropriation 89300) is \$200,000 to be used exclusively for advanced 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 Technical College.....	48700	\$	5,505,121
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*88 - New River Community and Technical College*

(WV Code Chapter 18B)

Fund 0600 FY 2019 Org 0445

1	New River Community and Technical College.....	35800	\$	5,452,807
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*89 - Pierpont Community and Technical College*

(WV Code Chapter 18B)

Fund 0597 FY 2019 Org 0446

1	Pierpont Community and Technical College.....	93000	\$	7,244,243
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*90 - Blue Ridge Community and Technical College*

(WV Code Chapter 18B)

Fund 0601 FY 2019 Org 0447

1	Blue Ridge Community and Technical College.....	88500	\$	5,099,246
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*91 - West Virginia University at Parkersburg*

(WV Code Chapter 18B)

Fund 0351 FY 2019 Org 0464

1	West Virginia University – Parkersburg .....	47100	\$	9,495,037
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*92 - Southern West Virginia Community and Technical College*

(WV Code Chapter 18B)

Fund 0380 FY 2019 Org 0487

1	Southern West Virginia Community and Technical College.....	44600	\$	7,944,214
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*93 - West Virginia Northern Community and Technical College*

(WV Code Chapter 18B)

Fund 0383 FY 2019 Org 0489

1	West Virginia Northern Community and Technical College .....	44700	\$	6,833,499
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*94 - Eastern West Virginia Community and Technical College*

(WV Code Chapter 18B)

Fund 0587 FY 2019 Org 0492

1	Eastern West Virginia Community and Technical College.....	41200	\$	1,812,537
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*95 - BridgeValley Community and Technical College*

(WV Code Chapter 18B)

Fund 0618 FY 2019 Org 0493

1	BridgeValley Community and Technical College.....	71700	\$	7,420,648
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**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 Employee Benefits.....	00100	\$	2,646,406
2	Current Expenses .....	13000		1,114,959
3	Higher Education Grant Program .....	16400		40,619,864
4	Tuition Contract Program (R) .....	16500		1,224,839
5	Underwood-Smith Scholarship Program-Student Awards .....	16700		328,349
6	Facilities Planning and Administration.....	38600		1,760,254
7	Higher Education System Initiatives .....	48801		1,630,000
8	PROMISE Scholarship – Transfer.....	80000		18,500,000
9	HEAPS Grant Program (R) .....	86700		5,011,298
10	BRIM Premium.....	91300		<u>17,817</u>
11	Total.....		\$	72,853,786

Any unexpended balances remaining in the appropriations for Unclassified – Surplus (fund 0589, appropriation 09700), Tuition Contract Program (fund 0589, appropriation 16500), Capital

Improvements – Surplus (fund 0589, appropriation 66100), Capital Outlay and Maintenance (fund 0589, appropriation 75500), and HEAPS Grant Program (fund 0589, appropriation 86700) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

The above appropriation for Facilities Planning and Administration (fund 0589, appropriation 38600) is for operational expenses of the West Virginia Education, Research and Technology Park between construction and full occupancy.

The above appropriation for Higher Education Grant Program (fund 0589, appropriation 16400) shall be transferred to the Higher Education Grant Fund (fund 4933, org 0441) established by W.Va. Code §18C-5-3.

The above appropriation for Underwood-Smith Scholarship Program-Student Awards (fund 0589, appropriation 16700) shall be transferred to the Underwood-Smith Teacher Scholarship and Loan Assistance Fund (fund 4922, org 0441) established by W.Va. Code §18C-4-1.

The above appropriation for PROMISE Scholarship – Transfer (fund 0589, appropriation 80000) shall be transferred to the PROMISE Scholarship Fund (fund 4296, org 0441) established 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 – Eastern Division .....	05600	\$	2,158,359
2	WVU – School of Health Sciences .....	17400		16,778,145
3	WVU – School of Health Sciences – Charleston Division .....	17500		2,218,598
4	Rural Health Outreach Programs .....	37700		162,520
5	West Virginia University School of Medicine			

6	BRIM Subsidy .....	46000	<u>1,203,087</u>
7	Total .....		\$ 22,520,709

The above appropriation for Rural Health Outreach Programs (fund 0343, appropriation 37700) includes rural health activities and programs; rural residency development and education; and rural outreach activities.

The above appropriation for West Virginia University School of Medicine BRIM Subsidy (fund 0343, appropriation 46000) shall be paid to the Board of Risk and Insurance Management as a general revenue subsidy against the "Total Premium Billed" to the institution as part of the full cost of their 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 Institute of Technology.....	47900	7,717,964
4	State Priorities – Brownfield Professional Development.....	53100	316,556
5	West Virginia University – Potomac State .....	99400	<u>3,834,937</u>
6	Total .....		\$ 105,909,995

From the above appropriation for Jackson's Mill (fund 0344, appropriation 46100) \$250,000 shall be used for the West 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 School BRIM Subsidy .....	44900	872,612
6	Total .....	\$	13,182,461

Any unexpended balance remaining in the appropriation for Rural Health Outreach Program (fund 0347, appropriation 37700) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

The above appropriation for Rural Health Outreach Programs (fund 0347, appropriation 37700) includes rural health activities and programs; rural residency development and education; and rural outreach activities.

The above appropriation for Marshall University Medical School BRIM Subsidy (fund 0347, appropriation 44900) shall be paid to the Board of Risk and Insurance Management as a general revenue subsidy against the "Total Premium Billed" to the institution as part of the full cost of their malpractice insurance 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 Learning Lab.....	44801	96,203
3	Vista E-Learning (R).....	51900	229,019
4	State Priorities – Brownfield Professional Development (R) ....	53100	309,606
5	Marshall University Graduate College Writing Project (R) .....	80700	25,412
6	WV Autism Training Center (R).....	93200	1,742,215
7	Total .....	\$	46,676,300

Any unexpended balances remaining in the appropriations for Vista E-Learning (fund 0348, appropriation 51900), State Priorities – Brownfield Professional Development (fund 0348, appropriation 53100), Marshall University Graduate College Writing Project (fund 0348, appropriation 80700), and WV Autism Training Center (fund 0348, appropriation 93200) at the close of the fiscal year 2018 are hereby reappropriated for expenditure 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 Osteopathic Medicine .....	17200	\$ 6,683,018
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2	Rural Health Outreach Programs (R) .....	37700	163,299
3	West Virginia School of Osteopathic Medicine		
4	BRIM Subsidy .....	40300	153,405
5	Rural Health Initiative – Medical Schools Support.....	58100	<u>391,968</u>
6	Total .....		\$ 7,391,690

Any unexpended balance remaining in the appropriation for Rural Health Outreach Programs (fund 0336, appropriation 37700) at the close of fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

The above appropriation for Rural Health Outreach Programs (fund 0336, appropriation 37700) includes rural health activities and programs; rural residency development and education; and rural outreach activities.

The above appropriation for West Virginia School of Osteopathic Medicine BRIM Subsidy (fund 0336, appropriation 40300) shall be paid to the Board of Risk and Insurance Management as a general revenue subsidy against the "Total Premium Billed" to the institution as part of the full cost of their 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
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*106 - Glenville State College*

(WV Code Chapter 18B)

Fund 0363 FY 2019 Org 0485

1	Glenville State College.....	42800	\$	5,885,700
	<i>107 - Shepherd University</i>			
	(WV Code Chapter 18B)			
	Fund <u>0366</u> FY <u>2019</u> Org <u>0486</u>			
1	Shepherd University.....	43200	\$	9,671,542
	<i>108 - West Liberty University</i>			
	(WV Code Chapter 18B)			
	Fund <u>0370</u> FY <u>2019</u> Org <u>0488</u>			
1	West Liberty University .....	43900	\$	7,823,727
	<i>109 - West Virginia State University</i>			
	(WV Code Chapter 18B)			
	Fund <u>0373</u> FY <u>2019</u> Org <u>0490</u>			
1	West Virginia State University .....	44100	\$	9,861,240
2	West Virginia State University Land Grant Match.....	95600		<u>1,586,340</u>
3	Total.....		\$	11,447,580
4	Total TITLE II, Section 1 – General Revenue			
5	(Including claims against the state).....			<u>\$ 4,381,808,884</u>

**Sec. 2. Appropriations from state road fund.** — From the state road fund there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized, for 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</b>
<b>Appro-</b>	<b>Road</b>
<b>priation</b>	<b>Fund</b>

1	Personal Services and Employee Benefits.....	00100	\$	23,378,949
2	Current Expenses .....	13000		16,181,042
3	Repairs and Alterations.....	06400		144,000
4	Equipment.....	07000		1,080,000
5	Buildings .....	25800		10,000
6	Other Assets .....	69000		2,600,000
7	BRIM Premium.....	91300		<u>84,738</u>
8	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

The above appropriations are to be expended in accordance with the provisions of Chapters 17 and 17C of the code.

The Commissioner of Highways shall have the authority to operate revolving funds within the State Road Fund for the operation and purchase of various types of equipment used directly



and indirectly in the construction and maintenance of roads and for the purchase of inventories and materials and supplies.

There is hereby appropriated in addition to the above appropriations, sufficient money for the payment of claims, accrued or arising during this budgetary period, to be paid in accordance with Sections 17 and 18, Article 2, Chapter 14 of the code.

It is the intent of the Legislature to capture and match all federal funds available for expenditure on the Appalachian highway system at the earliest possible time. Therefore, should amounts in excess of those appropriated be required for the purposes of Appalachian programs, funds in excess of the amount appropriated may be made available upon recommendation of the commissioner and approval of the Governor. Further, for the purpose of Appalachian programs, funds appropriated by appropriation may be transferred to other appropriations upon recommendation of the commissioner and approval of the Governor.

*112 - Office of Administrative Hearings*

(WV Code Chapter 17C)

Fund 9027 FY 2019 Org 0808

1	Personal Services and Employee Benefits.....	00100	\$	1,585,201
2	Current Expenses .....	13000		338,278
3	Repairs and Alterations.....	06400		3,000
4	Equipment.....	07000		15,500
5	BRIM Premium.....	91300		<u>10,000</u>
6	Total .....		\$	1,951,979
7	Total TITLE II, Section 2 – State Road Fund			
8	(Including claims against the state).....			<u>\$ 1,354,239,538</u>

**Sec. 3. Appropriations from other funds.** — From the funds designated there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized, for expenditure during the fiscal year 2019.

**LEGISLATIVE**

*113 - Crime Victims Compensation Fund*

(WV Code Chapter 14)

Fund 1731 FY 2019 Org 2300

**Appro-                      Other**

	<b>apriation</b>		<b>Funds</b>
1 Personal Services and Employee Benefits.....	00100	\$	498,020
2 Current Expenses .....	13000		133,903
3 Repairs and Alterations.....	06400		1,000
4 Economic Loss Claim Payment Fund.....	33400		2,360,125
5 Other Assets .....	69000		<u>3,700</u>
6 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 Employee Benefits.....	00100	\$	172,800
2	Current Expenses .....	13000		503,200
3	Martin Luther King, Jr. Holiday Celebration .....	03100		<u>8,926</u>
4	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 Employee Benefits.....	00100	\$	749,297
2	Unclassified .....	09900		15,139
3	Current Expenses .....	13000		715,291
4	Repairs and Alterations.....	06400		2,600
5	Equipment.....	07000		426,741
6	Cost of Delinquent Land Sales.....	76800		<u>1,341,168</u>
7	Total .....		\$	3,250,236

There is hereby appropriated from this fund, in addition to the above appropriations if needed, the necessary amount for the expenditure of funds other than Personal Services and Employee Benefits to enable the division to pay the direct expenses relating to land sales as provided in Chapter 11A of the West Virginia Code.

The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by 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 Employee Benefits.....	00100	\$	588,283
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2	Current Expenses .....	13000	282,030
3	Repairs and Alterations.....	06400	6,000
4	Equipment.....	07000	10,805
5	Other Assets .....	69000	50,000
6	Statutory Revenue Distribution.....	74100	<u>2,350,000</u>
7	Total.....		\$ 3,287,118

There is hereby appropriated from this fund, in addition to the above appropriations if needed, the amount necessary to meet the transfer of revenue distribution requirements to provide a proportionate share of rebates back to the general fund of local governments based on utilization of the program in accordance 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 Employee Benefits.....	00100	\$ 2,375,836
2	Unclassified .....	09900	31,866
3	Current Expenses .....	13000	1,463,830
4	Repairs and Alterations.....	06400	12,400
5	Equipment.....	07000	394,700
6	Other Assets .....	69000	<u>900,000</u>
7	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

Fifty percent of the deposits made into this fund shall be transferred to the Treasurer's Office – Technology Support and Acquisition Fund (fund 1329, org 1300) for expenditure for the 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 Employee Benefits.....	00100	\$	2,667,397
2	Current Expenses .....	13000		2,303,622
3	Repairs and Alterations.....	06400		5,500
4	Equipment.....	07000		650,000
5	Other Assets .....	69000		308,886
6	Statutory Revenue Distribution.....	74100		<u>8,000,000</u>
7	Total .....		\$	13,935,405

There is hereby appropriated from this fund, in addition to the above appropriations if needed, the amount necessary to meet the transfer and revenue distribution requirements to the Purchasing Improvement Fund (fund 2264), the Hatfield-McCoy Regional Recreation Authority, and the State Park Operating Fund (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 Employee Benefits.....	00100	\$	3,405,512
2	Current Expenses .....	13000		765,915
3	Equipment.....	07000		<u>50,000</u>
4	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 Employee Benefits..... 00100 \$ 774,769

2 Unclassified ..... 09900 14,000

3 Current Expenses ..... 13000 619,862

4 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 Employee Benefits..... 00100 \$ 2,244,245

2 Unclassified ..... 09900 37,425

3 Current Expenses ..... 13000 1,856,184

4 Repairs and Alterations..... 06400 158,500

5 Equipment..... 07000 436,209

6 Other Assets ..... 69000 10,000

7 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 Employee Benefits.....	00100	\$	73,807
2	Unclassified .....	09900		10,476
3	Current Expenses .....	13000		<u>963,404</u>
4	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 Employee Benefits.....	00100	\$	67,000
2	Unclassified .....	09900		2,100
3	Current Expenses .....	13000		89,500
4	Repairs and Alterations.....	06400		36,400
5	Equipment.....	07000		<u>15,000</u>
6	Total .....		\$	210,000

The above appropriations shall be expended in accordance 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 Employee Benefits.....	00100	\$	809,248
2	Unclassified .....	09900		15,173
3	Current Expenses .....	13000		1,367,464
4	Repairs and Alterations.....	06400		388,722
5	Equipment.....	07000		399,393

6	Other Assets .....	69000	<u>20,000</u>
7	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 Employee Benefits.....	00100	\$ 958,864
2	Unclassified .....	09900	45,807
3	Current Expenses .....	13000	3,410,542
4	Repairs and Alterations.....	06400	128,500
5	Equipment.....	07000	10,000
6	Other Assets .....	69000	<u>27,000</u>
7	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 Employee Benefits.....	00100	\$	1,169,194
2	Unclassified .....	09900		17,000
3	Current Expenses .....	13000		1,143,306
4	Repairs and Alterations.....	06400		82,500
5	Equipment.....	07000		76,000
6	Buildings .....	25800		1,000
7	Other Assets .....	69000		10,000
8	Land .....	73000		<u>1,000</u>
9	Total .....		\$	2,500,000

*135 - Attorney General –  
Antitrust Enforcement Fund  
(WV Code Chapter 47)*

Fund 1507 FY 2019 Org 1500

1	Personal Services and Employee Benefits.....	00100	\$	356,900
2	Current Expenses .....	13000		148,803
3	Repairs and Alterations.....	06400		1,000
4	Equipment.....	07000		<u>1,000</u>
5	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 Employee Benefits.....	00100	\$	210,226
2	Current Expenses .....	13000		54,615
3	Repairs and Alterations.....	06400		1,000
4	Equipment.....	07000		<u>1,000</u>
5	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 Employee Benefits.....	00100	\$	991,051
2	Unclassified .....	09900		4,524
3	Current Expenses .....	13000		<u>8,036</u>
4	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 Employee Benefits.....	00100	\$	2,769,898
2	Unclassified .....	09900		25,529

3	Current Expenses .....	13000	796,716
4	Technology Improvements .....	59900	750,000
5	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 Trustee Pass Thru .....	65000	\$ 80,000,000
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*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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The above appropriation for Current Expenses (fund 2044, appropriation 13000) shall be transferred to the Consolidated Public Retirement Board – Teachers’ Accumulation 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 Employee Benefits .....	00100	\$ 1,500,000
2	Current Expenses .....	13000	500,000
3	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 Employee Benefits.....	00100	\$	21,378,322
2	Unclassified .....	09900		382,354
3	Current Expenses .....	13000		13,378,766
4	Repairs and Alterations.....	06400		1,000
5	Equipment.....	07000		2,050,000
6	Other Assets .....	69000		<u>1,045,000</u>
7	Total.....		\$	38,235,442

The total amount of these appropriations shall be paid from a special revenue fund out of collections made by the Division of Information Services and Communications as provided by law.

Each spending unit operating from the General Revenue Fund, from special revenue funds or receiving reimbursement for postage from the federal government shall be charged monthly for all postage meter service and shall reimburse the revolving fund 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 Employee Benefits.....	00100	\$	655,208
2	Unclassified .....	09900		2,382
3	Current Expenses .....	13000		238,115
4	Repairs and Alterations.....	06400		5,000
5	Equipment.....	07000		2,500
6	Other Assets .....	69000		2,500
7	BRIM Premium.....	91300		<u>810</u>
8	Total.....		\$	906,515

*145 - Division of Purchasing –  
Purchasing Improvement Fund  
(WV Code Chapter 5A)  
Fund 2264 FY 2019 Org 0213*

1	Personal Services and Employee Benefits.....	00100	\$	739,272
2	Unclassified .....	09900		5,562
3	Current Expenses .....	13000		393,066
4	Repairs and Alterations.....	06400		500
5	Equipment.....	07000		500
6	Other Assets .....	69000		500
7	BRIM Premium.....	91300		<u>850</u>
8	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 Employee Benefits.....	00100	\$	722,586
2	Unclassified .....	09900		4,000
3	Current Expenses .....	13000		8,130,614
4	Repairs and Alterations.....	06400		12,000
5	Equipment.....	07000		800,000
6	Other Assets .....	69000		<u>2,000</u>
7	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 Employee Benefits.....	00100	\$	4,442,590
2	Unclassified .....	09900		51,418
3	Current Expenses .....	13000		1,262,813
4	Repairs and Alterations.....	06400		5,000
5	Equipment.....	07000		20,000
6	Other Assets .....	69000		<u>60,000</u>
7	Total.....		\$	5,841,821

The total amount of these appropriations shall be paid from a special revenue fund out of fees collected by the Division of Personnel.

*149 - West Virginia Prosecuting Attorneys Institute*

(WV Code Chapter 7)

Fund 2521 FY 2019 Org 0228

1	Personal Services and Employee Benefits.....	00100	\$	249,242
2	Unclassified .....	09900		4,023
3	Current Expenses .....	13000		297,528

4	Repairs and Alterations.....	06400	600
5	Equipment.....	07000	500
6	Other Assets .....	69000	<u>500</u>
7	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 Employee Benefits.....	00100	\$ 399,911
2	Unclassified .....	09900	6,949
3	Current Expenses .....	13000	227,116
4	Repairs and Alterations.....	06400	1,000
5	Equipment.....	07000	50,000
6	Other Assets .....	69000	<u>10,000</u>
7	Total .....		\$ 694,976

From the above fund, the provisions of W.Va. Code §11B-2-18 shall not operate to permit expenditures in excess of the funds 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 Employee Benefits.....	00100	\$ 1,464,328
2	Current Expenses .....	13000	282,202
3	Repairs and Alterations.....	06400	53,000
4	Equipment.....	07000	<u>300,000</u>
5	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 Employee Benefits.....	00100	\$	224,433
2	Current Expenses .....	13000		87,036
3	Repairs and Alterations.....	06400		<u>11,250</u>
4	Total .....		\$	322,719

*153 - Division of Forestry –**Severance Tax Operations*

(WV Code Chapter 11)

Fund 3084 FY 2019 Org 0305

1	Personal Services and Employee Benefits.....	00100	\$	859,626
2	Current Expenses .....	13000		<u>435,339</u>
3	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 Employee Benefits.....	00100	\$	37,966
2	Unclassified .....	09900		2,182
3	Current Expenses .....	13000		141,631
4	Repairs and Alterations.....	06400		50,000
5	Equipment.....	07000		20,000
6	Other Assets .....	69000		<u>10,000</u>
7	Total .....		\$	261,779

The above appropriations shall be used in accordance 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 Employee Benefits.....	00100	\$	1,528,219
2	Unclassified .....	09900		30,000
3	Current Expenses .....	13000		<u>1,482,760</u>
4	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 Employee Benefits.....	00100	\$	430,724
2	Unclassified .....	09900		8,300
3	Current Expenses .....	13000		<u>399,191</u>
4	Total.....		\$	838,215

*157 - Division of Labor –*

*HVAC Fund*

*(WV Code Chapter 21)*

*Fund 3186 FY 2019 Org 0308*

1	Personal Services and Employee Benefits.....	00100	\$	300,000
2	Unclassified .....	09900		4,000
3	Current Expenses .....	13000		85,000
4	Repairs and Alterations.....	06400		1,500
5	Buildings .....	25800		1,000

6	BRIM Premium.....	91300	<u>8,500</u>
7	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 Employee Benefits.....	00100	\$ 3,019,374
2	Unclassified .....	09900	21,589
3	Current Expenses .....	13000	597,995
4	Repairs and Alterations.....	06400	15,000
5	Buildings .....	25800	5,000
6	BRIM Premium.....	91300	<u>8,500</u>
7	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 Employee Benefits.....	00100	\$ 376,772
2	Unclassified .....	09900	2,261
3	Current Expenses .....	13000	44,112
4	Repairs and Alterations.....	06400	2,000
5	Buildings .....	25800	1,000
6	BRIM Premium.....	91300	<u>8,500</u>
7	Total .....		\$ 434,645

*160 - Division of Labor –*

*Steam Boiler Fund*

## (WV Code Chapter 21)

Fund 3189 FY 2019 Org 0308

1	Personal Services and Employee Benefits.....	00100	\$	80,000
2	Unclassified .....	09900		1,000
3	Current Expenses .....	13000		15,000
4	Repairs and Alterations.....	06400		2,000
5	Buildings .....	25800		1,000
6	BRIM Premium.....	91300		<u>1,000</u>
7	Total.....		\$	100,000

*161 - Division of Labor –**Crane Operator Certification Fund*

## (WV Code Chapter 21)

Fund 3191 FY 2019 Org 0308

1	Personal Services and Employee Benefits.....	00100	\$	184,380
2	Unclassified .....	09900		1,380
3	Current Expenses .....	13000		49,765
4	Repairs and Alterations.....	06400		1,500
5	Buildings .....	25800		1,000
6	BRIM Premium.....	91300		<u>8,500</u>
7	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 Employee Benefits.....	00100	\$	179,316
2	Unclassified .....	09900		1,281

3	Current Expenses .....	13000		44,520
4	Repairs and Alterations.....	06400		2,000
5	Buildings .....	25800		1,000
6	BRIM Premium.....	91300		<u>8,500</u>
7	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 Employee Benefits.....	00100	\$	283,768
2	Unclassified .....	09900		1,847
3	Current Expenses .....	13000		43,700
4	Repairs and Alterations.....	06400		1,000
5	Buildings .....	25800		1,000
6	BRIM Premium.....	91300		<u>3,404</u>
7	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 Employee Benefits.....	00100	\$	1,500,000
2	Current Expenses .....	13000		227,000
3	Repairs and Alterations.....	06400		28,000
4	Equipment.....	07000		15,000
5	BRIM Premium.....	91300		<u>8,500</u>
6	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 Employee Benefits.....	00100	\$	150,000
2	Unclassified .....	09900		2,000
3	Current Expenses .....	13000		43,000
4	Repairs and Alterations.....	06400		2,000
5	Buildings .....	25800		1,000
6	BRIM Premium.....	91300		<u>2,000</u>
7	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 Land Purchase (R).....	24800		1,766,220
4	Law Enforcement.....	80600		<u>7,064,884</u>
5	Total .....		\$	17,662,209

The total amount of these appropriations shall be paid from a special revenue fund out of fees collected by the Division of Natural Resources.

Any unexpended balance remaining in the appropriation for Capital Improvements and Land Purchase (fund 3200, appropriation 24800) at the close of the fiscal year 2018 is hereby 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 Employee Benefits.....	00100	\$	678,109
2	Current Expenses .....	13000		201,930
3	Equipment.....	07000		<u>106,615</u>
4	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 Employee Benefits.....	00100	\$	437,496
2	Current Expenses .....	13000		157,864
3	Repairs and Alterations.....	06400		15,016
4	Equipment.....	07000		8,300
5	Buildings .....	25800		8,300
6	Other Assets .....	69000		2,000,000
7	Land .....	73000		<u>31,700</u>

8 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 Employee Benefits.....	00100	\$	62,704
2	Current Expenses .....	13000		64,778
3	Equipment.....	07000		1,297
4	Buildings .....	25800		<u>6,969</u>
5	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 Employee Benefits.....	00100	\$	471,606
2	WV Mining Extension Service .....	02600		150,000
3	Unclassified .....	09900		40,985
4	Current Expenses .....	13000		1,954,557
5	Buildings .....	25800		481,358

6	Land .....	73000		<u>1,000,000</u>
7	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 Employee Benefits.....	00100		\$ 134,000
2	Unclassified .....	09900		1,000
3	Current Expenses .....	13000		<u>765,000</u>
4	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
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2	Directed Transfer .....	70000	<u>1,371,182</u>
3	Total .....		\$ 37,217,000

The above appropriation for Directed Transfer (fund 3951, appropriation 70000) shall be transferred to the School Building Authority Fund (3959) for the administrative expenses of the School Building Authority.

*178 - School Building Authority*

(WV Code Chapter 18)

Fund 3959 FY 2019 Org 0402

1	Personal Services and Employee Benefits.....	00100	\$ 1,085,152
2	Current Expenses .....	13000	244,100
3	Repairs and Alterations.....	06400	13,150
4	Equipment.....	07000	<u>26,000</u>
5	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

Any unexpended balance remaining in the appropriation for Educational Enhancements (fund 3508, appropriation 69500) at the close of the fiscal year 2018 is hereby reappropriated for 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 Employee Benefits.....	00100	\$ 211,418
2	Current Expenses .....	13000	862,241

3	Equipment.....	07000	75,000
4	Buildings .....	25800	1,000
5	Other Assets .....	69000	52,328
6	Land .....	73000	<u>1,000</u>
7	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 Employee Benefits.....	00100	\$ 119,738
2	Current Expenses .....	13000	2,180,122
3	Repairs and Alterations.....	06400	85,500
4	Equipment.....	07000	220,000
5	Buildings .....	25800	150,000
6	Other Assets .....	69000	<u>150,000</u>
7	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 Employee Benefits.....	00100	\$ 802,269
2	Current Expenses .....	13000	2,060,997
3	Repairs and Alterations.....	06400	1,000
4	Equipment.....	07000	5,000
5	Other Assets .....	69000	<u>4,403</u>

6 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 Employee Benefits.....	00100	\$	692,784
2	Current Expenses .....	13000		190,569
3	Repairs and Alterations.....	06400		500
4	Equipment.....	07000		1,505
5	Unclassified .....	09900		8,072
6	Other Assets .....	69000		<u>2,000</u>
7	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 Employee Benefits.....	00100	\$	935,324
2	Current Expenses .....	13000		1,226,863
3	Repairs and Alterations.....	06400		13,000
4	Equipment.....	07000		53,105
5	Unclassified .....	09900		14,647
6	Other Assets .....	69000		<u>20,000</u>
7	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 Employee Benefits.....	00100	\$	1,350,829
2	Current Expenses .....	13000		16,402,506
3	Repairs and Alterations.....	06400		79,950
4	Equipment.....	07000		130,192
5	Other Assets .....	69000		<u>32,000</u>
6	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 Employee Benefits.....	00100	\$	143,906
2	Current Expenses .....	13000		<u>356,094</u>
3	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 Employee Benefits.....	00100	\$	3,321,164
2	Current Expenses .....	13000		1,237,758
3	Repairs and Alterations.....	06400		40,600
4	Equipment.....	07000		8,000
5	Unclassified .....	09900		44,700
6	Other Assets .....	69000		<u>15,000</u>
7	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 Employee Benefits.....	00100	\$	4,035,449
2	Current Expenses .....	13000		2,302,231
3	Repairs and Alterations.....	06400		60,260
4	Equipment.....	07000		83,000
5	Unclassified .....	09900		920
6	Other Assets .....	69000		<u>57,500</u>
7	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 Employee Benefits.....	00100	\$	466,543
2	Current Expenses .....	13000		318,420
3	Repairs and Alterations.....	06400		5,350
4	Equipment.....	07000		3,610
5	Unclassified .....	09900		7,520
6	Other Assets .....	69000		<u>3,500</u>
7	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 Employee Benefits.....	00100	\$	6,000
2	Current Expenses .....	13000		1,067,905
3	Repairs and Alterations.....	06400		7,014
4	Equipment.....	07000		9,000
5	Unclassified .....	09900		10,616
6	Other Assets .....	69000		<u>3,500</u>
7	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 Employee Benefits.....	00100	\$	793,967
2	Current Expenses .....	13000		3,604,737
3	Repairs and Alterations.....	06400		25,000
4	Equipment.....	07000		31,500
5	Unclassified .....	09900		22,900
6	Buildings.....	25800		500
7	Other Assets .....	69000		<u>1,000</u>
8	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 Employee Benefits.....	00100	\$	3,041,424
2	Current Expenses .....	13000		1,020,229

3	Repairs and Alterations.....	06400		30,930
4	Equipment.....	07000		23,356
5	Unclassified .....	09900		37,145
6	Other Assets .....	69000		<u>25,554</u>
7	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 Employee Benefits.....	00100	\$	5,643,421
2	Current Expenses .....	13000		1,489,467
3	Repairs and Alterations.....	06400		84,045
4	Equipment.....	07000		103,601
5	Unclassified .....	09900		70,572
6	Other Assets .....	69000		<u>52,951</u>
7	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 Employee Benefits.....	00100	\$	311,044
2	Current Expenses .....	13000		208,188
3	Repairs and Alterations.....	06400		1,000
4	Equipment.....	07000		1,000
5	Unclassified .....	09900		1,120

6	Other Assets .....	69000		<u>177,000</u>
7	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 Employee Benefits.....	00100		\$ 646,395
2	Current Expenses .....	13000		2,735,112
3	Repairs and Alterations.....	06400		800
4	Equipment.....	07000		500
5	Unclassified .....	09900		400
6	Other Assets .....	69000		<u>2,500</u>
7	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 Employee Benefits.....	00100	\$	1,228,345
2	Current Expenses .....	13000		642,934
3	Repairs and Alterations.....	06400		30,112
4	Equipment.....	07000		23,500
5	Unclassified .....	09900		1,180
6	Other Assets .....	69000		<u>11,520</u>
7	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 Employee Benefits.....	00100	\$	157,224
2	Current Expenses .....	13000		161,225
3	Repairs and Alterations.....	06400		1,000
4	Equipment.....	07000		9,481
5	Other Assets .....	69000		<u>1,500</u>
6	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 Employee Benefits.....	00100	\$	876,771
2	Unclassified .....	09900		15,500
3	Current Expenses .....	13000		1,257,788
4	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 – Transfer.....	51200		27,800,000
3	Total .....		\$	63,355,221

The total amount of these appropriations shall be paid from the Hospital Services Revenue Account Special Fund created by W.Va. Code §16-1-13, and shall be used for operating expenses and for improvements in connection with existing facilities.

Additional funds have been appropriated in fund 0525, fiscal year 2019, organization 0506, for the operation of the institutional facilities. The Secretary of the Department of Health and Human Resources is authorized to utilize up to ten percent of the funds from the appropriation for Institutional Facilities Operations to facilitate cost effective and cost saving services at the community level.

Necessary funds from the above appropriation may be used for medical facilities operations, either in connection with this fund or in connection with the appropriation designated Institutional Facilities Operations in the Consolidated Medical Service Fund (fund 0525, organization 0506).

From the above appropriation to Institutional Facilities Operations, together with available funds from the Consolidated Medical Services Fund (fund 0525, appropriation 33500) on July 1, 2018, the sum of \$160,000 shall be transferred to the Department of Agriculture – Land Division – Farm Operating Fund (1412) as advance payment for the purchase of food products; actual payments for such purchases shall not be required until such credits 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 Employee Benefits.....	00100	\$	862,657
2	Unclassified .....	09900		18,114
3	Current Expenses .....	13000		<u>930,716</u>
4	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 Employee Benefits.....	00100	\$	605,950
2	Unclassified .....	09900		7,113
3	Current Expenses .....	13000		<u>98,247</u>
4	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 Employee Benefits.....	00100	\$	19,100
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2	Unclassified .....	09900		373
3	Current Expenses .....	13000		<u>17,875</u>
4	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 Employee Benefits.....	00100	\$	647,545
2	Unclassified .....	09900		223,999
3	Current Expenses .....	13000		<u>28,053,549</u>
4	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 Employee Benefits.....	00100	\$	509,658
2	Current Expenses .....	13000		1,151,040
3	Other Assets .....	69000		<u>895,000</u>
4	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 Employee Benefits.....	00100	\$	1,310,821
2	Hospital Assistance.....	02500		50,000
3	Unclassified .....	09900		100
4	Current Expenses .....	13000		754,645
5	Repairs and Alterations.....	06400		500
6	Equipment.....	07000		<u>300</u>
7	Total.....		\$	2,116,366

The above appropriation is to be expended in accordance with and pursuant to the provisions of W.Va. Code §16-29B and from the special revolving fund designated Health Care Cost 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 Employee Benefits.....	00100	\$	805,113
2	Current Expenses .....	13000		<u>774,967</u>
3	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

The above appropriation for Medical Services Administrative Costs (fund 5090, appropriation 78900) shall be transferred to a special revenue account in the treasury for use by the Department of Health and Human Resources for administrative purposes. The remainder of all moneys deposited in the fund shall be transferred to the West Virginia Medical Services Fund (fund 5084.)

*213 - Division of Human Services –*

*Child Support Enforcement Fund*

(WV Code Chapter 48A)

Fund 5094 FY 2019 Org 0511

1	Personal Services and Employee Benefits.....	00100	\$	24,809,509
2	Unclassified .....	09900		380,000
3	Current Expenses .....	13000		<u>12,810,491</u>
4	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

The above appropriation to Medical Services shall be used to provide state match of Medicaid expenditures as defined and authorized in subsection (c) of W.Va. Code §9-4A-2a. Expenditures from the fund are limited to the following: payment of backlogged billings, funding for services to future federally mandated population groups and payment of the required state match for Medicaid disproportionate share payments. The remainder of all moneys deposited in the fund shall be transferred 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
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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 Employee Benefits.....	00100	\$	10,000
2	Current Expenses .....	13000		<u>25,000</u>
3	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 Employee Benefits.....	00100	\$	1,643,528
2	Current Expenses .....	13000		650,000
3	Repairs and Alterations.....	06400		385,652
4	Equipment.....	07000		250,000
5	Buildings .....	25800		770,820
6	Other Assets .....	69000		100,000
7	Land .....	73000		200,000
8	Total.....		\$	4,000,000

From the above appropriations, the Adjutant General may receive and expend funds to conduct operations and activities to include functions of the Military Authority. The Adjutant General may transfer funds between appropriations, except no funds may be transferred to Personal Services and Employee Benefits (fund 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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Any unexpended balance remaining in the appropriation for Unclassified – Total (fund 6295, appropriation 09600) at the close of fiscal year 2018 is hereby reappropriated for expenditure 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 Employee Benefits.....	00100	\$	1,013,793
2	Unclassified .....	09900		9,804
3	Current Expenses .....	13000		758,480
4	Equipment.....	07000		30,000
5	Other Assets .....	69000		<u>40,129</u>
6	Total .....		\$	1,852,206

*225 - West Virginia State Police –  
Motor Vehicle Inspection Fund  
(WV Code Chapter 17C)  
Fund 6501 FY 2019 Org 0612*

1	Personal Services and Employee Benefits.....	00100	\$	1,786,923
2	Current Expenses .....	13000		1,488,211
3	Repairs and Alterations.....	06400		204,500
4	Equipment.....	07000		3,770,751

5	Buildings .....	25800	534,000
6	Other Assets .....	69000	5,000
7	BRIM Premium.....	91300	<u>302,432</u>
8	Total .....		\$ 8,091,817

The total amount of these appropriations shall be paid from the special revenue fund out of fees collected for inspection 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 Employee Benefits.....	00100	\$ 100,000
2	Current Expenses .....	13000	90,000
3	Repairs and Alterations.....	06400	5,000
4	Equipment.....	07000	<u>45,000</u>
5	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

The total amount of these appropriations shall be paid from the special revenue fund out of receipts collected pursuant to W.Va. Code §11-15-9a and 16 and paid into a revolving fund account in 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 Employee Benefits.....	00100	\$	236,881
2	Current Expenses .....	13000		51,443
3	Repairs and Alterations.....	06400		500
4	Equipment.....	07000		300,500
5	Other Assets .....	69000		300,500

6	BRIM Premium.....	91300	<u>18,524</u>
7	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
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*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 Employee Benefits.....	00100	\$ 1,971,039
2	Debt Service .....	04000	9,000,000
3	Current Expenses .....	13000	495,852
4	Repairs and Alterations.....	06400	4,000
5	Equipment.....	07000	<u>1,743</u>
6	Total .....		\$ 11,472,634

*234 - Fire Commission –  
Fire Marshal Fees  
(WV Code Chapter 29)*

Fund 6152 FY 2019 Org 0619

1	Personal Services and Employee Benefits.....	00100	\$	3,233,683
2	Unclassified .....	09900		3,800
3	Current Expenses .....	13000		1,249,550
4	Repairs and Alterations.....	06400		58,500
5	Equipment.....	07000		140,800
6	Other Assets .....	69000		2,000
7	BRIM Premium.....	91300		<u>60,000</u>
8	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 Employee Benefits.....	00100	\$	152,000
2	Unclassified .....	09900		750
3	Current Expenses .....	13000		1,846,250
4	Repairs and Alterations.....	06400		<u>1,000</u>
5	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 Employee Benefits.....	00100	\$	21,865
2	Current Expenses .....	13000		<u>1,478,135</u>
3	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 Employee Benefits.....	00100	\$	2,511,101
2	Current Expenses .....	13000		705,875
3	Repairs and Alterations.....	06400		100
4	Equipment.....	07000		<u>12,000</u>
5	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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The above appropriation for Directed Transfer shall be transferred to the Consolidated Public Retirement Board – West Virginia Public Employees Retirement System Employers Accumulation Fund (fund 2510).

*240 - Tax Division –*

*Cemetery Company Account*

(WV Code Chapter 35)

Fund 7071 FY 2019 Org 0702

1	Personal Services and Employee Benefits.....	00100	\$	23,459
2	Current Expenses .....	13000		<u>7,717</u>

3 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 Employee Benefits.....	00100	\$	655,203
2	Unclassified .....	09900		9,500
3	Current Expenses .....	13000		273,297
4	Repairs and Alterations.....	06400		7,000
5	Equipment.....	07000		<u>5,000</u>
6	Total .....		\$	950,000

*242 - Tax Division –*

*Wine Tax Administration Fund*

(WV Code Chapter 60)

Fund 7087 FY 2019 Org 0702

1	Personal Services and Employee Benefits.....	00100	\$	254,162
2	Current Expenses .....	13000		<u>5,406</u>
3	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 Employee Benefits.....	00100	\$	1,508,968
2	Unclassified .....	09900		10,000
3	Current Expenses .....	13000		784,563
4	Repairs and Alterations.....	06400		1,000
5	Equipment.....	07000		<u>5,000</u>
6	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 Reserve Fund – Transfer.....	90300	\$	6,800,000
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The above appropriation for Public Employees Insurance Reserve Fund – Transfer shall be transferred to the Medical 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

The above appropriation shall be transferred to special revenue funds to be utilized by the West Virginia Public Employees Insurance Agency for the purposes of permitting the PEIA Finance Board to offset \$5 million in retiree premium increases. Additionally, \$10 million will be



put into a reserve fund to stabilize and preserve the future solvency of PEIA. Such amount shall not be included in the calculation of the plan year aggregate premium cost-sharing percentages between employers and employees.

*247 - Insurance Commissioner –*

*Examination Revolving Fund*

(WV Code Chapter 33)

Fund 7150 FY 2019 Org 0704

1	Personal Services and Employee Benefits.....	00100	\$	721,117
2	Current Expenses .....	13000		1,357,201
3	Repairs and Alterations.....	06400		3,000
4	Equipment.....	07000		81,374
5	Buildings .....	25800		8,289
6	Other Assets .....	69000		<u>11,426</u>
7	Total .....		\$	2,182,407

*248 - Insurance Commissioner –*

*Consumer Advocate*

(WV Code Chapter 33)

Fund 7151 FY 2019 Org 0704

1	Personal Services and Employee Benefits.....	00100	\$	552,228
2	Current Expenses .....	13000		202,152
3	Repairs and Alterations.....	06400		5,000
4	Equipment.....	07000		34,225
5	Buildings .....	25800		4,865
6	Other Assets .....	69000		<u>19,460</u>
7	Total .....		\$	817,930

*249 - Insurance Commissioner –*

*Insurance Commission Fund*

(WV Code Chapter 33)

Fund 7152 FY 2019 Org 0704

1	Personal Services and Employee Benefits.....	00100	\$	23,039,727
2	Current Expenses .....	13000		8,797,758
3	Repairs and Alterations.....	06400		68,614
4	Equipment.....	07000		1,728,240
5	Buildings .....	25800		25,000
6	Other Assets .....	69000		<u>340,661</u>
7	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 Employee Benefits.....	00100	\$	247,523
2	Current Expenses .....	13000		144,844
3	Equipment.....	07000		100
4	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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The total amount of this appropriation shall be paid from the special revenue fund out of collections of license fees and fines as provided by law.

No expenditures shall be made from this fund except for hospitalization, medical care and/or funeral expenses for persons 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 Employee Benefits.....	00100	\$	256,665
2	Current Expenses .....	13000		93,335

3	Other Assets .....	69000	<u>5,000</u>
4	Total .....		\$ 355,000

*257 - Racing Commission –*

*General Administration*

*(WV Code Chapter 19)*

*Fund 7305 FY 2019 Org 0707*

1	Personal Services and Employee Benefits.....	00100	\$ 2,271,339
2	Current Expenses .....	13000	566,248
3	Repairs and Alterations.....	06400	7,000
4	Other Assets .....	69000	<u>50,000</u>
5	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 Employee Benefits.....	00100	\$ 864,474
2	Current Expenses .....	13000	214,406
3	Other Assets .....	69000	<u>200,000</u>
4	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 Employee Benefits.....	00100	\$ 122,339
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2	Current Expenses .....	13000	69,186
3	Repairs and Alterations.....	06400	7,263
4	Equipment.....	07000	10,000
5	Buildings .....	25800	100,000
6	Other Assets .....	69000	<u>100</u>
7	Total .....		\$ 308,888

To the extent permitted by law, four classified exempt positions shall be provided from Personal Services and Employee Benefits appropriation for field auditors.

*260 - Alcohol Beverage Control Administration*

(WV Code Chapter 60)

Fund 7352 FY 2019 Org 0708

1	Personal Services and Employee Benefits.....	00100	\$ 5,413,237
2	Current Expenses .....	13000	2,890,577
3	Repairs and Alterations.....	06400	91,000
4	Equipment.....	07000	108,000
5	Buildings .....	25800	375,100
6	Purchase of Supplies for Resale .....	41900	72,500,000
7	Transfer Liquor Profits and Taxes .....	42500	20,800,000
8	Other Assets .....	69000	125,100
9	Land .....	73000	<u>100</u>
10	Total .....		\$ 102,303,114

The total amount of these appropriations shall be paid from a special revenue fund out of liquor revenues and any other revenues available.

The above appropriations include the salary of the commissioner and the salaries, expenses and equipment of administrative offices, warehouses and inspectors.

The above appropriations include funding for the Tobacco/Alcohol Education Program.

There is hereby appropriated from liquor revenues, in addition to the above appropriations as needed, the necessary amount for the purchase of liquor as provided by law and the 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 Employee Benefits.....	00100	\$	2,900
2	Current Expenses .....	13000		<u>37,100</u>
3	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
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*263 - Division of Motor Vehicles –*

*Motor Vehicle Fees Fund*

(WV Code Chapter 17B)

Fund 8223 FY 2019 Org 0802

1	Personal Services and Employee Benefits.....	00100	\$	3,362,799
2	Current Expenses .....	13000		4,362,975
3	Repairs and Alterations.....	06400		16,000
4	Equipment.....	07000		75,000
5	Other Assets .....	69000		10,000
6	BRIM Premium.....	91300		<u>84,737</u>
7	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
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**DEPARTMENT OF VETERANS' ASSISTANCE**

*265 - Veterans' Facilities Support Fund*

(WV Code Chapter 9A)

Fund 6703 FY 2019 Org 0613

1	Personal Services and Employee Benefits.....	00100	\$	94,210
2	Current Expenses .....	13000		2,255,997
3	Repairs and Alterations.....	06400		10,000
4	Equipment.....	07000		10,000
5	Other Assets .....	69000		10,000
6	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		50,000
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 Employee Benefits.....	00100	\$	151,290
2	Current Expenses .....	13000		10,348,710
3	Total .....		\$	10,500,000

The total amount of these appropriations are funded from annual table game license fees to enable the aged and disabled citizens of West Virginia to stay in their homes through the 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		421,082
4	Total .....		\$	33,134,205

The total amount of these appropriations shall be paid from the Special Capital Improvement Fund created in W.Va. Code §18B-10-8. Projects are to be paid on a cash basis and made available on July 1.

The above appropriations, except for Debt Service, may be transferred to special revenue funds for capital improvement projects at the institutions.

*269 - Tuition Fee Revenue Bond Construction Fund*

*(WV Code Chapters 18 and 18B)*

Fund 4906 FY 2019 Org 0442

Any unexpended balance remaining in the appropriation for Capital Outlay (fund 4906, appropriation 51100) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.



The appropriation shall be paid from available unexpended cash balances and interest earnings accruing to the fund. The appropriation shall be expended at the discretion of the Higher Education Policy Commission and the funds may be allocated to any institution within the system.

The total amount of this appropriation shall be paid from the unexpended proceeds of revenue bonds previously issued pursuant to W.Va. Code §18-12B-8, which have since been refunded.

*270 - Community and Technical College –*

*Capital Improvement Fund*

(WV Code Chapter 18B)

Fund 4908 FY 2019 Org 0442

Any unexpended balance remaining in the appropriation for Capital Improvements – Total (fund 4908, appropriation 95800) at the close of fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

The total amount of this appropriation shall be paid from the sale of the Series 2017 Community and Technical College Capital Improvement Refunding Revenue Bonds and anticipated 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 Employee Benefits.....	00100	\$	10,274,340
2	Current Expenses .....	13000		4,524,300
3	Repairs and Alterations.....	06400		425,000
4	Equipment.....	07000		512,000
5	Buildings .....	25800		150,000
6	Other Assets .....	69000		<u>50,000</u>
7	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 Employee Benefits.....	00100	\$	504,497
2	Current Expenses .....	13000		<u>239,969</u>
3	Total .....		\$	744,466

The total amount of these appropriations shall be paid from a special revenue fund out of collections made by the Board of 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 Employee Benefits.....	00100	\$	85,981
2	Unclassified .....	09900		1,450
3	Current Expenses .....	13000		<u>57,740</u>
4	Total .....		\$	145,171

The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by 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 Employee Benefits.....	00100	\$	455,324
2	Current Expenses .....	13000		<u>128,133</u>
3	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 Employee Benefits.....	00100	\$	1,226,557
2	Current Expenses .....	13000		312,655
3	Repairs and Alterations.....	06400		3,000
4	Equipment.....	07000		25,000
5	Other Assets .....	69000		<u>4,500</u>
6	Total .....		\$	1,571,712

*276 - Public Service Commission*

(WV Code Chapter 24)

Fund 8623 FY 2019 Org 0926

1	Personal Services and Employee Benefits.....	00100	\$	11,807,314
2	Unclassified .....	09900		147,643
3	Current Expenses .....	13000		2,572,222
4	Repairs and Alterations.....	06400		55,000
5	Equipment.....	07000		160,000
6	PSC Weight Enforcement .....	34500		4,370,453
7	Debt Payment/Capital Outlay .....	52000		350,000
8	BRIM Premium.....	91300		<u>172,216</u>
9	Total .....		\$	19,634,848

The total amount of these appropriations shall be paid from a special revenue fund out of collections for special license fees from public service corporations as provided by law.

The Public Service Commission is authorized to transfer up to \$500,000 from this fund to meet the expected deficiencies in the Motor Carrier Division (fund 8625, org 0926) due to the amendment and reenactment of W.Va. Code §24A-3-1 by Enrolled 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 Employee Benefits.....	00100	\$	284,198
2	Unclassified .....	09900		3,851
3	Current Expenses .....	13000		93,115
4	Repairs and Alterations.....	06400		<u>4,000</u>
5	Total.....		\$	385,164

The total amount of these appropriations shall be paid from a special revenue fund out of receipts collected for or by the Public Service Commission pursuant to and in the exercise of regulatory 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 Employee Benefits.....	00100	\$	2,243,526
2	Unclassified .....	09900		29,233
3	Current Expenses .....	13000		577,557
4	Repairs and Alterations.....	06400		23,000
5	Equipment.....	07000		<u>50,000</u>
6	Total.....		\$	2,923,316

The total amount of these appropriations shall be paid from a special revenue fund out of receipts collected for or by the Public Service Commission pursuant to and in the exercise of regulatory 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 Employee Benefits.....	00100	\$	743,372
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2	Current Expenses .....	13000	276,472
3	Equipment.....	07000	9,872
4	BRIM Premium.....	91300	<u>4,660</u>
5	Total .....		\$ 1,034,376

The total amount of these appropriations shall be supported by cash from a special revenue fund out of collections made by the 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 Employee Benefits.....	00100	\$ 582,413
2	Current Expenses .....	13000	285,622
3	Repairs and Alterations.....	06400	5,000
4	Equipment.....	07000	<u>10,000</u>
5	Total .....		\$ 883,035

The total amount of these appropriations shall be paid out 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 Employee Benefits.....	00100	\$ 73,190
2	Current Expenses .....	13000	<u>65,623</u>
3	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 Employee Benefits.....	00100	\$	82,803
2	Current Expenses .....	13000		50,387
3	Repairs and Alterations.....	06400		<u>400</u>
4	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 Employee Benefits.....	00100	\$	15,950
2	Current Expenses .....	13000		<u>17,050</u>
3	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 Employee Benefits.....	00100	\$	104,418
2	Current Expenses .....	13000		<u>42,648</u>
3	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 Employee Benefits.....	00100	\$	1,287,752
2	Current Expenses .....	13000		1,113,789

3	Repairs and Alterations.....	06400	<u>20,000</u>
4	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 Employee Benefits.....	00100	\$ 6,713,066
2	Unclassified .....	09900	232,000
3	Current Expenses .....	13000	17,640,134
4	Repairs and Alterations.....	06400	300
5	Equipment.....	07000	213,000
6	Buildings .....	25800	2,000
7	Other Assets .....	69000	<u>199,500</u>
8	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 Employee Benefits.....	00100	\$ 782,889
2	Unclassified .....	09900	14,850
3	Current Expenses .....	13000	650,714
4	BRIM Premium.....	91300	36,547
5	Fees of Custodians, Fund Advisors and Fund Managers .....	93800	<u>3,500,000</u>
6	Total .....		\$ 4,985,000

There is hereby appropriated from this fund, in addition to the above appropriation if needed, an amount of funds necessary for the Board of Treasury Investments to pay the fees and expenses of custodians, fund advisors and fund managers for the consolidated fund of the State as provided in Article 6C, Chapter 12 of the Code.

The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by law.

Total TITLE II, Section 3 – Other Funds

(Including claims against the state)..... \$ 1,485,773,568

**Sec. 4. Appropriations from lottery net profits.** — Net profits of the lottery are to be deposited by the Director of the Lottery to the following accounts in the amounts indicated. The Director of the Lottery shall prorate each deposit of net profits in the proportion the appropriation for each account bears to the total of the appropriations for all accounts.

After first satisfying the requirements for Fund 2252, Fund 3963, and Fund 4908 pursuant to W.Va. Code §29-22-18, the Director of the Lottery shall make available from the remaining net profits of the lottery any amounts needed to pay debt service for which an appropriation is made for Fund 9065, Fund 4297, Fund 3390, and Fund 3514 and is authorized to transfer any such amounts to Fund 9065, Fund 4297, Fund 3390, and Fund 3514 for that purpose. Upon receipt of reimbursement of amounts so transferred, the Director of the Lottery shall deposit the reimbursement amounts to the following accounts as required by this section.

*288 - Education, Arts, Sciences and Tourism –*

*Debt Service Fund*

(WV Code Chapter 5)

Fund 2252 FY 2019 Org 0211

	<b>Appro-</b>		<b>Lottery</b>
	<b>priation</b>		<b>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



Any unexpended balances remaining in the appropriations for Tourism – Advertising (fund 3067, appropriation 61800), and Tourism – Operations (fund 3067, appropriation 66200) at the close of the fiscal year 2018 are hereby reappropriated for 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 Employee Benefits.....	00100	\$	2,196,139
2	Current Expenses .....	13000		26,900
3	Pricketts Fort State Park .....	32400		106,560
4	Non-Game Wildlife (R) .....	52700		372,124
5	State Parks and Recreation Advertising (R) .....	61900		<u>494,578</u>
6	Total .....		\$	3,196,301

Any unexpended balances remaining in the appropriations for Unclassified (fund 3267, appropriation 09900), Capital Outlay – Parks (fund 3267, appropriation 28800), Non-Game Wildlife (fund 3267, appropriation 52700), and State Parks and Recreation Advertising (fund 3267, appropriation 61900) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during 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 Replacement.....	39300		800,000
3	Assessment Program (R) .....	39600		2,969,690
4	21st Century Technology Infrastructure			
5	Network Tools and Support (R) .....	93300		<u>14,295,591</u>
6	Total .....		\$	18,176,892

Any unexpended balances remaining in the appropriations for Unclassified (fund 3951, appropriation 09900), Current Expenses (fund 3951, appropriation 13000), Assessment Program (fund 3951, appropriation 39600), and 21st Century Technology Infrastructure Network Tools and Support (fund 3951, appropriation 93300) at the close of the fiscal year 2018 are hereby 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

The School Building Authority shall have the authority to transfer between the above appropriations in accordance with 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 Community Service.....	19300		357,084
4	Statewide STEM 21st Century Academy.....	89700		130,000
5	Literacy Project (R) .....	89900		<u>350,000</u>
6	Total .....		\$	957,184

Any unexpended balances remaining in the appropriations for Unclassified (fund 3508, appropriation 09900), Governor’s Honors Academy (fund 3508, appropriation 47800), Arts Programs (fund 3508, appropriation 50000), and Literacy Project (fund 3508, appropriation 89900) at the close of fiscal year 2018 are hereby 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 Improvements (R).....	24600		32,079
5	Historic Preservation Grants (R) .....	31100		368,428
6	West Virginia Public Theater .....	31200		120,019
7	Greenbrier Valley Theater .....	42300		99,543
8	Theater Arts of West Virginia .....	46400		90,000
9	Marshall Artists Series .....	51800		36,005
10	Grants for Competitive Arts Program (R).....	62400		726,000
11	West Virginia State Fair .....	65700		31,241
12	Save the Music .....	68000		24,000
13	Contemporary American Theater Festival.....	81100		57,281
14	Independence Hall .....	81200		27,277
15	Mountain State Forest Festival.....	86400		38,187
16	WV Symphony .....	90700		59,058
17	Wheeling Symphony .....	90800		59,058
18	Appalachian Children's Chorus .....	91600		<u>54,554</u>
19	Total.....		\$	3,720,523

From the above appropriation for Preservation West Virginia (fund 3534, appropriation 09200) funding shall be provided to the African-American Heritage Family Tree Museum (Fayette) \$2,673, Aracoma Story (Logan) \$29,703, Arts Monongahela (Monongalia) \$11,881, Barbour County Arts and Humanities Council \$891, Beckley Main Street (Raleigh) \$2,970, Buffalo Creek Memorial (Logan) \$2,970, Carnegie Hall (Greenbrier) \$46,899, Ceredo Historical Society (Wayne) \$1,188, Ceredo Kenova Railroad Museum (Wayne) \$1,188, Ceredo Museum (Wayne) \$720, Children's Theatre of Charleston (Kanawha) \$3,127, Chuck Mathena Center (Mercer) \$62,532, Collis P. Huntington Railroad Historical Society (Cabell) \$5,941, Country Music Hall of Fame and Museum (Marion) \$4,159, First Stage Children's Theater Company \$1,188, Flannigan Murrell House (Summers) \$3,781, Fort Ashby Fort (Mineral) \$891, Fort New Salem (Harrison)

\$2,198, Fort Randolph (Mason) \$2,970, General Adam Stephen Memorial Foundation (Berkeley) \$11,006, Grafton Mother's Day Shrine Committee (Taylor) \$5,049, Hardy County Tour and Crafts Association \$11,881, Heartwood in the Hills (Calhoun) \$5,040, Heritage Farm Museum & Village (Cabell) \$29,703, Historic Fayette Theater (Fayette) \$3,267, Historic Middleway Conservancy (Jefferson) \$594, Jefferson County Black History Preservation Society \$2,970, Jefferson County Historical Landmark Commission \$4,753, Maddie Carroll House (Cabell) \$4,455, Marshall County Historical Society \$5,049, McCoy Theater (Hardy) \$11,881, Morgantown Theater Company (Monongalia) \$11,881, Mountaineer Boys' State (Lewis) \$5,941, Nicholas Old Main Foundation (Nicholas) \$1,188, Norman Dillon Farm Museum (Berkeley) \$5,941, Old Opera House Theater Company (Jefferson) \$8,911, Parkersburg Arts Center (Wood) \$11,881, Pocahontas Historic Opera House \$3,564, Raleigh County All Wars Museum \$5,941, Rhododendron Girl's State (Ohio) \$5,941, Roane County 4-H and FFA Youth Livestock Program \$2,970, Scottish Heritage Society/N. Central WV (Harrison) \$2,970, Society for the Preservation of McGrew House (Preston) \$2,079, Southern West Virginia Veterans' Museum \$3,393, Summers County Historic Landmark Commission \$2,970, Those Who Served War Museum (Mercer) \$2,376, Three Rivers Avian Center (Summers) \$5,311, Tug Valley Arts Council (Mingo) \$2,970, Tug Valley Chamber of Commerce Coal House (Mingo) \$1,188, Tunnelton Historical Society (Preston) \$1,188, Veterans Committee for Civic Improvement of Huntington (Wayne) \$2,970, West Virginia Museum of Glass (Lewis) \$2,970, West Virginia Music Hall of Fame (Kanawha) \$20,792, YMCA Camp Horseshoe (Tucker) \$59,406, Youth Museum of Southern West Virginia (Raleigh) \$7,129, Z.D. Ramsdell House (Wayne) \$720.

From the above appropriation for Fairs and Festivals (fund 3534, appropriation 12200) funding shall be provided to A Princeton 4th (Mercer) \$1,800, African-American Cultural Heritage Festival (Jefferson) \$2,970, Alderson 4th of July Celebration (Greenbrier) \$2,970, Allegheny Echo (Pocahontas) \$4,456, Alpine Festival/Leaf Peepers Festival (Tucker) \$6,683, American Civil War (Grant) \$3,127, American Legion Post 8 Veterans Day Parade (McDowell) \$1,250, Angus Beef and Cattle Show (Lewis) \$891, Annual Birch River Days (Nicholas) \$1,296, Annual Don Redman Heritage Concert & Awards (Jefferson) \$938, Annual Ruddle Park Jamboree (Pendleton) \$4,690, Antique Market Fair (Lewis) \$1,188, Apollo Theater-Summer Program (Berkeley) \$1,188, Apple Butter Festival (Morgan) \$3,564, Arkansaw Homemaker's Heritage Weekend (Hardy) \$2,079, Armed Forces Day-South Charleston (Kanawha) \$1,782, Arthurdale Heritage New Deal Festival (Preston) \$2,970, Athens Town Fair (Mercer) \$1,188, Augusta Fair (Randolph) \$2,970, Autumn Harvest Fest (Monroe) \$2,448, Barbour County Fair \$14,851, Barboursville Octoberfest (Cabell) \$2,970, Bass Festival (Pleasants) \$1,099, Battelle District Fair (Monongalia) \$2,970, Battle of Dry Creek (Greenbrier) \$891, Battle of Point Pleasant Memorial Committee (Mason) \$2,970, Belle Town Fair (Kanawha) \$2,673, Belleville Homecoming (Wood) \$11,881, Bergoo Down Home Days (Webster) \$1,485, Berkeley County Youth Fair \$10,990, Black Bear 4K Mountain Bike Race (Kanawha) \$684, Black Heritage Festival (Harrison) \$3,564, Black Walnut Festival (Roane) \$5,940, Blast from the Past (Upshur) \$1,440, Blue-Gray Reunion (Barbour) \$2,079, Boone County Fair \$5,940, Boone County Labor Day Celebration \$2,376, Bradshaw Fall Festival (McDowell) \$1,188, Brandonville Heritage Day (Preston) \$1,048, Braxton County Fair \$6,832, Braxton County Monster Fest / West Virginia Autumn Festival \$1,485, Brooke County Fair \$2,079, Bruceton Mills Good Neighbor Days (Preston) \$1,188, Buckwheat Festival (Preston) \$5,050, Buffalo 4th of July Celebration (Putnam) \$400, Buffalo October Fest (Putnam) \$3,240, Burlington Apple Harvest Festival (Mineral) \$17,821, Burlington Pumpkin Harvest Festival (Raleigh) \$2,970, Burnsville Harvest Festival (Braxton) \$1,407, Cabell County Fair \$5,940, Calhoun County Wood Festival \$1,188, Campbell's Creek Community Fair (Kanawha) \$1,485, Cape Coalwood Festival Association (McDowell) \$1,485, Capon Bridge Founders Day Festival (Hampshire) \$1,188, Capon Springs Ruritan 4th of July (Hampshire) \$684, Cass Homecoming (Pocahontas) \$1,188, Cedarville Town Festival (Gilmer) \$684, Celebration in the Park (Wood) \$2,376, Celebration of

America (Monongalia) \$3,564, Ceredo Freedom Festival (Wayne) \$700, Chapmanville Apple Butter Festival (Logan) \$684, Chapmanville Fire Department 4th of July (Logan) \$1,782, Charles Town Christmas Festival (Jefferson) \$2,970, Charles Town Heritage Festival (Jefferson) \$2,970, Cherry River Festival (Nicholas) \$3,861, Chester Fireworks (Hancock) \$891, Chester 4th of July Festivities (Hancock) \$2,970, Chief Logan State Park-Civil War Celebration (Logan) \$4,752, Chilifest West Virginia State Chili Championship (Cabell) \$1,563, Christmas In Our Town (Marion) \$3,127, Christmas in Shepherdstown (Jefferson) \$2,376, Christmas in the Park (Brooke) \$2,970, Christmas in the Park (Logan) \$14,851, City of Dunbar Critter Dinner (Kanawha) \$5,940, City of Logan Polar Express (Logan) \$4,456, City of New Martinsville Festival of Memories (Wetzel) \$6,534, Clay County Golden Delicious Apple Festival \$4,158, Clay District Fair (Monongalia) \$1,080, Coal Field Jamboree (Logan) \$20,792, Coalton Days Fair (Randolph) \$4,158, Country Roads Festival (Fayette) \$1,188, Cowen Railroad Festival (Webster) \$2,079, Craigsville Fall Festival (Nicholas) \$2,079, Cruise into Princeton (Mercer) \$2,160, Culturefest World Music & Arts Festival (Mercer) \$4,690, Delbarton Homecoming (Mingo) \$2,079, Doddridge County Fair \$4,158, Dorcas Ice Cream Social (Grant) \$3,564, Durbin Days (Pocahontas) \$2,970, Elbert/Filbert Reunion Festival (McDowell) \$891, Elkins Randolph County 4th of July Car Show (Randolph) \$1,188, Fairview 4th of July Celebration (Marion) \$684, Farm Safety Day (Preston) \$1,188, Farmer's Day Festival (Monroe) \$2,330, Farmers' Day Parade (Wyoming) \$720, Fenwick Mountain Old Time Community Festival (Nicholas) \$2,880, FestivALL Charleston (Kanawha) \$11,881, Flatwoods Days (Braxton) \$700, Flemington Day Fair and Festival (Taylor) \$2,079, Follansbee Community Days (Brooke) \$4,900, Fort Gay Mountain Heritage Days (Wayne) \$2,970, Fort Henry Days (Ohio) \$3,148, Fort Henry Living History (Ohio) \$1,563, Fort New Salem Spirit of Christmas Festival (Harrison) \$2,432, Frankford Autumnfest (Greenbrier) \$2,970, Franklin Fishing Derby (Pendleton) \$4,456, Freshwater Folk Festival (Greenbrier) \$2,970, Friends Auxiliary of W.R. Sharpe Hospital (Lewis) \$2,970, Frontier Days (Harrison) \$1,782, Frontier Fest/Canaan Valley (Taylor) \$2,970, Fund for the Arts-Wine & All that Jazz Festival (Kanawha) \$1,485, Gassaway Days Celebration (Braxton) \$2,970, Gilbert Elementary Fall Blast (Mingo) \$2,188, Gilbert Kiwanis Harvest Festival (Mingo) \$2,376, Gilbert Spring Fling (Mingo) \$3,595, Gilmer County Farm Show \$2,376, Grant County Arts Council \$1,188, Grape Stomping Wine Festival (Nicholas) \$1,188, Great Greenbrier River Race (Pocahontas) \$5,940, Greater Quinwood Days (Greenbrier) \$781, Guyandotte Civil War Days (Cabell) \$5,941, Hamlin 4th of July Celebration (Lincoln) \$2,970, Hampshire Civil War Celebration Days (Hampshire) \$684, Hampshire County 4th of July Celebration \$11,881, Hampshire County Fair \$5,002, Hampshire Heritage Days (Hampshire) \$2,376, Hancock County Oldtime Fair \$2,970, Hardy County Commission - 4th of July \$5,940, Hatfield McCoy Matewan Reunion Festival (Mingo) \$12,330, Hatfield McCoy Trail National ATV and Dirt Bike Weekend (Wyoming) \$2,970, Heat'n the Hills Chilifest (Lincoln) \$2,970, Heritage Craft Festival (Monroe) \$1,044, Heritage Days Festival (Roane) \$891, Hilltop Festival (Cabell) \$684, Hilltop Festival of Lights (McDowell) \$1,188, Hinton Railroad Days (Summers) \$4,347, Holly River Festival (Webster) \$891, Hometown Mountain Heritage Festival (Fayette) \$2,432, Hundred 4th of July (Wetzel) \$4,307, Hundred American Legion Earl Kiger Post Bluegrass Festival (Wetzel) \$1,188, Hurricane 4th of July Celebration (Putnam) \$2,970, Jaeger Town Fair (McDowell) \$891, Irish Heritage Festival of West Virginia (Raleigh) \$2,970, Irish Spring Festival (Lewis) \$684, Italian Heritage Festival-Clarksburg (Harrison) \$17,821, Jackson County Fair \$2,970, Jamboree (Pocahontas) \$2,970, Jane Lew Arts and Crafts Fair (Lewis) \$684, Jefferson County Fair Association \$14,851, Jersey Mountain Ruritan Pioneer Days (Hampshire) \$684, John Henry Days Festival (Monroe) \$4,698, Johnnie Johnson Blues and Jazz Festival (Marion) \$2,970, Johnstown Community Fair (Harrison) \$1,485, Junior Heifer Preview Show (Lewis) \$1,188, Kanawha Coal Riverfest-St. Albans 4th of July Festival (Kanawha) \$2,970, Keeper of the Mountains-Kayford (Kanawha) \$1,485, Kenova Autumn Festival (Wayne) \$4,377, Kermit Fall Festival (Mingo) \$1,782, Keystone Reunion Gala (McDowell) \$1,563, King Coal Festival (Mingo) \$2,970, Kingwood Downtown Street Fair and

Heritage Days (Preston) \$1,188, L.Z. Rainelle West Virginia Veterans Reunion (Greenbrier) \$2,970, Lady of Agriculture (Preston) \$684, Larry Joe Harless Center Octoberfest Hatfield McCoy Trail (Mingo) \$5,940, Larry Joe Harless Community Center Spring Middle School Event (Mingo) \$2,970, Last Blast of Summer (McDowell) \$2,970, Lewis County Fair Association \$2,079, Lewisburg Shanghai (Greenbrier) \$1,188, Lincoln County Fall Festival \$4,752, Lincoln County Winterfest \$2,970, Linside Veterans' Day Parade \$720, Little Levels Heritage Festival (Pocahontas) \$1,188, Lost Creek Community Festival (Harrison) \$4,158, Main Street Arts Festival (Upshur) \$3,127, Main Street Martinsburg Chocolate Fest and Book Fair (Berkeley) \$2,813, Mannington District Fair (Marion) \$3,564, Maple Syrup Festival (Randolph) \$684, Marion County FFA Farm Fest \$1,485, Marmet Labor Day Celebration (Kanawha) \$3,078, Marshall County Antique Power Show \$1,485, Marshall County Fair \$4,456, Mason County Fair \$2,970, Mason Dixon Festival (Monongalia) \$4,158, Matewan Massacre Reenactment (Mingo) \$5,004, Matewan-Magnolia Fair (Mingo) \$15,932, McARTS-McDowell County \$11,881, McDowell County Fair \$1,485, McGrew House History Day (Preston) \$1,188, McNeill's Rangers (Mineral) \$4,752, Meadow Bridge Hometown Festival (Fayette) \$743, Meadow River Days Festival (Greenbrier) \$1,782, Mercer Bluestone Valley Fair (Mercer) \$1,188, Mercer County Fair \$1,188, Mercer County Heritage Festival \$3,474, Mid Ohio Valley Antique Engine Festival (Wood) \$1,782, Milton Christmas in the Park (Cabell) \$1,485, Milton 4th of July Celebration (Cabell) \$1,485, Mineral County Fair \$1,040, Mineral County Veterans Day Parade \$891, Molasses Festival (Calhoun) \$1,188, Monongahfest (Marion) \$3,752, Moon Over Mountwood Fishing Festival (Wood) \$1,782, Morgan County Fair-History Wagon \$891, Moundsville Bass Festival (Marshall) \$2,376, Moundsville July 4th Celebration (Marshall) \$2,970, Mount Liberty Fall Festival (Barbour) \$1,485, Mountain Fest (Monongalia) \$11,881, Mountain Festival (Mercer) \$2,747, Mountain Heritage Arts and Crafts Festival (Jefferson) \$2,970, Mountain Music Festival (McDowell) \$1,485, Mountain State Apple Harvest Festival (Berkeley) \$4,456, Mountain State Arts & Crafts Fair Cedar Lakes (Jackson) \$26,732, Mountaineer Hot Air Balloon Festival (Monongalia) \$2,376, Mullens Dogwood Festival (Wyoming) \$4,158, Multi-Cultural Festival of West Virginia (Kanawha) \$11,881, Music and Barbecue - Banks District VFD (Upshur) \$1,278, New Cumberland Christmas Parade (Hancock) \$1,782, New Cumberland 4th of July (Hancock) \$2,970, New River Bridge Day Festival (Fayette) \$23,762, Newburg Volunteer Fireman's Field Day (Preston) \$684, Nicholas County Fair \$2,970, Nicholas County Potato Festival \$2,079, Oak Leaf Festival (Fayette) \$6,253, Oceana Heritage Festival (Wyoming) \$3,564, Oglebay City Park - Festival of Lights (Ohio) \$47,524, Oglebay Festival (Ohio) \$5,940, Ohio County Country Fair \$5,346, Ohio River Fest (Jackson) \$4,320, Ohio Valley Beef Association (Wood) \$1,485, Ohio Valley Black Heritage Festival (Ohio) \$3,267, Old Central City Fair (Cabell) \$2,970, Old Century City Fair (Barbour) \$1,250, Old Tyme Christmas (Jefferson) \$1,425, Paden City Labor Day Festival (Wetzel) \$3,861, Parkersburg Homecoming (Wood) \$8,754, Patty Fest (Monongalia) \$1,188, Paw Paw District Fair (Marion) \$2,079, Pax Reunion Committee (Fayette) \$2,970, Pendleton County 4-H Weekend \$1,188, Pendleton County Committee for Arts \$8,910, Pendleton County Fair \$6,253, Pennsboro Country Road Festival (Ritchie) \$1,188, Petersburg 4th of July Celebration (Grant) \$11,881, Petersburg HS Celebration (Grant) \$5,940, Piedmont-Annual Back Street Festival (Mineral) \$2,376, Pinch Reunion (Kanawha) \$891, Pine Bluff Fall Festival (Harrison) \$2,376, Pine Grove 4th of July Festival (Wetzel) \$4,158, Pineville Festival (Wyoming) \$3,564, Pleasants County Agriculture Youth Fair \$2,970, Poca Heritage Days (Putnam) \$1,782, Pocahontas County Pioneer Days \$4,159, Point Pleasant Stern Wheel Regatta (Mason) \$2,970, Pratt Fall Festival (Kanawha) \$1,485, Princeton Autumnfest (Mercer) \$1,563, Princeton Street Fair (Mercer) \$2,970, Putnam County Fair \$2,970, Quartets on Parade (Hardy) \$2,376, Rainelle Fall Festival (Greenbrier) \$3,127, Rand Community Center Festival (Kanawha) \$1,485, Randolph County Community Arts Council \$1,782, Randolph County Fair \$4,158, Randolph County Ramp and Rails \$1,188, Ranson Christmas Festival (Jefferson) \$2,970, Ranson Festival (Jefferson) \$2,970, Renick Liberty Festival (Greenbrier) \$684, Ripley 4th of July (Jackson) \$8,910, Ritchie County Fair and

Exposition \$2,970, Ritchie County Pioneer Days \$684, River City Festival (Preston) \$684, Roane County Agriculture Field Day \$1,782, Rock the Park (Kanawha) \$3,240, Rocket Boys Festival (Raleigh) \$1,710, Romney Heritage Days (Hampshire) \$1,876, Ronceverte River Festival (Greenbrier) \$2,970, Rowlesburg Labor Day Festival (Preston) \$684, Rupert Country Fling (Greenbrier) \$1,876, Saint Spyridon Greek Festival (Harrison) \$1,485, Salem Apple Butter Festival (Harrison) \$2,376, Sistersville 4th of July (Tyler) \$3,267, Skirmish on the River (Mingo) \$1,250, Smoke on the Water (Wetzel) \$1,782, South Charleston Summerfest (Kanawha) \$5,940, Southern Wayne County Fall Festival \$684, Spirit of Grafton Celebration (Taylor) \$5,940, Springfield Peach Festival (Hampshire) \$738, St. Albans City of Lights - December (Kanawha) \$2,970, Sternwheel Festival (Wood) \$1,782, Stoco Reunion (Raleigh) \$1,485, Stonewall Jackson Heritage Arts & Crafts Jubilee (Lewis) \$6,534, Stonewall Jackson's Roundhouse Raid (Berkeley) \$7,200, Storytelling Festival (Lewis) \$400, Strawberry Festival (Upshur) \$17,821, Sylvester Big Coal River Festival \$1,944, Tacy Fair (Barbour) \$684, Taste of Parkersburg (Wood) \$2,970, Taylor County Fair \$3,267, Terra Alta VFD 4th of July Celebration (Preston) \$684, The Gathering at Sweet Creek (Wood) \$1,782, Three Rivers Coal Festival (Marion) \$4,604, Thunder on the Tygart - Mothers' Day Celebration (Taylor) \$8,910, Town of Delbarton 4th of July Celebration (Mingo) \$1,782, Town of Fayetteville Heritage Festival (Fayette) \$4,456, Town of Matoaka Hog Roast (Mercer) \$684, Town of Rivesville 4th of July Festival (Marion) \$3,127, Town of Winfield - Putnam County Homecoming \$3,240, St. Albans Train Fest (Kanawha) \$6,120, Treasure Mountain Festival (Pendleton) \$14,851, Tri-County Fair (Grant) \$22,548, Tucker County Arts Festival and Celebration \$10,692, Tucker County Fair \$2,821, Tucker County Health Fair \$1,188, Tunnelton Depot Days (Preston) \$684, Tunnelton Volunteer Fire Department Festival (Preston) \$684, Turkey Festival (Hardy) \$1,782, Tyler County Fair \$3,088, Tyler County 4th of July \$400, Tyler County OctoberFest \$720, Union Community Irish Festival (Barbour) \$648, Uniquely West Virginia Festival (Morgan) \$1,188, Upper Kanawha Valley Oktoberfest (Kanawha) \$1,485, Upper Ohio Valley Italian Festival (Ohio) \$7,128, Upshur County Youth Livestock Show \$1,440, Valley District Fair (Preston) \$2,079, Veterans Welcome Home Celebration (Cabell) \$938, Vietnam Veterans of America # 949 Christmas Party (Cabell) \$684, Volcano Days at Mountwood Park (Wood) \$2,970, War Homecoming Fall Festival (McDowell) \$891, Wardensville Fall Festival (Hardy) \$2,970, Wayne County Fair \$2,970, Wayne County Fall Festival \$2,970, Webster County Fair \$3,600, Webster County Wood Chopping Festival \$8,910, Webster Wild Water Weekend \$1,188, Weirton July 4th Celebration (Hancock) \$11,881, Welcome Home Family Day (Wayne) \$1,900, Wellsburg 4th of July Celebration (Brooke) \$4,456, Wellsburg Apple Festival of Brooke County \$2,970, West Virginia Blackberry Festival (Harrison) \$2,970, West Virginia Chestnut Festival (Preston) \$684, West Virginia Coal Festival (Boone) \$5,940, West Virginia Coal Show (Mercer) \$1,563, West Virginia Dairy Cattle Show (Lewis) \$5,940, West Virginia Dandelion Festival (Greenbrier) \$2,970, West Virginia Day at the Railroad Museum (Mercer) \$1,800, West Virginia Fair and Exposition (Wood) \$4,812, West Virginia Fireman's Rodeo (Fayette) \$1,485, West Virginia Oil and Gas Festival (Tyler) \$6,534, West Virginia Peach Festival (Hampshire) \$3,240, West Virginia Polled Hereford Association (Braxton) \$891, West Virginia Poultry Festival (Hardy) \$2,970, West Virginia Pumpkin Festival (Cabell) \$5,940, West Virginia State Folk Festival (Gilmer) \$2,970, West Virginia Water Festival - City of Hinton (Summers) \$9,144, Weston VFD 4th of July Firemen Festival (Lewis) \$1,188, Wetzel County Autumnfest \$3,267, Wetzel County Town and Country Days \$10,098, Wheeling Celtic Festival (Ohio) \$1,166, Wheeling City of Lights (Ohio) \$4,752, Wheeling Sternwheel Regatta (Ohio) \$5,940, Wheeling Vintage Raceboat Regatta (Ohio) \$11,881, Whipple Community Action (Fayette) \$1,485, Wileyville Homecoming (Wetzel) \$2,376, Wine Festival and Mountain Music Event (Harrison) \$2,970, Winter Festival of the Waters (Berkeley) \$2,970, Wirt County Fair \$1,485, Wirt County Pioneer Days \$1,188, Wyoming County Civil War Days \$1,296, Youth Stockman Beef Expo (Lewis) \$1,188.

Any unexpended balances remaining in the appropriations for Preservation West Virginia (fund 3534, appropriation 09200), Fairs and Festivals (fund 3534, appropriation 12200), Archeological Curation/Capital Improvements (fund 3534, appropriation 24600), Historic Preservation Grants (fund 3534, appropriation 31100), Grants for Competitive Arts Program (fund 3534, appropriation 62400), and Project ACCESS (fund 3534, appropriation 86500) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

Any Fairs & Festivals awards shall be funded in addition to, and not in lieu of, individual grant allocations derived from the 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

Any unexpended balance remaining in the appropriation for Libraries – Special Projects (fund 3559, appropriation 62500) at the close of fiscal year 2018 is hereby reappropriated for 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 Employee Benefits.....	00100	\$	198,745
2	Current Expenses .....	13000		332,284
3	Repairs and Alterations.....	06400		1,000
4	Local Programs Service Delivery Costs .....	20000		2,435,250
5	Silver Haired Legislature.....	20200		18,500



6	Transfer to Division of Human Services for Health Care		
7	and Title XIX Waiver for Senior Citizens .....	53900	4,615,503
8	Roger Tompkins Alzheimer’s Respite Care .....	64300	2,298,312
9	WV Alzheimer’s Hotline.....	72400	45,000
10	Regional Aged and Disabled Resource Center .....	76700	425,000
11	Senior Services Medicaid Transfer.....	87100	14,502,312
12	Legislative Initiatives for the Elderly .....	90400	9,671,239
13	Long Term Care Ombudsman.....	90500	297,226
14	BRIM Premium.....	91300	7,718
15	In-Home Services and Nutrition for Senior Citizens.....	91700	<u>4,320,941</u>
16	Total .....		\$ 39,169,030

Any unexpended balance remaining in the appropriation for Senior Citizen Centers and Programs (fund 5405, appropriation 46200) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

Included in the above appropriation for Current Expenses (fund 5405, appropriation 13000), is funding to support an in-home direct care workforce registry.

The above appropriation for Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens (appropriation 53900) along with the federal moneys generated thereby shall be used for reimbursement for services provided 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 Program (R) .....	60100	62,725
10	WV Engineering, Science, and		
11	Technology Scholarship Program.....	86800	<u>452,831</u>
12	Total.....		\$ 3,014,498

Any unexpended balances remaining in the appropriations for RHI Program and Site Support (fund 4925, appropriation 03600), RHI Program and Site Support – Grad Med Ed and Fiscal Oversight (fund 4925, appropriation 03800), Minority Doctoral Fellowship (fund 4925, appropriation 16600), Health Sciences Scholarship (fund 4925, appropriation 17600), and Vice Chancellor for Health Sciences – Rural Health Residency Program (fund 4925, appropriation 60100) at the close of fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

The above appropriation for WV Engineering, Science, and Technology Scholarship Program (appropriation 86800) shall be transferred to the West Virginia Engineering, Science and Technology Scholarship Fund (fund 4928, org 0441) established 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
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Any unexpended balance remaining in the appropriation for Capital Outlay and Improvements – Total (fund 4908, appropriation 84700) at the close of fiscal year 2018 is hereby 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) .....	62300		52,445
5	Health Sciences Career Opportunities Program (R) .....	86900		325,138
6	HSTA Program (R) .....	87000		1,680,240
7	Center for Excellence in Disabilities (R) .....	96700		<u>303,739</u>
8	Total .....		\$	3,494,374

Any unexpended balances remaining in the appropriations for WVU Health Sciences – RHI Program and Site Support (fund 4185, appropriation 03500), MA Public Health Program and Health Science Technology (fund 4185, appropriation 62300), Health Sciences Career Opportunities Program (fund 4185, appropriation 86900), HSTA Program (fund 4185, appropriation 87000), and Center for Excellence in Disabilities (fund 4185, appropriation 96700) at the close of fiscal year 2018 are hereby 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 Program (R) .....	60100		<u>166,770</u>
5	Total .....		\$	<u>574,986</u>

Any unexpended balances remaining in the appropriations for Marshall Medical School – RHI Program and Site Support (fund 4896, appropriation 03300) and Vice Chancellor for Health Sciences – Rural Health Residency Program (fund 4896, appropriation 60100) at the close of fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

Total TITLE II, Section 4 – Lottery Revenue..... \$ 123,308,000

**Sec. 5. Appropriations from state excess lottery revenue fund.** — In accordance with W.Va. Code §29-22-18a, §29-22A-10d, §29-22A-10e, §29-22C-27a and §29-25-22b, the following appropriations shall be deposited and disbursed by the Director of the Lottery to the following accounts in this section in the amounts indicated.

After first funding the appropriations required by W.Va. Code §29-22-18a, §29-22A-10d, §29-22A-10e, §29-22C-27a and §29-25-22b, the Director of the Lottery shall provide funding from the State Excess Lottery Revenue Fund for the remaining appropriations in this section to the extent that funds are available. In the event that revenues to the State Excess Lottery Revenue Fund are sufficient to meet all the appropriations required made pursuant to this section, then the Director of the Lottery shall then provide the funds available for fund 5365, appropriation 18900.

*301 - Lottery Commission –*

*Refundable Credit*

Fund 7207 FY 2019 Org 0705

		<b>Excess</b>
		<b>Lottery</b>
		<b>Funds</b>
		<b>Appro-</b>
		<b>priation</b>
1	Directed Transfer .....	70000      \$    10,000,000

The above appropriation shall be transferred to the General Revenue Fund to provide reimbursement for the refundable credit allowable under W.Va. Code §11-21-21. The amount of the required transfer shall be determined solely by the State Tax Commissioner and shall be completed by the Director of the 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
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The above appropriation shall be transferred to the General Revenue Fund as determined by the Director of the Lottery in 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
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The above appropriation shall be transferred to the PROMISE Scholarship Fund (fund 4296, org 0441) established by W.Va. Code §18C-7-7.

The Legislature has explicitly set a finite amount of available appropriations and directed the administrators of the Program to provide for the award of scholarships within the limits 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
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Pursuant to W.Va. Code §29-22-18a, subsection (f), excess lottery revenues are authorized to be transferred to the lottery fund as reimbursement of amounts transferred to the economic development project fund pursuant to section four of this title and 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
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*306 - West Virginia Infrastructure Council –*

*West Virginia Infrastructure Transfer Fund*

Fund 3390 FY 2019 Org 0316

1	Directed Transfer .....	70000	\$	46,000,000
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The above appropriation shall be allocated pursuant to 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
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The above appropriation shall be transferred to fund 4903, 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		<u>100,500</u>
6	Total .....		\$	5,000,000

Any unexpended balances remaining in the above appropriations for Repairs and Alterations (fund 3277, appropriation 06400), Equipment (fund 3277, appropriation 07000), Unclassified – Total (fund 3277, appropriation 09600), Unclassified (fund 3277, appropriation 09900), Current Expenses (fund 3277, appropriation 13000), Buildings (fund 3277, appropriation 25800), and Other Assets (fund 3277, appropriation 69000) at the close of the fiscal year 2018 are hereby 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 (I)) .....	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 Garage Fund – Transfer .....	70002		216,478
3	Capitol Dome and Improvements Fund – Transfer .....	70003		1,796,256
4	Capitol Renovation and Improvement Fund – Transfer .....	70004		2,381,252
5	Development Office Promotion Fund – Transfer .....	70005		1,298,864

6	Research Challenge Fund – Transfer .....	70006	1,731,820
7	Tourism Promotion Fund – Transfer.....	70007	4,808,142
8	Cultural Facilities and Capitol Resources Matching		
9	Grant Program Fund – Transfer .....	70008	1,250,535
10	State Debt Reduction Fund – Transfer.....	70010	20,000,000
11	General Revenue Fund – Transfer.....	70011	1,167,799
12	West Virginia Racing Commission Racetrack		
13	Video Lottery Account .....	70012	3,463,637
14	Historic Resort Hotel Fund .....	70013	24,010
15	Licensed Racetrack Regular Purse Fund.....	70014	<u>11,383,247</u>
16	Total.....		\$ 50,022,040

*312 - Governor's Office*

(WV Code Chapter 5)

Fund 1046 FY 2019 Org 0100

Any unexpended balance remaining in the appropriation for Publication of Papers and Transition Expenses – Lottery Surplus (fund 1046, appropriation 06600) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

*313 - West Virginia Development Office*

(WV Code Chapter 5B)

Fund 3170 FY 2019 Org 0307

Any unexpended balances remaining in the appropriations for Unclassified – Total (fund 3170, appropriation 09600), Recreational Grants or Economic Development Loans (fund 3170, appropriation 25300), and Connectivity Research and Development – Lottery Surplus (fund 3170, appropriation 92300) at the close of the fiscal year 2018 are hereby reappropriated for expenditure during the fiscal year 2019.

*314 - Higher Education Policy Commission –*

*Administration –*

*Control Account*

(WV Code Chapter 18B)

Fund 4932 FY 2019 Org 0441

Any unexpended balance remaining in the appropriation for Advanced Technology Centers (fund 4932, appropriation 02800) at the close of the fiscal year 2018 is hereby reappropriated 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
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*316 - Division of Corrections –*

*Correctional Units*

(WV Code Chapters 25, 28, 49 and 62)

Fund 6283 FY 2019 Org 0608

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 6283, appropriation 75500) at the close of the fiscal year 2018 is hereby reappropriated for expenditure during the fiscal year 2019.

Total TITLE II, Section 5 – Excess Lottery Funds.....		\$		<u>290,257,000</u>
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**Sec. 6. Appropriations of federal funds.** — In accordance with Article 11, Chapter 4 of the Code from federal funds there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized, for expenditure during the fiscal year 2019.

**LEGISLATIVE**

*317 - Crime Victims Compensation Fund*

(WV Code Chapter 14)

Fund 8738 FY 2019 Org 2300

		<b>Appro-</b>		<b>Federal</b>
		<b>priation</b>		<b>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 Employee Benefits.....	00100	\$	2,008,000
2	Current Expenses .....	13000		<u>1,992,000</u>
3	Total .....		\$	4,000,000

**EXECUTIVE***319 - Department of Agriculture*

(WV Code Chapter 19)

Fund 8736 FY 2019 Org 1400

1	Personal Services and Employee Benefits.....	00100	\$	2,563,760
2	Unclassified .....	09900		50,534
3	Current Expenses .....	13000		3,828,661
4	Repairs and Alterations.....	06400		650,000
5	Equipment.....	07000		910,500
6	Buildings.....	25800		1,000,000
7	Other Assets .....	69000		<u>50,000</u>
8	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 Employee Benefits.....	00100	\$	610,830
2	Unclassified .....	09900		8,755
3	Current Expenses .....	13000		136,012
4	Repairs and Alterations.....	06400		5,500
5	Equipment.....	07000		<u>114,478</u>
6	Total .....		\$	875,575

*321 - Department of Agriculture –*

*State Conservation Committee*

(WV Code Chapter 19)

Fund 8783 FY 2019 Org 1400

1	Personal Services and Employee Benefits.....	00100	\$	97,250
2	Current Expenses .....	13000		<u>15,599,974</u>
3	Total .....		\$	15,697,224

*322 - Department of Agriculture –*

*Land Protection Authority*

Fund 8896 FY 2019 Org 1400

1	Personal Services and Employee Benefits.....	00100	\$	46,526
2	Unclassified .....	09900		5,004
3	Current Expenses .....	13000		<u>448,920</u>
4	Total .....		\$	500,450

*323 - Secretary of State –*

*State Election Fund*

(WV Code Chapter 3)

Fund 8854 FY 2019 Org 1600

1	Personal Services and Employee Benefits.....	00100	\$	210,240
2	Unclassified .....	09900		7,484
3	Current Expenses .....	13000		415,727
4	Repairs and Alterations.....	06400		15,000
5	Other Assets .....	69000		<u>100,000</u>
6	Total .....		\$	748,451

**DEPARTMENT OF COMMERCE**

*324 - Division of Forestry*

(WV Code Chapter 19)

Fund 8703 FY 2019 Org 0305

1	Personal Services and Employee Benefits.....	00100	\$	1,578,347
2	Unclassified .....	09900		51,050
3	Current Expenses .....	13000		5,232,560
4	Repairs and Alterations.....	06400		155,795
5	Equipment.....	07000		100,000
6	Other Assets .....	69000		<u>1,808,300</u>
7	Total.....		\$	8,926,052

*325 - Geological and Economic Survey*

(WV Code Chapter 29)

Fund 8704 FY 2019 Org 0306

1	Personal Services and Employee Benefits.....	00100	\$	54,432
2	Unclassified .....	09900		2,803
3	Current Expenses .....	13000		195,639
4	Repairs and Alterations.....	06400		5,000
5	Equipment.....	07000		7,500
6	Other Assets .....	69000		<u>15,000</u>
7	Total.....		\$	280,374

*326 - West Virginia Development Office*

(WV Code Chapter 5B)

Fund 8705 FY 2019 Org 0307

1	Personal Services and Employee Benefits.....	00100	\$	745,981
2	Unclassified .....	09900		50,000
3	Current Expenses .....	13000		<u>4,504,019</u>
4	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 Employee Benefits.....	00100	\$	497,289
2	Repairs and Alterations.....	06400		250
3	Equipment.....	07000		6,000
4	Unclassified .....	09900		106,795
5	Current Expenses .....	13000		<u>10,069,166</u>
6	Total.....		\$	10,679,500

*328 - Division of Labor*

(WV Code Chapters 21 and 47)

Fund 8706 FY 2019 Org 0308

1	Personal Services and Employee Benefits.....	00100	\$	384,072
2	Unclassified .....	09900		5,572
3	Current Expenses .....	13000		167,098
4	Repairs and Alterations.....	06400		<u>500</u>
5	Total.....		\$	557,242

*329 - Division of Natural Resources*

(WV Code Chapter 20)

Fund 8707 FY 2019 Org 0310

1	Personal Services and Employee Benefits.....	00100	\$	7,912,218
2	Unclassified .....	09900		107,693
3	Current Expenses .....	13000		5,556,594
4	Repairs and Alterations.....	06400		289,400
5	Equipment.....	07000		1,815,182
6	Buildings .....	25800		951,000

7	Other Assets .....	69000	6,951,000
8	Land .....	73000	<u>6,001,000</u>
9	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 Employee Benefits.....	00100	\$ 613,177
2	Current Expenses .....	13000	<u>150,000</u>
3	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 Compensation.....	62200	2,850,000
4	Reed Act 2002 – Employment Services .....	63000	<u>1,650,000</u>
5	Total .....		\$ 5,012,657

Pursuant to the requirements of 42 U.S.C. 1103, Section 903 of the Social Security Act, as amended, and the provisions of W.Va. Code §21A-9-9, the above appropriation to Unclassified and Current Expenses shall be used by WorkForce West Virginia for the specific purpose of administration of the state's unemployment insurance program or job service activities, subject to each and every restriction, limitation or obligation imposed on 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 Employee Benefits.....	00100	\$ 411,574
2	Unclassified .....	09900	7,350

3	Current Expenses .....	13000	<u>2,816,076</u>
4	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 Employee Benefits.....	00100	\$ 5,628,855
2	Unclassified .....	09900	2,000,000
3	Current Expenses .....	13000	212,367,820
4	Repairs and Alterations.....	06400	10,000
5	Equipment.....	07000	10,000
6	Other Assets .....	69000	<u>10,000</u>
7	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 Employee Benefits.....	00100	\$ 1,812,648
2	Unclassified .....	09900	1,150,500
3	Current Expenses .....	13000	148,281,265
4	Repairs and Alterations.....	06400	20,000
5	Equipment.....	07000	100,000
6	Other Assets .....	69000	<u>25,000</u>
7	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 Employee Benefits.....	00100	\$	1,819,972
2	Unclassified .....	09900		155,000
3	Current Expenses .....	13000		14,320,081
4	Repairs and Alterations.....	06400		10,000
5	Equipment.....	07000		10,000
6	Other Assets .....	69000		<u>10,000</u>
7	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 Employee Benefits.....	00100	\$	3,344,940
2	Unclassified .....	09900		1,000,000
3	Current Expenses .....	13000		108,346,390
4	Repairs and Alterations.....	06400		10,000
5	Equipment.....	07000		10,000
6	Other Assets .....	69000		<u>10,000</u>
7	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 Employee Benefits.....	00100	\$	416,675
2	Current Expenses .....	13000		5,587,325
3	Repairs and Alterations.....	06400		<u>1,000</u>
4	Total .....		\$	6,005,000

*338 - Division of Culture and History*

(WV Code Chapter 29)

Fund 8718 FY 2019 Org 0432

1	Personal Services and Employee Benefits.....	00100	\$	743,046
2	Current Expenses .....	13000		1,947,372
3	Repairs and Alterations.....	06400		1,000
4	Equipment.....	07000		1,000
5	Buildings .....	25800		1,000
6	Other Assets .....	69000		1,000
7	Land .....	73000		<u>360</u>
8	Total .....		\$	2,694,778

*339 - Library Commission*

(WV Code Chapter 10)

Fund 8720 FY 2019 Org 0433

1	Personal Services and Employee Benefits.....	00100	\$	333,648
2	Current Expenses .....	13000		1,076,162
3	Equipment.....	07000		<u>543,406</u>
4	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 Employee Benefits.....	00100	\$	11,248,930
2	Current Expenses .....	13000		39,440,940
3	Repairs and Alterations.....	06400		350,400
4	Equipment.....	07000		<u>1,275,870</u>
5	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 Employee Benefits.....	00100	\$	13,730,634
2	Current Expenses .....	13000		11,383,206
3	Repairs and Alterations.....	06400		1,100
4	Equipment.....	07000		<u>83,350</u>
5	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 Employee Benefits.....	00100	\$	30,084,598
2	Current Expenses .....	13000		169,448,731
3	Repairs and Alterations.....	06400		738,283

4	Equipment.....	07000	1,712,238
5	Unclassified .....	09900	2,062,978
6	Other Assets .....	69000	2,151,011
7	Land .....	73000	<u>100,000</u>
8	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 Employee Benefits.....	00100	\$ 750,876
2	Unclassified .....	09900	73,307
3	Current Expenses .....	13000	<u>17,330,086</u>
4	Total .....		\$ 18,154,269

*345 - Division of Health –*

*Central Office*

(WV Code Chapter 16)

Fund 8802 FY 2019 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$ 13,744,404
2	Unclassified .....	09900	947,948
3	Current Expenses .....	13000	79,110,551
4	Equipment.....	07000	456,972
5	Buildings .....	25800	155,000
6	Other Assets .....	69000	<u>380,000</u>
7	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
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*347 - Human Rights Commission*

(WV Code Chapter 5)

Fund 8725 FY 2019 Org 0510

1	Personal Services and Employee Benefits.....	00100	\$	625,349
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2	Unclassified .....	09900		5,482
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3	Current Expenses .....	13000		140,389
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4	Total .....		\$	771,220
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*348 - Division of Human Services*

(WV Code Chapters 9, 48, and 49)

Fund 8722 FY 2019 Org 0511

1	Personal Services and Employee Benefits.....	00100	\$	69,213,619
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2	Unclassified .....	09900		22,855,833
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3	Current Expenses .....	13000		112,085,005
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4	Medical Services.....	18900		3,404,265,405
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5	Medical Services Administrative Costs.....	78900		132,045,119
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6	CHIP Administrative Costs.....	85601		4,500,000
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7	CHIP Services.....	85602		47,422,974
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8	Federal Economic Stimulus.....	89100		5,000,000
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9	Total .....		\$	3,797,387,955
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**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

The Adjutant General shall have the authority to transfer 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 Employee Benefits.....	00100	\$	1,350,000
2	Current Expenses .....	13000		300,000
3	Equipment.....	07000		<u>350,000</u>
4	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 Employee Benefits.....	00100	\$	721,650
2	Current Expenses .....	13000		20,429,281
3	Repairs and Alterations.....	06400		5,000
4	Equipment.....	07000		<u>100,000</u>
5	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 Employee Benefits.....	00100	\$	2,461,129
2	Current Expenses .....	13000		2,125,971
3	Repairs and Alterations.....	06400		42,000
4	Equipment.....	07000		2,502,285
5	Buildings .....	25800		750,500
6	Other Assets .....	69000		144,500
7	Land .....	73000		<u>500</u>
8	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 Employee Benefits.....	00100	\$	1,058,570
2	Unclassified .....	09900		25,185
3	Current Expenses .....	13000		18,771,973
4	Repairs and Alterations.....	06400		1,750
5	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 Employee Benefits.....	00100	\$	501,394
2	Current Expenses .....	13000		10,498,106
3	Repairs and Alterations.....	06400		500
4	Total .....		\$	11,000,000

*359 - Division of Public Transit*

(WV Code Chapter 17)

Fund 8745 FY 2019 Org 0805

1	Personal Services and Employee Benefits.....	00100	\$	702,637
2	Current Expenses .....	13000		9,163,149
3	Repairs and Alterations.....	06400		2,500
4	Equipment.....	07000		2,801,714
5	Buildings .....	25800		650,000
6	Other Assets .....	69000		<u>200,000</u>
7	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 Employee Benefits.....	00100	\$	2,751,100
2	Current Expenses .....	13000		3,925,900
3	Repairs and Alterations.....	06400		50,000
4	Equipment.....	07000		200,000
5	Buildings .....	25800		600,000
6	Other Assets .....	69000		100,000
7	Land .....	73000		<u>100,000</u>
8	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 Employee Benefits.....	00100	\$	877,915
2	Current Expenses .....	13000		844,092
3	Repairs and Alterations.....	06400		220,000

4	Equipment.....	07000	198,000
5	Buildings .....	25800	296,000
6	Other Assets .....	69000	20,000
7	Land .....	73000	<u>10,000</u>
8	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 Employee Benefits.....	00100	\$ 721,393
2	Current Expenses .....	13000	13,811,853
3	Repairs and Alterations.....	06400	<u>3,000</u>
4	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 Employee Benefits.....	00100	\$ 1,286,913
2	Current Expenses .....	13000	368,953
3	Repairs and Alterations.....	06400	<u>40,000</u>
4	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 Employee Benefits.....	00100	\$	596,600
2	Current Expenses .....	13000		124,628
3	Equipment.....	07000		3,000
4	Unclassified .....	09900		<u>4,072</u>
5	Total .....		\$	728,300

*365 - National Coal Heritage Area Authority*

(WV Code Chapter 29)

Fund 8869 FY 2019 Org 0941

1	Personal Services and Employee Benefits.....	00100	\$	159,235
2	Current Expenses .....	13000		631,365
3	Repairs and Alterations.....	06400		5,000
4	Equipment.....	07000		3,000
5	Other Assets .....	69000		<u>2,000</u>
6	Total .....		\$	<u>800,600</u>
7	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 Employee Benefits.....	00100	\$	10,648,117
2	Unclassified .....	09900		2,375,000
3	Current Expenses .....	13000		<u>224,476,883</u>
4	Total .....		\$	237,500,000

*367 - Department of Commerce*

*West Virginia Development Office –*

*Office of Economic Opportunity –*

*Community Services*Fund 8902 FY 2019 Org 0307

1	Personal Services and Employee Benefits.....	00100	\$	362,389
2	Unclassified .....	09900		125,000
3	Current Expenses .....	13000		12,002,111
4	Repairs and Alterations.....	06400		1,500
5	Equipment.....	07000		<u>9,000</u>
6	Total.....		\$	12,500,000

*368 - WorkForce West Virginia –**Workforce Investment Act*Fund 8749 FY 2019 Org 0323

1	Personal Services and Employee Benefits.....	00100	\$	2,912,606
2	Unclassified .....	09900		23,023
3	Current Expenses .....	13000		39,263,511
4	Repairs and Alterations.....	06400		1,600
5	Equipment.....	07000		500
6	Buildings .....	25800		<u>1,100</u>
7	Total.....		\$	42,202,340

*369 - Division of Health –**Maternal and Child Health*Fund 8750 FY 2019 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$	2,124,294
2	Unclassified .....	09900		110,017
3	Current Expenses .....	13000		<u>8,767,420</u>
4	Total.....		\$	11,001,731

*370 - Division of Health –*

*Preventive Health*

Fund 8753 FY 2019 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$	265,868
2	Unclassified .....	09900		22,457
3	Current Expenses .....	13000		1,895,366
4	Equipment.....	07000		<u>165,642</u>
5	Total .....		\$	2,349,333

*371 - Division of Health –*

*Substance Abuse Prevention and Treatment*

Fund 8793 FY 2019 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$	822,766
2	Unclassified .....	09900		115,924
3	Current Expenses .....	13000		<u>10,653,740</u>
4	Total .....		\$	11,592,430

*372 - Division of Health –*

*Community Mental Health Services*

Fund 8794 FY 2019 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$	936,557
2	Unclassified .....	09900		33,533
3	Current Expenses .....	13000		<u>3,083,307</u>
4	Total .....		\$	4,053,397

*373 - Division of Human Services –*

*Energy Assistance*

Fund 8755 FY 2019 Org 0511

1	Personal Services and Employee Benefits.....	00100	\$	1,514,312
2	Unclassified .....	09900		350,000

3	Current Expenses .....	13000	<u>33,181,300</u>
4	Total .....		\$ 35,045,612

*374 - Division of Human Services –*

*Social Services*

Fund 8757 FY 2019 Org 0511

1	Personal Services and Employee Benefits.....	00100	\$ 14,231,684
2	Unclassified .....	09900	171,982
3	Current Expenses .....	13000	<u>2,870,508</u>
4	Total .....		\$ 17,274,174

*375 - Division of Human Services –*

*Temporary Assistance for Needy Families*

Fund 8816 FY 2019 Org 0511

1	Personal Services and Employee Benefits.....	00100	\$ 18,371,875
2	Unclassified .....	09900	1,250,000
3	Current Expenses .....	13000	<u>105,847,136</u>
4	Total .....		\$ 125,469,011

*376 - Division of Human Services –*

*Child Care and Development*

Fund 8817 FY 2019 Org 0511

1	Personal Services and Employee Benefits.....	00100	\$ 4,682,166
2	Unclassified .....	09900	350,000
3	Current Expenses .....	13000	<u>31,999,456</u>
4	Total .....		<u>\$ 37,031,622</u>
5	Total TITLE II, Section 7 – Federal Block Grants .....		<u>\$ 536,019,650</u>

**Sec. 8. Awards for claims against the state.** — There are hereby appropriated for fiscal year 2018, 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 \$226,619 and state road funds in the amount of \$408,830 for payment of claims against the state.

**Sec. 9. Appropriations from general revenue surplus accrued.** — The following item is hereby appropriated from the state fund, general revenue, and is to be available for expenditure during the fiscal year 2019 out of surplus funds only, 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 as of July 31, 2018 from the fiscal year ending June 30, 2018, only after first meeting requirements of W.Va. Code §11B-2-20(b).

In the event that surplus revenues available on July 31, 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 as of the date mandated to meet the appropriation in this section and shall be allocated first to provide the necessary funds to meet the first appropriation of this section and each subsequent appropriation in the order listed in this section.

*377 - Division of Health –*

*Central Office*

(WV Code Chapter 16)

Fund 0407 FY 2019 Org 0506

1	Office of Drug Control Policy - Surplus.....	#####	\$	5,000,000
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*378 - Division of Homeland Security and*

*Emergency Management*

(WV Code Chapter 15)

Fund 0443 FY 2019 Org 0606

1	West Virginia Water Gaging Council - Surplus .....	#####	\$	765,000
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*379 - West Virginia Tourism Office*

(WV Code Chapter 5B)

Fund 0246 FY 2019 Org 0304

1	Tourism – Marketing – Surplus .....	#####	\$	2,500,000
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*380 - West Virginia Development Office*

(WV Code Chapter 5B)

Fund 0256 FY 2019 Org 0307

1	Sales and Marketing Enhancement - Surplus .....	#####	\$	2,500,000
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*381 - Auditor's Office*

*General Administration*

(WV Code Chapter 12)

Fund 0116 FY 2019 Org 1200

1	VFD Workers' Compensation Subsidy – Surplus .....	#####	\$	2,000,000
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*382 - Public Port Authority*

(WV Code Chapter 17)

Fund 0581 FY 2019 Org 0806

1	Port Authority – Surplus .....	44399	\$	1,000,000
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The above appropriation to Port Authority - Surplus (fund 0581, appropriation 44399) shall serve as reimbursement for expenses incurred by the State Road Fund related construction and operation of the Heartland Intermodal Gateway in Wayne County.

Total TITLE II, Section 9 – General Revenue Surplus Accrued.....	\$	<u>13,765,000</u>
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**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.

*383 - Bureau of Senior Services –*

*Lottery Senior Citizens Fund*

(WV Code Chapter 29)

Fund 5405 FY 2019 Org 0508

1	Senior Services Medicaid Transfer – Lottery Surplus .....	68199	\$	6,000,000
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2	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.

*384 - Division of Human Services*

(WV Code Chapters 9, 48 and 49)

Fund 5365 FY 2019 Org 0511

Medical Services – Lottery Surplus .....	68100	\$	8,000,000
Total TITLE II, Section 11 – Surplus Accrued.....		\$	<u>8,000,000</u>

**Sec. 12. Special revenue appropriations.** — There are hereby appropriated for expenditure during the fiscal year 2019 appropriations made by general law from special revenues which are not paid into the state fund as general revenue under the provisions of W.Va. Code §12-2-2: *Provided*, That none of the money so appropriated by this section shall be available for expenditure except in compliance with the provisions of W.Va. Code §12-2 and 3, and W.Va. Code §11B-2, unless the spending unit has filed with the director of the budget and the legislative auditor prior to the beginning of each fiscal year:

- (a) An estimate of the amount and sources of all revenues accruing to such fund; and
- (b) A detailed expenditure schedule showing for what purposes the fund is to be expended.

**Sec. 13. State improvement fund appropriations.** — Bequests or donations of nonpublic funds, received by the Governor on behalf of the state during the fiscal year 2019, for the purpose of making studies and recommendations relative to improvements of the administration and management of spending units in the executive branch of state government, shall be deposited in the state treasury in a separate account therein designated state improvement fund.

There are hereby appropriated all moneys so deposited during the fiscal year 2019 to be expended as authorized by the Governor, for such studies and recommendations which may encompass any problems of organization, procedures, systems, functions, powers or duties of a state spending unit in the executive branch, or the betterment of the economic, social, educational, health and general welfare of the state or its citizens.

**Sec. 14. Specific funds and collection accounts.** — A fund or collection account which by law is dedicated to a specific use is hereby appropriated in sufficient amount to meet all lawful demands upon the fund or collection account and shall be expended according to the provisions of Article 3, Chapter 12 of the Code.

**Sec. 15. Appropriations for refunding erroneous payment.** — Money that has been erroneously paid into the state treasury is hereby appropriated out of the fund into which it was paid, for refund to the proper person.

When the officer authorized by law to collect money for the state finds that a sum has been erroneously paid, he or she shall issue his or her requisition upon the Auditor for the refunding of the proper amount. The Auditor shall issue his or her warrant to the Treasurer and the Treasurer shall pay the warrant out of the fund into which the amount was originally paid.

**Sec. 16. Sinking fund deficiencies.** — There is hereby appropriated to the Governor a sufficient amount to meet any deficiencies that may arise in the mortgage finance bond insurance fund of the West Virginia housing development fund which is under the supervision and control of the municipal bond commission as provided by W.Va. Code §31-18-20b, or in the funds of the municipal bond commission because of the failure of any state agency for either general obligation or revenue bonds or any local taxing district for general obligation bonds to remit funds necessary for the payment of interest and sinking fund requirements. The Governor is authorized to transfer from time to time such amounts to the municipal bond commission as may be necessary for these purposes.

The municipal bond commission shall reimburse the state of West Virginia through the Governor from the first remittance collected from the West Virginia housing development fund or from any state agency or local taxing district for which the Governor advanced funds, with interest at the rate carried by the bonds for security or payment of which the advance was made.

**Sec. 17. Appropriations for local governments.** — There are hereby appropriated for payment to counties, districts and municipal corporations such amounts as will be necessary to pay taxes due counties, districts and municipal corporations and which have been paid into the treasury:

- (a) For redemption of lands;
- (b) By public service corporations;
- (c) For tax forfeitures.

**Sec. 18. Total appropriations.** — Where only a total sum is appropriated to a spending unit, the total sum shall include personal services and employee benefits, annual increment, current expenses, repairs and alterations, buildings, equipment, other assets, land, and capital outlay, where not otherwise specifically provided and except as otherwise provided in TITLE I – GENERAL PROVISIONS, Sec. 3.

**Sec. 19. General school fund.** — The balance of the proceeds of the general school fund remaining after the payment of the appropriations made by this act is appropriated for expenditure in accordance with W.Va. Code §18-9A-16.

### TITLE III – ADMINISTRATION

**Sec. 1. Appropriations conditional.** — The expenditure of the appropriations made by this act, except those appropriations made to the legislative and judicial branches of the state government, are conditioned upon the compliance by the spending unit with the requirements of Article 2, Chapter 11B of the Code.



Where spending units or parts of spending units have been absorbed by or combined with other spending units, it is the intent of this act that appropriations and reappropriations shall be to the succeeding or later spending unit created, unless otherwise indicated.

**Sec. 2. Constitutionality.** — If any part of this act is declared unconstitutional by a court of competent jurisdiction, its decision shall not affect any portion of this act which remains, but the remaining portion shall be in full force and effect as if the portion declared unconstitutional had never been a part of the act.

Senator Ferns moved that the Senate concur in the House of Delegates amendment to the bill.

Following discussion,

The question being on the adoption of Senator Ferns' aforestated motion, the same was put and prevailed.

Engrossed Committee Substitute for Senate Bill 152, as amended by the House of Delegates, was then put upon its passage.

Pending extended discussion,

The question being "Shall Engrossed Committee Substitute for Senate Bill 152 pass?"

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 152) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 152) takes effect from passage.

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

Thereafter, at the request of Senator Beach, and by unanimous consent, the remarks by Senator Stollings regarding the passage of Engrossed Committee Substitute for Senate Bill 152 were ordered printed in the Appendix to the Journal.

At the request of Senator Weld, unanimous consent being granted, the remarks by Senators Azinger and Boso regarding the passage of Engrossed Committee Substitute for Senate Bill 152 were ordered printed in the Appendix to the Journal.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Com. Sub. for Senate Bill 10**, Relating generally to PSC jurisdiction.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

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-c §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 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-c §24-2-11c of this article Code~~ in lieu of a certificate of public convenience and necessity pursuant to the provisions of ~~section eleven-c §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-c §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-c §24-2-11c~~ of this ~~article~~ 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-c §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.

(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-c §24-2-11c~~ of this ~~article~~ 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 and, except for the provisions of ~~section eleven-c §24-2-11c~~ of this ~~article~~ 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 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-c §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 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.

On motion of Senator Ferns, the following amendment to the House of Delegates amendment to the bill (Eng. Com. Sub. for S. B. 10) was reported by the Clerk and adopted:

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 10**—A Bill to amend and reenact §8-19-2 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto two new sections, designated §8-19-2a and §8-19-2b; and to amend and reenact §16-13A-9 of said code; and to amend and reenact §24-2-1, §24-2-2, §24-2-3, and §24-2-4b of said code, all relating generally to the jurisdiction of the Public Service Commission; excluding the setting and adjustment of rates, fees, and charges of municipal power systems from the jurisdiction of the Public Service Commission; providing for a right of appeal by customers; providing public service districts may accept payments for all fees and charges due by credit or check card; providing procedures and guidance for utilization of this method of payment; and clarifying the commission's jurisdiction as modified by chapters 161 and 209, Acts of the Legislature, regular session, 2017, over Internet protocol-enabled service, voice-over Internet protocol-enabled service, storm water services by a public service district, political subdivisions providing separate or combined water and/or sewer services, and certain telephone company transactions.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment, as amended.

Engrossed Committee Substitute for Senate Bill 10, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 10) passed with its Senate amended title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 10) takes effect from passage.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

**Eng. Com. Sub. for Senate Bill 82**, Including rebuttable presumptions in certain cases for firefighters with regard to workers' compensation.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Com. Sub. for Senate Bill 141**, Expanding county assessment and collection of head tax on breeding cows.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page one, section six-e, line ten, after the words "percent of" by inserting the word "the";

And,

On page two, section six-e, lines twenty-three through twenty-seven, by striking out all of subsection (e) and inserting in lieu thereof a new subsection, designated 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.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Committee Substitute for Senate Bill 141, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 141) passed with its title.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Com. Sub. for Senate Bill 230**, Authorizing Department of Commerce promulgate legislative rules.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

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 1, subsection 3.1., striking the words “and payment of the required fee for each weighing or measuring device used in commercial transactions”;

On page 2, subsection 5.1., striking the words “and shall pay the applicable registration fee as prescribed in section 6 of this rule”;

On page 2, striking subsection 5.3. in its entirety, and renumbering the remaining subsections.;

On page 2, striking section 6 in its entirety, and renumbering the remaining section.;

On page 3, striking Appendix A in its entirety.;

And,

On page on page 4, 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.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 230, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 230) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 230) takes effect from passage.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 244**, Specifying conditions for unlawful possession of firearm at school-sponsored activities.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page three, section eleven-a, line forty-eight, after the word “person” by inserting a comma and the words “other than a student of a primary or secondary facility,”;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 244**—A Bill to amend and reenact §61-7-11a of the Code of West Virginia, 1931, as amended, relating to specifying the conditions under which it is unlawful to possess a firearm or other deadly weapon on a school bus, in a public primary or secondary education building, structure, facility or grounds, or at certain school-sponsored functions; revising the conditions under which a retired law-enforcement officer may possess a firearm or other deadly weapon on a school bus, in a public primary or secondary education building, structure, facility or grounds, or at certain school-sponsored functions; clarifying when a person, other than a student of a primary or secondary facility, may possess a firearm or other deadly weapon on a school bus, in a public primary or secondary education building, structure, facility or grounds, or at certain school-sponsored functions if specifically authorized by the board of education or principal of the school where the property is located to conduct programs with valid educational purposes; and revising conditions for which certain persons holding a valid concealed handgun permit can possess a concealed handgun in a motor vehicle in in a parking lot, traffic circle, or other areas of vehicular ingress or egress to a public school.

On motion of Senator Trump, the following amendment to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 244) was reported by the Clerk and adopted:

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 244**—A Bill to amend and reenact §61-7-11a of the Code of West Virginia, 1931, as amended, relating to providing that it is unlawful to possess a firearm or other deadly weapon on a school bus, in or on the grounds of any primary or secondary educational facility of any type, or at certain school-sponsored functions; providing exception for in or on the grounds of any private primary or secondary school if the institution has adopted a written policy allowing for possession of firearms or other deadly weapons in the facility or on the grounds thereof; setting forth the conditions under which a retired law-enforcement officer may possess a firearm or other deadly weapon on a school bus, in or on the grounds of any primary or secondary educational facility of any type, or at certain school-sponsored functions; excluding certain students from the exception that applies to a person 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; and revising conditions for which certain persons holding a valid concealed handgun permit can possess a concealed handgun in a motor vehicle in a parking lot, traffic circle, or other areas of vehicular ingress or egress to a public school.

Senator Ferns moved that the Senate concur in the House of Delegates amendments, as amended.



Following discussion,

The question being on the adoption of Senator Ferns' aforesaid motion, the same was put and prevailed.

Engrossed Committee Substitute for Senate Bill 244, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Palumbo—1.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 244) passed with its Senate amended title.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Com. Sub. for Senate Bill 271**, Creating centralized Shared Services Section of Department of Administration.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

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".

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 271, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 271) passed with its title.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 283**, Relating generally to procurement by state agencies.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were 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";

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";

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 pages fifteen through nineteen, by striking out all of section thirty-seven 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-nine, after section one, by inserting the following:

**§5G-1-4. Contracts for architectural and engineering services; selection process where total project costs are estimated to cost less than \$250,000; division of highways procurements.**

(a) In the procurement of architectural and engineering services for projects estimated to cost less than \$250,000, competition shall be sought by the agency. The agency shall conduct discussions with three or more professional firms solicited on the basis of known or submitted qualifications for the assignment prior to the awarding of any contract: *Provided*, That if a judgment is made that special circumstances exist and that seeking competition is not practical, the agency may, with the prior approval of the director of purchasing, select a firm on the basis of previous satisfactory performance and knowledge of the agency's facilities and needs. After selection, the agency and firm shall develop the scope of services required and negotiate a contract.

(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.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 283**—A Bill to amend and reenact §5-22-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §5A-3-10b, §5A-3-10c, §5A-3-10e, §5A-3-33d, §5A-3-33f, §5A-3-37, and §5A-3-45 of said code; to amend said code by adding thereto a new section, designated §5A-3-61; to amend and reenact §5G-1-3 and §5G-1-4 of said code; to amend and reenact §6D-1-1 of said code; and to amend and reenact §18B-5-4 of said code, all relating generally to procurement by state agencies; defining terms; authorizing competitive bidding of certain open-ended repair and maintenance contracts; modifying use and consideration of alternates in solicitations; prohibiting alternates from being accepted out of order; modifying criteria to be considered in best value procurement awards; eliminating sole source procurement; establishing direct award procurement requirements; establishing prequalification agreements and their requirements and procedures; authorizing agency-delegated bidding and its procedure; increasing certain cost limits from \$50,000 to \$1 million; authorizing awarding contracts without competitive bidding if certain requirements are met; eliminating master contracts and direct ordering process; expanding the scope of those who may be debarred; eliminating preferences for resident vendors, vendors employing state residents, and veteran residents; establishing the concept of "reciprocal preference" for an in-state vendor over an out-of-state vendor from any state that gives or requires a preference to bidders from that state and setting forth its requirements; providing certain preferences for purchases of motor vehicles; modifying the value determination of certain motor vehicles that are to be sold; permitting funds from sale of surplus

property be deposited in alternate fund if original fund no longer exists; permitting spending units to use a standardization process to purchase commodities and setting forth its requirements; permitting an architectural or engineering firm to be selected without bidding if certain conditions exist; increasing the cost of projects under which division of highways is permitted to procure services of architectural and engineering firms under certain provisions; increasing certain contract limits from \$100,000 to \$1 million; modifying provisions requiring disclosure of interested parties; requiring certain reporting; removing preference requirements for higher education; and authorizing rulemaking.

On motion of Senator Ferns, the following amendments to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 283) were reported by the Clerk, considered simultaneously, and adopted:

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 certain contracts.**

On page nineteen, by striking out all of section thirty-seven 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 only 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 or construction and maintenance equipment and machinery used in highway and other infrastructure projects 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.

(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 or the construction and maintenance equipment and machinery used in highway and other infrastructure projects 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 or the construction and maintenance equipment and machinery used in highway and other infrastructure projects 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 or construction and maintenance equipment and machinery used in highway and other infrastructure projects 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 or construction and maintenance equipment and machinery used in highway and other infrastructure projects 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.

(3) 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.

(4) 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.

(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-nine, by striking out all of section four and inserting in lieu thereof a new section, designated section four, to read as follows:

**§5G-1-4. Contracts for architectural and engineering services; selection process where total project costs are estimated to cost less than \$250,000; division of highways procurements.**

(a) In the procurement of architectural and engineering services for projects estimated to cost less than \$250,000, competition shall be sought by the agency. The agency shall conduct discussions with three or more professional firms solicited on the basis of known or submitted qualifications for the assignment prior to the awarding of any contract: *Provided*, That if a judgment is made that special circumstances exist and that seeking competition is not practical, the agency may, with the prior approval of the director of purchasing, select a firm on the basis of previous satisfactory performance and knowledge of the agency's facilities and needs. After selection, the agency and firm shall develop the scope of services required and negotiate a contract.

(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.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 283**—A Bill to amend and reenact §5-22-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §5A-3-10b, §5A-3-10c, §5A-3-10e, §5A-3-33d, §5A-3-33f, §5A-3-37, and §5A-3-45 of said code; to amend said code by adding thereto a new section, designated §5A-3-61; to amend and reenact §5G-1-3 and §5G-1-4 of said code; to amend and reenact §6D-1-1 of said code; and to amend and reenact §18B-5-4 of said code, all relating generally to procurement by state agencies; defining terms; authorizing competitive bidding of certain open-ended repair and maintenance contracts; modifying use and consideration of alternates in solicitations; prohibiting alternates from being accepted out of order; modifying criteria to be considered in best value procurement awards; eliminating sole source procurement; establishing direct award procurement requirements; establishing prequalification agreements and their requirements and procedures; authorizing agency-delegated prequalification bidding and its procedure; increasing certain cost limits from \$50,000 to \$1 million; authorizing awarding contracts without competitive bidding if certain requirements are met; eliminating master contracts and direct ordering process; expanding the scope of those who may be debarred; eliminating preferences for resident vendors, vendors employing state residents, and veteran residents; establishing the concept of "reciprocal preference" for an in-state vendor over an out-of-state vendor from any state that gives or requires a preference to bidders from that state and setting forth its requirements; providing certain preferences for purchases of motor vehicles or construction and maintenance equipment and machinery used in highway and other infrastructure projects; modifying the value determination of certain motor vehicles that are to be sold; permitting funds from sale of surplus property be deposited in alternate fund if original fund no longer exists; permitting spending units to use a standardization process to purchase commodities and setting forth its requirements; permitting an architectural or engineering firm to be selected without bidding if certain conditions exist; increasing the cost of projects under which Division of Highways

is permitted to procure services of architectural and engineering firms under certain provisions; increasing certain contract limits from \$100,000 to \$1 million for purposes of disclosure; modifying provisions requiring disclosure of interested parties; requiring certain reporting; removing preference requirements for higher education; and authorizing rulemaking.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Committee Substitute for Senate Bill 283, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 283) passed with its Senate amended title.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

**Eng. Com. Sub. for Senate Bill 336**, Providing certain DMV applicants ability to contribute to WV Department of Veterans Assistance.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Senate Bill 339**, Relating to WV Retirement Health Benefit Trust Fund within PEIA.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

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)~~ (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.

~~(l)~~ (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.

Senator Ferns moved that the Senate amend the House of Delegates amendment to the bill.

At the request of Senator Ferns, and by unanimous consent, his foregoing motion was withdrawn.

Thereafter, on motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Senate Bill 339, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 339) passed with its title.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Com. Sub. for Senate Bill 375**, Relating to farmers markets.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

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.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 375, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 375) passed with its title.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Com. Sub. for Senate Bill 401**, Requiring specified coverage in health benefit plans for treatment of substance abuse disorders.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

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.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 401, as amended by the House of Delegates, was then put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 401 pass?”

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Boso—1.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 401) passed with its title.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

**Eng. Senate Bill 407**, Licensing and approval of child care programs.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

**Eng. Senate Bill 425**, Removing sunset dates which members of policemen's or firemen's pension fund elect to participate in deferred retirement option plan.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 438**, Relating to debt service on bonds secured by State Excess Lottery Revenue Fund.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

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";

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";

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 438**—A Bill to amend and reenact §29-22-18e of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §31-15-16d, all relating to authorizing additional bonds for state park projects; requiring certain deposits from the state excess lottery revenue fund; providing for allocation of certain funds not needed for debt service to state park improvements; authorizing the Economic Development Authority to issue certain revenue bonds; providing limitations on bond issuance; creating a special revenue account; and providing for allocation of bond proceeds.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 438, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 438) passed with its House of Delegates amended title.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 442**, Establishing universal forms and deadlines when submitting prior authorization electronically.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page one, section twenty-two, line nineteen, by striking out “24” and inserting in lieu thereof “48”;

And,

On page two, section twenty-two, line twenty, by striking out the words “168 hours” and inserting in lieu thereof the words “7 days”.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 442, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Beach—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 442) passed with its title.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 443**, Terminating parental rights when certain conditions are met.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

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.;



And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 443**—A Bill to amend and reenact §49-4-605 of the Code of West Virginia, 1931, as amended, relating to requiring the department to file a petition to terminate parental rights when parents voluntarily fail to have contact or attempt to have contact with the child for a period of 18 consecutive months; and creating exceptions thereto.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 443, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Beach—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 443) passed with its House of Delegates amended title.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 445**, Allowing DOH acquire real or personal property for utility accommodation.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

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: *Provided, however*, for any utility which is not subject to the jurisdiction of the Public Service Commission, the lease shall not contain any exclusivity provisions.

#### **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.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 445**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-2A-17a; and to amend and reenact §17-4-17b of said code, and to add thereto a new section, designated §17-4-17e; all relating to utility relocation; stating legislative findings; defining term; authorizing the Division of Highways to acquire real or personal property for utility accommodation; authorizing the division to lease real property to utilities; allowing the division to pay for utility relocation costs subject to reimbursement agreement; specifying methods of preliminary engineering design work completion and utility relocation construction work payment; providing legislative and emergency rule-making authority; and providing for allocation of costs and the repayments thereof for utility relocation on any state highway construction projects financed by proceeds of bonds or notes which are issued before July 1, 2021.

Senator Ferns moved that the Senate concur in the House of Delegates amendments to the bill.

Following discussion,

The question being on the adoption of Senator Ferns' aforestated motion, the same was put and prevailed.

Engrossed Committee Substitute for Senate Bill 445, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Beach—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 445) passed with its House of Delegates amended title.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 446, Creating Agritourism Responsibility Act.**

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

By striking out everything after the enacting section and inserting in lieu thereof the following:

**ARTICLE 36. AGRITOURISM RESPONSIBILITY ACT.**

**§19-36-1. Legislative purposes; authority.**

Every year, in rapidly increasing numbers, residents and nonresidents of the State of West Virginia are enjoying the recreational value of the state's many agritourism venues. The tourist trade is of vital importance to the State of West Virginia and the services offered by agritourism significantly contribute to the revenue enterprise and economic development of the state. The Legislature recognizes that there are inherent risks in the recreational activities provided by agritourism which should be understood by each participant. It is essentially impossible for agritourism to eliminate these risks. It is the purpose of this article to define those areas of responsibility and affirmative acts for which agritourism is liable for loss, damage, or injury.

The Commissioner of Agriculture is hereby authorized to, and shall devise means of, advancing agritourism in the state, and in the performance of such duty, he or she shall have the authority to call upon any department, division, or officer of the state or county to cooperate with him or her in promoting agritourism in the state.

The Commissioner of Agriculture, in consultation with the Secretary of Commerce, shall promulgate rules in accordance with chapter 29A of this code for the promotion, marketing, and regulation of agritourism.

### **§19-36-2. Definitions.**

Unless the context of usage clearly requires otherwise:

“Agritourism” activity means any lawful activity carried out on a farm or ranch that allows members of the general public for recreational, entertainment or educational purposes to view or enjoy rural activities.

“Agritourism business” means any person, fiduciary, firm, association, partnership, limited liability company, corporation, unit of government, or any other group or entity which is engaged in the business of providing one or more agritourism activities, whether or not for compensation.

“Agritourism professional” means owners, operators, employees, and volunteers working for or under the direction of the operators of an agritourism business.

“Farm” or “Ranch” means an area of land used for the production, cultivation, growing, harvesting or processing of agricultural products.

“Inherent risks of agritourism activity” are those dangers or conditions that are part of an agritourism activity including certain hazards, natural conditions of land and terrain, vegetation, and waters, the behavior of wild or domestic animals, and ordinary dangers of structures or equipment ordinarily used in farming and ranching operations. Inherent risks of agritourism activity also include the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, including failing to follow instructions given by the agritourism professional or failing to exercise reasonable caution while engaging in the agritourism activity.

“Participant” as used in this article means any person, other than the agritourism professional, who engages in an agritourism activity.

### **§19-36-3. Duties of agritourism businesses and participants.**

(a) An agritourism business, or agritourism business employee or volunteer acting under the direction of the agritourism business operator, is not liable for injury or death of a participant, or loss or damage to a participant’s property, as the result of the inherent risks of agritourism activities if such agritourism business has posted the notice in substantially the form as is provided in §19-36-4(b).

(b) The provisions of subsection (a) of this section shall not prevent or in any way limit the liability of an agritourism business that does any of the following:

(1) Commits an act or omission that constitutes gross negligence or willful or wanton disregard for the health and safety of the participant which proximately causes injury, death, loss, or damage to the participant; or

(2) Commits an intentional act or omission which proximately causes injury, death, loss, or damage to the participant.

(c) Any limitation on legal liability afforded by this section to an agritourism business is in addition to any other limitations of legal liability otherwise provided by law.

(d) Participants have a duty to act as a reasonably prudent person when engaging in recreational activities offered by agritourism businesses in this state.

#### **§19-36-4. Liability of agritourism businesses.**

(a) To qualify for the limitation on liability afforded by §19-36-3, an agritourism business shall post and maintain signs that contain the notice specified in §19-36-4(b) of this code. The sign must be placed in a clearly visible location at the entrance to the agritourism location and at the site of the agritourism activity. The notice must be clearly legible, with each letter to be a minimum of one inch in height. Every written contract entered into by an agritourism professional for the providing of professional services, instruction, or the rental of equipment to a participant, whether or not the contract involves agritourism activities on or off the location or at the site of the agritourism activity, must contain in clearly legible print the notice specified in §19-36-4(b) of this code.

(b) The signs and contracts described in subsection (a) of this section must contain the following notice:

#### **NOTICE**

Under West Virginia law, there may be limited liability for an injury to or death of a participant in an agritourism activity conducted at this agritourism business if the injury or death results from the inherent risks of the agritourism activity. Inherent risks of agritourism activities include, among others, risks of injury inherent to landscape, terrain, equipment, and animals, as well as the potential for you to act in a negligent manner that may contribute to your injury or death. You are assuming the risk of participating in this agritourism activity.

(c) Failure to comply with the requirements concerning notices provided in this section will prevent an agritourism business from invoking the privileges of immunity provided by this article.

#### **§19-36-5. Maintenance of property status for certain purposes; exceptions.**

(a) Notwithstanding any provision of this code to the contrary, the occurrence of agritourism does not change the nature or use of property that otherwise qualifies as agricultural for building code and property tax classification purposes.

(b) An agritourism business may use certain of its facilities for occasional events without complying with building codes applicable to structures used for such purposes on a full-time basis as long as such facilities are deemed structurally sound and otherwise safe for the intended use.;

And,



By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 446**—A Bill to amend the Code of West Virginia, 1931, by adding thereto a new article, designated §19-36-1, §19-36-2, §19-36-3, §19-36-4, and §19-36-5, all relating to agritourism generally; creating the Agritourism Responsibility Act; making findings; establishing authority and duties of the Commissioner of Agriculture related to agritourism; authorizing Commissioner of Agriculture, in consultation with the Secretary of Commerce, to promulgate and propose rules; defining terms; establishing duties of agritourism businesses and participants in agritourism activities; immunizing agritourism business, employees, and volunteers associated therewith from certain acts of simple negligence and creating exceptions thereto; requiring notice of certain rights, limitations on liability, and responsibilities of participants in agritourism activities; clarifying that operation of agritourism business does not change status of the facilities and property used for building code and tax purposes; and exempting structures of agritourism business occasionally used for events from building code requirements for entities engaged in such activities on a full-time basis.

On motion of Senator Ferns, the following amendments to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 446) were reported by the Clerk, considered simultaneously, and adopted:

On page one, section one, line fifteen, after the word “agritourism” by inserting the word “business”;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 446**—A Bill to amend the Code of West Virginia, 1931, by adding thereto a new article, designated §19-36-1, §19-36-2, §19-36-3, §19-36-4, and §19-36-5, all relating to agritourism generally; creating the Agritourism Responsibility Act; making findings; establishing authority and duties of the Commissioner of Agriculture related to agritourism business; authorizing Commissioner of Agriculture, in consultation with the Secretary of Commerce, to promulgate and propose rules; defining terms; establishing duties of agritourism businesses and participants in agritourism activities; immunizing agritourism business, employees, and volunteers associated therewith from certain acts of simple negligence and creating exceptions thereto; requiring notice of certain rights, limitations on liability, and responsibilities of participants in agritourism activities; clarifying that operation of agritourism business does not change status of the facilities and property used for building code and tax purposes; and exempting structures of agritourism business occasionally used for events from building code requirements for entities engaged in such activities on a full-time basis.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Committee Substitute for Senate Bill 446, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Beach—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 446) passed with its Senate amended title.

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

A message from the Clerk of the House of Delegates announced the amendment by that body to the title of the bill, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Com. Sub. for Senate Bill 469**, Converting Addiction Treatment Pilot Program to permanent program.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the title of the bill was reported by the Clerk:

**Eng. Com. Sub. for Senate Bill 469**—A Bill to amend and reenact §62-15A-1, §62-15A-2, and §62-15A-3 of the Code of West Virginia, 1931, as amended, all relating to converting the Addiction Treatment Pilot Program into a permanent program; placing the program under the control of the Department of Military Affairs and Public Safety; permitting certain funding to come from a combination of sources; and requiring reports to be submitted annually.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the title of the bill.

Engrossed Committee Substitute for Senate Bill 469, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Beach—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 469) passed with its House of Delegates amended title.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 495**, Designating specific insurance coverages exempt from rate filing requirements.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

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 ~~land and 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.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 495**—A Bill to amend and reenact §33-20-4 of the Code of West Virginia, 1931, as amended, relating to commercial insurance rates applicable to fire, marine, casualty and surety insurance; and designating specific insurance coverages which are exempt from the requirements of filing rates with the insurance commissioner.

On motion of Senator Azinger, the following amendment to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 495) was reported by the Clerk and adopted:

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 495**—A Bill to amend and reenact §33-20-4 of the Code of West Virginia, 1931, as amended, relating to commercial insurance rates; and designating specific insurance coverages which are exempt from the requirements of filing rates with the insurance commissioner.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Committee Substitute for Senate Bill 495, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Beach—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 495) passed with its Senate amended title.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Senate Bill 498**, Creating two-year pilot program allowing all-terrain or recreational vehicles in Cabwaylingo State Forest.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

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, after line twelve, by inserting a new subsection, designated 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.

On motion of Senator Maynard, the following amendment to the House of Delegates amendments to the bill (Eng. S. B. 498) was reported by the Clerk:

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Senate Bill 498**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §20-3-3a, relating to Cabwaylingo State Forest; creating a pilot project permitting all-terrain and off-highway recreational vehicles on designated roads and trails in Cabwaylingo State Forest; permitting the Director of the Division of Natural Resources to designate roads, trails, and campgrounds and to close certain areas, or parts thereof, to public use in consultation with the Director of the Division of Forestry; permitting the Director of the Division of Natural Resources to establish special season and permit in consultation with the Director of the Division of Forestry; making it unlawful to operate an all-terrain or off-highway vehicle on any road or trail in Cabwaylingo State Forest without such special permit, should one be created; applying the ATV, UTV, and Motorcycle Responsibility Act to the project; providing

the Director of the Division of Natural Resources emergency and regular legislative rule making authority; and requiring Legislative Auditor to review project and file report.

Following discussion,

The question being on the adoption of Senator Maynard's amendment to the House of Delegates amendments to the bill, the same was put and prevailed.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Senate Bill 498, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Beach—1.

Absent: Rucker—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 498) passed with its Senate amended title.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, to take effect July 1, 2018, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 501**, Relating to accrued benefit of retirees in Deputy Sheriff Retirement System.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page three, section two, lines sixty-eight through seventy, by striking out all of subparagraph (C) and inserting in lieu thereof a new subparagraph, designated 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 all of paragraph (3) and inserting in lieu thereof a new paragraph, designated 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 all of subdivision (x) and inserting in lieu thereof a new subdivision, designated 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.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 501, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 501) passed with its title.

Senator Ferns moved that the bill take effect July 1, 2018.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 501) takes effect July 1, 2018.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, to take effect July 1, 2018, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 521**, Requiring chief executive of municipal law-enforcement agency be certified law-enforcement officer.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page one, section thirteen, line three, after the word “certified” by inserting a comma and the words “or certifiable as, a”;

On page one, section thirteen, line three, after the word “officer” by inserting the words “as provided in §30-29-5 of this code”;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 521**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-29-13, relating to requiring any newly appointed chief executive of a municipal law-enforcement agency to be either a certified law-enforcement officer, or to be certifiable as such, according to the requirements set forth in other applicable provisions of this code; and, providing that chief executives employed prior to the effective date are exempt from this requirement.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 521, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Karnes and Rucker—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 521) passed with its House of Delegates amended title.

Senator Ferns moved that the bill take effect July 1, 2018.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Mann, Maroney, Maynard, Ojeda,

Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Karnes and Rucker—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 521) takes effect July 1, 2018.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

**Eng. Com. Sub. for Senate Bill 528**, Providing additional circuit judge for nineteenth judicial circuit.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 603**, Relating to proceedings for involuntary custody for examination.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

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 §30-44A-4 §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 civilly 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.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 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.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Committee Substitute for Senate Bill 603, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 603) passed with its House of Delegates amended title.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

**Eng. Senate Bill 612**, Relating to sale of municipal property.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage of

**Eng. Senate Bill 635**, Relating to 2019 salary adjustment for employees of DHHR.



A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Com. Sub. for House Bill 2464**, Relating to disclaimers and exclusions of warranties in consumer transactions for goods.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Com. Sub. for House Bill 4035**, Creating a legislative coalition to study and report to the Legislature on palliative care.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to, and the passage as amended, of

**Eng. Com. Sub. for House Bill 4042**, Redefining school zone to facilitate placement of school zone signs.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, to take effect from passage, with its Senate amended title, of

**Eng. Com. Sub. for House Bill 4079**, Promulgating administrative rules by various executive or administrative agencies of the state.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amended title, passage as amended, of

**Eng. Com. Sub. for House Bill 4336**, Updating the schedule of controlled substances.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Com. Sub. for House Bill 4618**, Relating to the authority of the Division of Protective Services.

### Executive Communications

[CLERK'S NOTE: **Enr. Committee Substitute for Senate Bill 415** and **Enr. Committee Substitute for House Bill 3004** became law without the Governor's signature on March 9, 2018, under the provisions of Subsection 11, Section 51, Article VI of the Constitution of West Virginia.]

On motion of Senator Ferns, at 1:10 p.m., the Senate recessed for 30 minutes.

The Senate reconvened at 2:33 p.m. today and proceeded to the fifth order of business.

Senator Takubo, from the committee of conference on matters of disagreement between the two houses, as to

**Eng. Com. Sub. for Senate Bill 46**, Permitting pharmacists to inform customers of lower-cost alternative drugs.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendment of the House to Engrossed Committee Substitute for Senate Bill 46 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the strike and insert amendment of the House of Delegates, and that the Senate and House agree to an amendment as follows:

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, a pharmacist, and a pharmacy technician 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, a pharmacist, nor a pharmacy technician 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, a pharmacist, or a pharmacy technician 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, a pharmacist, or a pharmacy technician responsible for a fee related to the adjudication of 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.;

And,

That both houses recede from their respective positions as to the title of the bill and agree to a new title to read as follows:

**Eng. Com. Sub. for Senate Bill 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, pharmacist, or pharmacy technician 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, pharmacist, or pharmacy technician for discussing certain information with consumers; prohibiting pharmacy benefit managers from collecting cost shares exceeding the total submitted charges by a pharmacy, pharmacist, or pharmacy technician; setting forth limitations on pharmacy benefit managers when charging certain adjudicated claim fees to a pharmacy, pharmacist, or pharmacy technician; and excluding an employee benefit plan under the Employee Retirement Income Security Act of 1974 or Medicare Part D from this code section.

Respectfully submitted,

Tom Takubo, *Chair*, Sue Cline, Ron Stollings, *Conferees on the part of the Senate*.

Kelli Sobonya, *Chair*, Ray Hollen, Andrew D. Byrd, *Conferees on the part of the House of Delegates*.

On motions of Senator Takubo, severally made, the report of the committee of conference was taken up for immediate consideration and adopted.

Engrossed Committee Substitute for Senate Bill 46, as amended by the conference report, was then put upon its passage.

On the passage of the bill, as amended, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 46) passed with its conference amended title.

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

At the request of Senator Stollings, and by unanimous consent, the Senate returned to the second order of business and the introduction of guests.

The Senate again proceeded to the fifth order of business.

Senator Trump, from the committee of conference on matters of disagreement between the two houses, as to

**Eng. Com. Sub. for Senate Bill 51**, Relating to domestic relations.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendments of the House to Engrossed Committee Substitute for Senate Bill 51, having met,

after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That the Senate agree to the following House of Delegates amendment:

On page six, section two hundred six, line eight, after the words “have a” by inserting the word “meaningful”;

That both houses recede from their respective positions as to the amendment of the House of Delegates on page seven, section two hundred six, after line forty, and that the Senate and House agreement to an amendment as follows:

(b) The Court may consider the allocation of custodial responsibility arising from temporary agreements made by the parties after separation if the Court finds, by a preponderance of the evidence, that such agreements were consensual. The Court shall afford those temporary consensual agreements the weight the Court believes the agreements are entitled to receive, based upon the evidence. The Court may not consider the temporary allocation of custodial responsibility imposed by a court order on the parties.;

By relettering the remaining subsections;

And,

That both houses recede from their respective positions as to the title of the bill and agree to a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 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; 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; and allowing court to consider allocation of custodial responsibility arising from temporary agreements in certain circumstances.

Respectfully submitted,

Charles S. Trump IV, *Chair*, Randy E. Smith, Michael A. Woelfel, *Conferees on the part of the Senate*.

Geoff Foster, *Chair*, Jason Harshbarger, Phil Isner, *Conferees on the part of the House of Delegates*.

Senator Trump, Senate cochair of the committee of conference, was recognized to explain the report.

Thereafter, on motion of Senator Trump, the report was taken up for immediate consideration and adopted.

Engrossed Committee Substitute for Senate Bill 51, as amended by the conference report, was then put upon its passage.

On the passage of the bill, as amended, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 51) passed with its conference amended title.

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

A message from the Clerk of the House of Delegates announced the adoption by that body of the committee of conference report, passage as amended by the conference report with its conference amended title, and requested the concurrence of the Senate in the adoption thereof, as to

**Eng. Com. Sub. for House Bill 2995**, Permitting certain animal euthanasia technicians who have been certified by other states be certified animal euthanasia technicians in West Virginia.

Whereupon, Senator Smith, from the committee of conference on matters of disagreement between the two houses, as to

**Eng. Com. Sub. for House Bill 2995**, Permitting certain animal euthanasia technicians who have been certified by other states be certified animal euthanasia technicians in West Virginia.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendment of the Senate to Engrossed Committee Substitute for House Bill 2995 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the Senate striking out everything after the enacting clause, and agree to the same as follows:

## **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) A person certified by another state or jurisdiction with certification requirements equivalent to, or exceeding, the certification standards of this state 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,

That both houses recede from their respective positions as to the title of the bill and agree to the same as follows:

**Eng. Com. Sub. for House Bill 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 application and fees to be prescribed by the Board of Veterinary Medicine in legislative rule.

Respectfully submitted,

Randy E. Smith, *Chair*, Mark R. Maynard, Stephen Baldwin, *Conferees on the part of the Senate*.

Danny Hamrick, *Chair*, Terri Sypolt, Dana L. Lynch, *Conferees on the part of the House of Delegates*.

On motions of Senator Smith, severally made, the report of the committee of conference was taken up for immediate consideration and adopted.

Engrossed Committee Substitute for House Bill 2995, as amended by the conference report, was then put upon its passage.

On the passage of the bill, as amended, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2995) passed with its conference amended title.

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

A message from the Clerk of the House of Delegates announced the adoption by that body of the committee of conference report, passage as amended by the conference report with its conference amended title, and requested the concurrence of the Senate in the adoption thereof, as to

**Eng. Com. Sub. for House Bill 4186**, Relating generally to guaranteed asset protection waivers.

Whereupon, Senator Woelfel, from the committee of conference on matters of disagreement between the two houses, as to

**Eng. Com. Sub. for House Bill 4186**, Relating generally to guaranteed asset protection waivers.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendments of the Senate to Engrossed Committee Substitute for House Bill 4186 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the Senate, striking out everything after the enacting clause, and agree to the same as follows:

#### **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. Guaranteed asset protection waivers issued after the effective date of this section may not be construed as insurance and persons marketing, administering, selling or offering to sell

guaranteed asset protection waivers are not 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, and issued after the effective date of 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) The procedure a borrower must follow, to obtain guaranteed asset protection waiver benefits under the terms and conditions of the waiver, including a telephone number and address where the borrower may initiate activation of waiver benefits. Once activation of waiver benefits has been initiated, and until such time as the request for a benefit under the GAP waiver is resolved, the GAP waiver shall not be terminated or cancelled, nor shall a request for a benefit under the GAP waiver be denied, by the creditor, administrator or other designated party, solely due to the borrower's failure to make monthly payments owed for the GAP waiver purchase price.

(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.

(i) 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.”

(l) Exemption. – This section does not apply to guaranteed asset protection waivers sold and/or issued by a federally regulated depository institution.

(m) Effective date. — This section shall apply to all guaranteed asset protection waivers which become effective on or after July 1, 2018.;

And,

That both houses recede from their respective positions as to the title of the bill and agree to the same as follows:

**Eng. Com. Sub. for House Bill 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; defining certain terms; specifying requirements for offering guaranteed asset protection waivers; 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; exempting certain requirements in commercial transactions; exempting guaranteed asset protection waivers sold and/or issued by a federally regulated depository institution; and providing an effective date.

Respectfully submitted,

Tom Fast, *Chair*, John Overington, Chad Lovejoy, *Conferees on the part of the House of Delegates*.

Patricia Puertas Rucker, *Chair*, Michael T. Azinger, Michael A. Woelfel, *Conferees on the part of the Senate*.

Senator Woelfel, Senate member of the committee of conference, was recognized to explain the report.

Senator Woelfel then moved that the report be taken up for immediate consideration.

Senator Trump requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as he serves as director of a community bank which, on occasion, sells gap asset protection waivers.

The Chair replied that any impact on Senator Trump would be as a member of a class of persons and that he would be required to vote.

The question now being on the adoption of Senator Woelfel's aforesaid motion, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 4186, as amended by the conference report, was then put upon its passage.

On the passage of the bill, as amended, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Beach and Romano—2.

Absent: Rucker—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4186) passed with its conference amended title.

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

A message from the Clerk of the House of Delegates announced the adoption by that body of the committee of conference report, passage as amended by the conference report with its conference amended title, and requested the concurrence of the Senate in the adoption thereof, as to

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

Whereupon, Senator Trump, from the committee of conference on matters of disagreement between the two houses, as to

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

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendments of the Senate to Engrossed Committee Substitute for House Bill 4013 having met,

after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the Senate, striking out everything after the enacting clause, and agree to the same as follows:

## **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.**

#### **§14-2-2a. 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~~ is to recover land or subject it to a debt, where the land or any part may be;

(4) If it ~~be is~~ 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,



That both houses recede from their respective positions as to the title of the bill and agree to the same as follows:

**Eng. Com. Sub. for House Bill 4013**—A Bill to amend and reenact §6-9A-6 of the Code of West Virginia, 1931, as amended; to amend and reenact §14-2-2a 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 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.

Respectfully submitted,

Roger Hanshaw, *Chair*, Riley Moore (*Did not sign*), Chad Lovejoy, *Conferees on the part of the House of Delegates*.

Charles S. Trump IV, *Chair*, Ryan W. Weld, Stephen Baldwin, *Conferees on the part of the Senate*.

On motions of Senator Trump, severally made, the report of the committee of conference was taken up for immediate consideration and adopted.

Engrossed Committee Substitute for House Bill 4013, as amended by the conference report, was then put upon its passage.

On the passage of the bill, as amended, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4013) passed with its conference amended title.

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

At the request of Senator Drennan, and by unanimous consent, the Senate returned to the second order of business and the introduction of guests.

At the request of Senator Ferns, unanimous consent being granted, the provisions of Rule 54 of the Rules of the Senate, relating to persons entitled to the privileges of the floor, were suspended in order to grant the family of the Honorable Mark A. Drennan, a senator from the fourth district, privileges of the floor for the day.

The Senate again proceeded to the third order of business.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 313**, Waiving occupational fees and licensing requirements for certain low-income individuals, military families, and young workers.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

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 applicants" 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".

On motion of Senator Ferns, the following amendments to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 313) were reported by the Clerk, considered simultaneously, and adopted:

On page one, section twenty-two, line three, by striking out the words "Low income individuals" and inserting in lieu thereof the words "*Low-income individuals*. — This";

On page one, section twenty-two, line eight, by striking out the words "Military families means" and inserting in lieu thereof the words "*Military families*. — This means";

On page one, section twenty-two, line twelve, by striking out the words "Young workers" and inserting in lieu thereof the words "*Young workers*. — This";

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 313**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-1-22, relating to waiver of occupational licensing fees for certain individuals; requiring boards and licensing authorities to waive certain occupational licensing fees for low-income individuals, military families, and young workers; defining terms; requiring individuals seeking waiver of occupational licensing fees to apply on a form provided by the board or licensing authority; and granting rule-making authority.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Committee Substitute for Senate Bill 313, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 313) passed with its title.

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

A message from the Clerk of the House of Delegates announced that that body had refused to recede from its amendment, and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

**Eng. Com. Sub. for Senate Bill 392**, Reconfiguring membership of Emergency Medical Services Advisory Council.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Criss, Martin, and Williams.

On motion of Senator Ferns, the Senate agreed to the appointment of a conference committee on the bill.

Whereupon, Senator Carmichael (Mr. President) appointed the following conferees on the part of the Senate:

Senators Boso, Takubo, and Jeffries.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Senate Bill 406**, Clarifying that ground emergency medical transportation is eligible for Medicare and Medicaid reimbursement.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

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,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Senate Bill 406**—A Bill to amend and reenact §9-5-26 of the Code of West Virginia, 1931, as amended, relating to supplemental Medicare and Medicaid reimbursement; and clarifying that ground emergency medical transportation services providers owned or operated by, or providing services under contract with the state and certain political subdivisions thereof, are eligible for reimbursement from Medicare.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments to the bill.

Engrossed Senate Bill 406, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 406) passed with its House of Delegates amended title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 406) takes effect from passage.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Com. Sub. for Senate Bill 434**, Specifying documents not subject to discovery in certain proceedings.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

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 medical executive committee and/or subcommittee thereof, 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 privileged and shall not be subject to discovery in a civil action or administrative proceeding. Such documents include, without limitation:

(1) Nursing home, as referred to in W. Va. Code §55-7B-6(e), 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 Senator Ferns, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 434, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 434) passed with its title.

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

A message from the Clerk of the House of Delegates announced the amendment by that body to the title of the bill, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Senate Bill 551**, Relating to failure of employers to make contributions on behalf of employees to retirement plan administered by CPRB.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the title of the bill was reported by the Clerk:



**Eng. Senate Bill 551**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-10D-13; and to amend and reenact §61-10-20 of said code, all relating to failure of employers to make contributions on behalf of employees to a retirement plan administered by the Consolidated Public Retirement Board; authorizing the State Auditor, county commission, or sheriff of the county in which the employer is located to withhold moneys due to a public employer that is delinquent in required contributions to a retirement plan after the Consolidated Public Retirement Board has certified the delinquency; authorizing withheld moneys to be applied to the retirement system the delinquent payments would have been made to; providing for interest on delinquencies; requiring the Consolidated Public Retirement Board to provide notice to a participating employer thirty days prior to certifying a delinquency under this section; making it a criminal offense for persons who are responsible for ensuring that an entity complies with the requirements of a retirement plan administered by the Consolidated Public Retirement Board to knowingly and willfully fail to make employee or employer contributions to a retirement plan for a period of sixty days after the payment is due; and providing criminal penalties.

On motion of Senator Ferns, the following amendment to the House of Delegates amendment to the title of the bill (Eng. S. B. 551) was reported by the Clerk and adopted:

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Senate Bill 551**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-10D-13; and to amend and reenact §61-10-20 of said code, all relating to failure of employers to make contributions on behalf of employees to a retirement plan administered by the Consolidated Public Retirement Board; authorizing the State Auditor, county commission, or sheriff of the county in which the employer is located to withhold moneys due to an employer that is delinquent in required contributions to a retirement plan after the Consolidated Public Retirement Board has certified the delinquency; authorizing withheld moneys to be applied to the retirement system the delinquent payments would have been made to; providing for interest on delinquencies; requiring the Consolidated Public Retirement Board to provide notice to a participating employer thirty days prior to certifying a delinquency under this section; making it a criminal offense for persons who are responsible for ensuring that an entity complies with the requirements of a retirement plan administered by the Consolidated Public Retirement Board to knowingly and willfully fail to make employee or employer contributions to a retirement plan for a period of sixty days after the payment is due; and providing criminal penalties.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the title of the bill, as amended.

Engrossed Senate Bill 551, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Jeffries and Romano—2.

Absent: Rucker—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 551) passed with its Senate amended title.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 556**, Creating small business and minority populations economic and workforce development taskforce to assist Economic Development Authority.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page seven, section three, line one hundred fifty-two, after the word “businesses” by inserting the words “with less than seventy-five full-time employees or full-time equivalent employees,”;

On page seven, section three, line one hundred fifty-six, after the word “African-Americans” by inserting a comma and the words “American Indian, Alaskan Native, Hispanic (including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin), Pacific Islander or other economically disadvantaged ethnic group,”;

And,

On page seven, section three, line one hundred fifty-seven, after the word “The” by inserting the words “Small and”.

On motion of Senator Swope, the following amendment to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 556) was reported by the Clerk and adopted:

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 556**—A Bill to amend and reenact §31-15-3 of the Code of West Virginia, 1931, as amended, relating to creation of a new taskforce within the West Virginia Economic Development Authority; making legislative findings; creating a Small Business and Minority Populations Economic and Workforce Development Taskforce to assist the Director of the Economic Development Authority in developing and implementing a procedure to address employment, labor force participation, and economic development problems of small business and low income and minority populations of West Virginia; designating members of taskforce; providing duties of taskforce; providing for reimbursement for reasonable and necessary expenses of expenses actually incurred by taskforce members in the performance of their duties; and developing a model project to be used as a model to promote the growth and development of small business to increase employment and labor force participation across West Virginia.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Committee Substitute for Senate Bill 556, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 556) passed with its Senate amended title.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, adoption as amended, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Com. Sub. for Senate Joint Resolution 3, Judicial Budget Oversight Amendment.**

On motion of Senator Ferns, the resolution was taken up for immediate consideration.

The following House of Delegates amendments to the resolution were reported by the Clerk:

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, however*, 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.";

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Com. Sub. for Senate Joint Resolution 3**—Proposing an amendment to the Constitution of the State of West Virginia, amending section 51, article VI thereof, relating to the state budget and related matters; giving the Legislature the authority to reduce items in the budget relating to the judiciary; providing that the Legislature may not make any law that conditions an increase or decrease of an item relating to the judiciary upon a particular ruling, order, or decision of a court of this state; providing rights and duties of the Chief Justice of the Supreme Court of Appeals relating to appearances before the Legislature and answering inquiries with respect to any budget bill; amending and adding language regarding when the Governor shall submit the budget to the Legislature and matters that may be considered during an extended session to conform the section to more recent amendments to the constitution; making technical corrections to gender related language; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

On motion of Senator Ferns, the following amendments to the House of Delegates amendments to the resolution (Eng. Com. Sub. for Com. Sub. for S. J. R. 3) were reported by the Clerk and considered simultaneously:

On page three, section fifty-one, Subsection B, lines forty-one through fifty-two, by striking out all of subdivision (5) and by inserting in lieu thereof a new subdivision, designated subdivision (5), to read as follows:

(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 judiciary shall be decreased,~~ the Legislature may not decrease the total general revenue appropriations to the judiciary provided by the budget bill by more than fifteen percent of the amount of the total general revenue appropriations to the judiciary in the current fiscal year's budget without a separate vote of the Legislature approved by a two-thirds vote of the members elected to each house, determined by yeas and nays and entered on the journals. ~~and~~ 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 however*, That the Legislature shall not increase the estimate of revenue submitted in the budget without the approval of the Governor.;

On page six, line one hundred nineteen, by striking out everything after the word "follows:", and inserting in lieu thereof the following: Providing that the total general revenue appropriations to the judiciary may be reduced in the budget bill, and setting forth the required procedures to be followed by the Legislature to enact any decrease of more than fifteen percent in the total general revenue appropriations to the judiciary provided in the budget bill from the total general revenue appropriations to the judiciary provided in the preceding budget bill; 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.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Com. Sub. for Senate Joint Resolution 3**—Proposing an amendment to the Constitution of the State of West Virginia, amending section 51, article VI thereof, relating to the state budget and related matters; providing that total general revenue appropriations to the judiciary may be decreased in the budget bill; providing that the Legislature may not reduce the total general revenue appropriation to the judiciary provided by budget bill in an amount greater than fifteen percent of the total general revenue appropriation enacted in the current fiscal year's budget unless such reduction is approved by a 2/3 vote of each house of the Legislature; providing rights and duties of the Chief Justice of the Supreme Court of Appeals relating to appearances before the Legislature and answering inquiries with respect to any budget bill; amending and adding language regarding when the Governor shall submit the budget to the Legislature and matters that may be considered during an extended session to conform the section to more recent amendments to the constitution; making technical corrections to gender related language; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

Following discussion,

The question being on the adoption of Senator Ferns' amendments to the House of Delegates amendments to the resolution, the same was put and prevailed.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Committee Substitute for Committee Substitute for Senate Joint Resolution 3, as amended, was then put upon its adoption.

On the adoption of the resolution, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—29.

The nays were: Beach, Facemire, Jeffries, and Romano—4.

Absent: Rucker—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the resolution (Eng. Com. Sub. for Com. Sub. for S. J. R. 3) adopted with its Senate amended title, as follows:

**Eng. Com. Sub. for Com. Sub. for Senate Joint Resolution 3**—Proposing an amendment to the Constitution of the State of West Virginia, amending section 51, article VI thereof, relating to the state budget and related matters; providing that total general revenue appropriations to the judiciary may be decreased in the budget bill; providing that the Legislature may not decrease the total general revenue appropriations to the judiciary in the budget bill to an amount that is less than 85 percent of the amount of the total general revenue appropriations to the judiciary in the most recently enacted budget without a separate vote of the Legislature approved by a two-thirds vote of the members elected to each house, determined by yeas and nays and entered on the journals; providing rights and duties of the Chief Justice of the Supreme Court of Appeals relating to appearances before the Legislature and answering inquiries with respect to any budget bill; amending and adding language regarding when the Governor shall submit the budget to the Legislature and matters that may be considered during an extended session to conform the section to more recent amendments to the constitution; making technical corrections to gender-related language; 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 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) On the second Wednesday of February in the year 2021 and every fourth year thereafter and on the second Wednesday of January in 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 the Legislature may not decrease the total general revenue appropriations to the judiciary in the budget bill to an amount that is less than 85 percent of the amount of the total general revenue appropriations to the judiciary in the most recently enacted budget without a separate vote of the Legislature approved by a two-thirds vote of the members elected to each house, determined by yeas and nays and entered on the journals. 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: *Provided, however*, 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 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 19 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: "Providing that the total general revenue appropriations to the judiciary may be reduced in the budget bill, and setting forth the required procedures to be followed by the Legislature to enact any decrease in the total general revenue appropriations to the judiciary to an amount that is less than 85 percent of the amount of the total general revenue appropriations to the judiciary in the most recently enacted budget; 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.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments, as amended by the House of Delegates, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment to the Senate amendments, as to

**Eng. Com. Sub. for House Bill 2916**, Authorizing certain first responders to carry firearms.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the Senate amendments to the bill was reported by the Clerk:

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for House Bill 2916**—A Bill to amend of the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-3-6 and to amend and reenact §6-3-1a of said code all relating to authorizing the carrying of firearms; authorizing investigators employed by the Attorney General to carry a concealed handgun while engaged in official duties; requiring such investigators to obtain and maintain a concealed handgun license; establishing training and recertification requirements; authorizing certain reserve deputy sheriffs to carry firearms; requiring written permission of the sheriff to carry a firearm while acting as a reserve deputy sheriff; authorizing the carrying of a firearm by on-duty reserve deputies only for purposes of defense of self or others, establishing qualifications to carry; specifying the training required for such persons to be eligible to carry a firearm; and allowing for reimbursement for the cost of the training.

On motion of Senator Ferns, the Senate concurred in the foregoing House of Delegates amendment to the Senate amendments to the bill.

Engrossed Committee Substitute for House Bill 2916, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2916) passed with its House of Delegates amended title.

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

The Senate again proceeded to the fifth order of business.

Senator Trump, from the committee of conference on matters of disagreement between the two houses, as to

**Eng. Senate Bill 545**, Relating to driving privileges and requirements for persons under 18.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendment of the House to Engrossed Senate Bill 545 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That the Senate agree to the amendment of the House of Delegates to the bill striking out everything after the enacting clause, excepting section three-a, subsection (e);

That the House recede from its amendment on page five, section three-a, subsection (e), and that both houses agree to a new section three-a, subsection (e), to read as follows:

(e) ~~Level three, full Class E license~~ Terms and conditions of level three, full Class E driver's license. — 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.;

And,

That the Senate agree to the House amended title.

Respectfully submitted,

Charles S. Trump IV, *Chair*, Ryan W. Weld (*did not sign*), Michael A. Woelfel, *Conferees on the part of the Senate*.

Mark Zatezalo, *Chair*, Ray Hollen, Phil Isner, *Conferees on the part of the House of Delegates*.

On motions of Senator Trump, severally made, the report of the committee of conference was taken up for immediate consideration and adopted.

Engrossed Senate Bill 545, as amended by the conference report, was then put upon its passage.

On the passage of the bill, as amended, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 545) passed with its House of Delegates amended title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 545) takes effect from passage.

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

### **Filed Conference Committee Reports**

The Clerk announced the following conference committee report had been filed at 3:16 p.m. today:

**Eng. Senate Bill 282**, Exempting State Conservation Committee from Purchasing Division requirements for contracts related to flood recovery.

Without objection, the Senate returned to the third order of business.

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

**Eng. Com. Sub. for House Bill 4001**, Relating to eligibility and fraud requirements for public assistance.

On motion of Senator Ferns, the Senate refused to recede from its amendments to the bill and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses.

Whereupon, Senator Carmichael (Mr. President) appointed the following conferees on the part of the Senate:

Senators Maroney, Weld, and Plymale.

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

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

**Eng. Com. Sub. for House Bill 4447**, Providing for a uniform and efficient system of broadband conduit installation.

On motion of Senator Ferns, the Senate refused to recede from its amendments to the bill and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses.

Whereupon, Senator Carmichael (Mr. President) appointed the following conferees on the part of the Senate:

Senators Boso, Sypolt, and Plymale.

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

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

**Eng. House Bill 4629**, Relating to broadband enhancement and expansion policies generally.

On motion of Senator Ferns, the Senate refused to recede from its amendments to the bill and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses.

Whereupon, Senator Carmichael (Mr. President) appointed the following conferees on the part of the Senate:

Senators Smith, Gaunch, and Jeffries.

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

The Senate proceeded to the fourth order of business.

Senator Maynard, from 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 10th 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 H. B. 2693)**, Relating to state ownership of wildlife.

**(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.

**(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.

**(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.

**(Com. Sub. for H. B. 4180)**, Relating to wildlife resources.

**(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.

**(Com. Sub. for H. B. 4230)**, Relating to credit for reinsurance.

**(Com. Sub. for H. B. 4236)**, Requiring agencies to provide an annual inventory of real property holdings to the Real Estate Division.

**(Com. Sub. for H. B. 4289)**, Relating to disability pensions of municipal employees.

**(Com. Sub. for H. B. 4343)**, Relating to the delivery of financial statements to bank shareholders.

**(Com. Sub. for H. B. 4347)**, Relating to voluntary contributions to the West Virginia State Police Forensic Laboratory Fund.

**(H. B. 4422)**, Permitting permanent endowment funds of cemeteries to invest their principal in certain government bonds, and corporate bonds.

**(Com. Sub. for H. B. 4433)**, Declaring certain claims against an agency of the state to be moral obligations of the state.

And,

**(H. B. 4621)**, Relating to removing reference to certain entities with respect to work.



Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
Roger Hanshaw,  
*Chair, House Committee.*

Senator Blair, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Eng. House Bill 4626**, Relating to West Virginia innovative mine safety technology tax credit act.

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

Respectfully submitted,

Craig Blair,  
*Chair.*

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. H. B. 4626) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

On motion of Senator Ferns, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

The bill was read a second time and ordered to third reading.

Having been engrossed, the bill (Eng. H. B. 4626) was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4626) passed with its title.

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

Senator Boso, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Concurrent Resolution 23**, Betty Jo Delong Memorial Bridge.

**Senate Concurrent Resolution 48**, US Army MSG Monty Ray Skeen, Sr., Memorial Bridge.

**Senate Concurrent Resolution 49**, US Army PFC Robert "Bobby" Tate, Jr., Memorial Bridge.

**House Concurrent Resolution 2**, U. S. Marine Corps PFC James Ralph Heeter Memorial Bridge.

**House Concurrent Resolution 9**, U. S. Air Force Major Neil L. Ferrell Memorial Bridge.

**Com. Sub. for House Concurrent Resolution 13**, U. S. Army SGM Bill E. Jeffrey Memorial Road.

**House Concurrent Resolution 25**, U. S. Army SPC David A. Hess Memorial Bridge.

**Com. Sub. for House Concurrent Resolution 30**, U. S. Army PFC Victor Allen Mazitis, Jr. Memorial Bridge.

**House Concurrent Resolution 35**, USMC LCpl George W. Henry, Jr. Memorial Bridge.

**Com. Sub. for House Concurrent Resolution 45**, U. S. Air Force Reserves 2nd Lieutenant Richard E. Tyson Memorial Bridge.

**House Concurrent Resolution 61**, U. S. Army PFC Cornelious Wiley Memorial Bridge.

**House Concurrent Resolution 65**, U. S. Army CPL George Browning Memorial Road.

**House Concurrent Resolution 68**, U. S. Army SGT Douglas Thompson Memorial Road.

**House Concurrent Resolution 77**, Deputy Sheriff Jesse R. Browning Memorial Road.

**House Concurrent Resolution 78**, U. S. Marine Corps PFC Danny Marshall Memorial Bridge.

And,

**House Concurrent Resolution 88**, U. S. Air Force Capt. Clarence Virgil Slack, Jr. Memorial Bridge.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

At the request of Senator Ferns, unanimous consent being granted, the resolutions (S. C. R. 23, 48, and 49; H. C. R. 2, 9, 25, 35, 61, 65, 68, 77, 78, and 88; and Com. Sub. for H. C. R. 13, 30, and 45) contained in the preceding report from the Committee on Transportation and Infrastructure were taken up for immediate consideration and considered simultaneously.

The question being on the adoption of the resolutions, the same was put and prevailed.

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

Thereafter, at the request of Senator Woelfel, and by unanimous consent, the remarks by Senator Plymale regarding the adoption of Committee Substitute for House Concurrent Resolution 45 were ordered printed in the Appendix to the Journal.

Senator Boso, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Concurrent Resolution 52**, Deputy Sheriff John Janey Memorial Bridge.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 52** (originating in the Committee on Transportation and Infrastructure)—Requesting the Division of Highways name bridge number 40-64-36.24, EB-WB (40A067, 40A069), locally known as Cow Creek Road Bridge, carrying Interstate 64 over Cow Creek Road in Putnam County, the “Deputy Sheriff Jonathan Janey Memorial Bridge”.

Whereas, Jonathan Dwayne Janey was born on March 2, 1957, in South Charleston, West Virginia; and

Whereas, Jonathan Janey was a lifelong resident of Putnam County, West Virginia, and became a deputy in the Putnam County Sheriff’s Office in 1980. He dutifully served the people of his community for nine years; and

Whereas, In August 1989, Deputy Jonathan Janey received information that a house located on Cow Creek Road in Putnam County may be targeted for arson, and he conducted a stakeout of this residence; and

Whereas, During the night of his stakeout, Deputy Jonathan Janey saw a man enter the house carrying two jugs and spreading the contents of the jugs on the floor of the house. The man saw Deputy Jonathan Janey and attempted to flee. Deputy Jonathan Janey apprehended him and managed to put one handcuff on him, but the man spun around and struck Deputy Jonathan Janey on the head with the other portion of the handcuffs. The man grabbed Deputy Jonathan Janey’s firearm and shot him twice in the chest. After Deputy Jonathan Janey fell to the ground,

the man shot him once more, this time in the head. So ended Deputy Jonathan Janey's final shift shortly after 1:15 a.m. on August 17, 1989. The culprit was later convicted and sentenced to life in prison and has never been paroled; and

Whereas, It is fitting that an enduring memorial be established to commemorate Deputy Sheriff Jonathan Janey and his contributions to his county and state; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 40-64-36.24, EB-WB (40A067, 40A069), locally known as Cow Creek Road Bridge, carrying Interstate 64 over Cow Creek Road in Putnam County, the "Deputy Sheriff Jonathan Janey Memorial Bridge"; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to make and be place signs identifying the bridge as the "Deputy Sheriff Jonathan Janey 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.

With the recommendation that the committee substitute be adopted.

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

At the request of Senator Boso, unanimous consent being granted, the resolution (Com. Sub. for S. C. R. 52) contained in the preceding report from the Committee on Transportation and Infrastructure was taken up for immediate consideration.

The question being on the adoption of the resolution, the same was put and prevailed.

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

At the request of Senator Ojeda, and by unanimous consent, Senator Ojeda addressed the Senate regarding the House of Delegates' action as to Senate Concurrent Resolution 1 (*US Army SGT Denver E. Short Memorial Road*).

At the request of Senator Woelfel, unanimous consent being granted, Senator Woelfel addressed the Senate regarding the Legislature's actions on adopting certain concurrent resolutions.

At the request of Senator Beach, and by unanimous consent, Senator Beach addressed the Senate regarding the Senate's action as to Senate Concurrent Resolution 13 (*Jeffrey Alan Clovis Memorial Bridge*).

Senator Boso, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**House Concurrent Resolution 62**, Pocahontas County Veterans Memorial Bridge.

And has amended same.

And,

**House Concurrent Resolution 75**, PVT George Howell, Continental Army Memorial Highway.

And has amended same.

And reports the same back with the recommendation that they each be adopted, as amended.

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

At the request of Senator Boso, unanimous consent being granted, House Concurrent Resolution 62 contained in the preceding report from the Committee on Transportation and Infrastructure was taken up for immediate consideration.

The following amendments to the resolution (H. C. R. 62), from the Committee on Transportation and Infrastructure, were reported by the Clerk and considered simultaneously:

On page two, in the Resolved clause, line four, by striking out the words “be named the Pocahontas County veterans Memorial Bridge” and inserting in lieu thereof the following: the “Pocahontas County Veterans Memorial Bridge”;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**House Concurrent Resolution 62**—Requesting the Division of Highways to name bridge number 38-39-21.66 (38A053), locally known as Marlinton City Bridge, carrying WV 39 over the Greenbrier River in Pocahontas County, the “Pocahontas County Veterans Memorial Bridge”.

The question being on the adoption of the resolution (H. C. R. 62), as amended, the same was put and prevailed.

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

At the request of Senator Boso, unanimous consent being granted, House Concurrent Resolution 75 contained in the preceding report from the Committee on Transportation and Infrastructure was taken up for immediate consideration.

The following amendments to the resolution (H. C. R. 75), from the Committee on Transportation and Infrastructure, were reported by the Clerk and considered simultaneously:

On page two, in the Resolved clause, by striking out the words “PVT George Howell, Continental Army Memorial Highway” and inserting in lieu thereof the words “Continental Army PVT George Howell Memorial Highway”;

On page two, in the first Further Resolved clause, by striking out the words “PVT George Howell, Continental Army Memorial Highway” and inserting in lieu thereof the words “Continental Army PVT George Howell Memorial Highway”;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**House Concurrent Resolution 75**—Requesting the Division of Highways name WV Route 46, from its intersection with County Route 3 to its intersection with County Route 42/3 in Mineral County the “Continental Army PVT George Howell Memorial Highway”.

The question being on the adoption of the resolution (H. C. R. 75), as amended, the same was put and prevailed.

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

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Ferns, at 3:43 p.m., the Senate recessed until 5 p.m. today.

The Senate reconvened at 5:31 p.m. today and again proceeded to the fifth order of business.

#### **Filed Conference Committee Reports**

The Clerk announced the following conference committee report had been filed at 5:32 p.m. today:

**Eng. Com. Sub. for Senate Bill 582**, Allowing candidate for political party executive committee serve as election official.

Without objection, the Senate returned to the third order of business.

A message from the Clerk of the House of Delegates announced that that body 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

**Eng. Com. Sub. for House Bill 4001**, Relating to eligibility and fraud requirements for public assistance.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Shott, Hollen, and Canestraro.

At the request of Senator Maroney, and by unanimous consent, Senator Maroney announced a meeting of the committee of conference as to Engrossed Committee Substitute for House Bill 4001 (*Relating to eligibility and fraud requirements for public assistance*).

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendments to the House of Delegates amendments to the resolution, and requested the Senate to recede therefrom, as to

**Eng. Com. Sub. for Com. Sub. for Senate Joint Resolution 3**, Judicial Budget Oversight Amendment.

On motion of Senator Ferns, the resolution was taken up for immediate consideration.

On motion of Senator Ferns, the Senate refused to recede from its amendments to the resolution and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses.

Whereupon, Senator Carmichael (Mr. President) appointed the following conferees on the part of the Senate:

Senators Trump, Weld, and Woelfel.

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

At the request of Senator Plymale, and by unanimous consent, the Senate returned to the second order of business and the introduction of guests.

The Senate again proceeded to the third order of business.

### **Executive Communications**

Senator Carmichael (Mr. President) laid before the Senate the following communication from His Excellency, the Governor, consisting of executive nominations for appointees:

**Jim Justice**  
**Governor of West Virginia**

March 10, 2018

### **Senate Executive Message No. 5** **Regular Session 2018**

TO: The Honorable Members of the  
West Virginia Senate

Ladies and Gentlemen:

I respectfully submit the following nominations for your advice and consent:

1. For Member, Fire Commission, Edward J. George, Charleston, Kanawha County, for the term ending June 30, 2022.

2. For Member and Chair, West Virginia Health Care Authority, William Tanzey II, Charleston, Kanawha County, for the term ending June 30, 2023.
3. For Member, West Virginia Health Care Authority, Sandy Dunn, Point Pleasant, Mason County, for the term ending June 30, 2023.
4. For Member, Board of Control for Southern Regional Education, The Honorable Thomas W. Campbell, Lewisburg, Greenbrier County, for the term ending June 30, 2021.
5. For Member, Mountwest Community and Technical College Board of Governors, Mark A. Morgan, Barboursville, Cabell County, for the term ending June 30, 2020.
6. For Member, Mountwest Community and Technical College Board of Governors, David A. Earl, Huntington, Wayne County, for the term ending June 30, 2020.
7. For Member, West Virginia Board of Osteopathic Medicine, Michael A. Muscari, Pineville, Wyoming County, for the term ending June 30, 2022.
8. For Member, West Virginia Board of Osteopathic Medicine, Tiffany Kitts Thymius, Daniels, Raleigh County, for the term ending June 30, 2022.
9. For Member, West Virginia Parole Board, Lewis J. Gonzales II, Parkersburg, Wood County, for the term ending June 30, 2023.
10. For Member, Bluefield State College Board of Governors, Vicki K. Mays, Bluefield, Virginia, for the term ending June 30, 2021.
11. For Member, Concord University Board of Governors, Santina St. John, Princeton, Mercer County, for the term ending June 30, 2020.
12. For Member, Fairmont State University Board of Governors, Dixie Yann, Fairmont, Marion County, for the term ending June 30, 2021.
13. For Member, Fairmont State University Board of Governors, John Schirripa, Bridgeport, Harrison County, for the term ending June 30, 2021.
14. For Member, Fairmont State University Board of Governors, William Mark Hart, Denver, Colorado, for the term ending June 30, 2021.
15. For Member, Blue Ridge Community and Technical College Board of Governors, William L. Stubblefield, Martinsburg, Berkeley County, for the term ending June 30, 2021.
16. For Member, Blue Ridge Community and Technical College Board of Governors, James C. Rodgers, Martinsburg, Berkeley County, for the term ending June 30, 2021.
17. For Member, Consolidated Public Retirement Board, Joe L. Lynch, Charleston, Kanawha County, for the term ending June 30, 2022.
18. For Member, Consolidated Public Retirement Board, William A. Barker, Jr., West Columbia, Mason County, for the term ending June 30, 2022.



19. For Member, West Virginia Northern Community and Technical College Board of Governors, John E. Wright IV, Wheeling, Ohio County, for the term ending June 30, 2021.
20. For Member, West Virginia Northern Community and Technical College Board of Governors, Shelly L. Thomas, Wheeling, Ohio County, for the term ending June 30, 2021.
21. For Member, West Virginia Contractor Licensing Board, Steven B. Solomon, Morgantown, Monongalia County, for the term ending June 30, 2020.
22. For Member, West Virginia Contractor Licensing Board, Mike Stone, Morgantown, Monongalia County, for the term ending June 30, 2020.
23. For Member, Marshall University Board of Governors, James Shawn Ball, Daniels, Raleigh County, for the term ending June 30, 2021.
24. For Member, Southern West Virginia Community and Technical College Board of Governors, Mason E. White II, Logan, Logan County, for the term ending June 30, 2021.
25. For Member, Southern West Virginia Community and Technical College Board of Governors, Kevin Zachary, Chapmanville, Logan County, for the term ending June 30, 2021.
26. For Member, Southern West Virginia Community and Technical College Board of Governors, J. Chris Adkins, Danville, Boone County, for the term ending June 30, 2019.
27. For Member, Southern West Virginia Community and Technical College Board of Governors, Pat J. White, Man, Logan County, for the term ending June 30, 2021.
28. For Member, Southern West Virginia Community and Technical College Board of Governors, Eddie J. Canterbury, Logan, Logan County, for the term ending June 30, 2020.
29. For Member, Southern West Virginia Community and Technical College Board of Governors, Samuel A. Stewart, Matheny, Wyoming County, for the term ending June 30, 2020.
30. For Member, Economic Development Authority, Patrick R. Esposito II, Morgantown, Monongalia County, for the term ending June 30, 2020.

Notice of these appointments was previously provided to the appropriate legislative staff at the time the appointments were made.

Sincerely,

Jim Justice  
Governor

cc: Clerk of the Senate  
Assistant Clerk of the Senate  
Senate Confirmations Chair

Which communication was received.

At the request of Senator Ferns, and by unanimous consent, the nominations hereinbefore reported was taken up for immediate consideration.

Thereupon, Senator Carmichael (Mr. President) laid before the Senate the following executive message:

**Senate Executive Message 5**, dated March 10, 2018, (*shown in the Senate Journal of today, immediately hereinbefore reported*).

Senator Ferns then moved that Senate advise and consent to all of the executive nominations referred to in Senate Executive Message 5.

The question being on the adoption of Senator Ferns' aforestated motion.

The roll was then taken; and

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Arvon and Rucker—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared Senator Ferns' aforestated motion had prevailed.

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Consideration of executive nominations having been concluded,

The Senate resumed business under the third order.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 288**, Regulating cremation, embalming and directing of funeral service.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

By striking out everything after the enacting clause and inserting in lieu thereof 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.**

### **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.];

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 288**—A Bill to repeal §30-6-22a, §30-6-23, §30-6-24, §30-6-25, §30-6-26, §30-6-27, §30-6-28, §30-6-29, §30-6-30, and §30-6-31 of the Code of West Virginia, 1931, as amended; and to amend and reenact §30-6-1, §30-6-2, §30-6-3, §30-6-4, §30-6-5, §30-6-6, §30-6-7, §30-6-8, §30-6-9, §30-6-10, §30-6-11, §30-6-12, §30-6-13, §30-6-14, §30-6-15, §30-6-16, §30-6-17, §30-6-18, §30-6-19, §30-6-20, §30-6-21, and §30-6-22 of said code, all relating to regulation of cremation, embalming, and funeral service directing; defining terms; terminating the Board of Funeral Service Examiners; transferring the functions of the board to the Secretary of State; specifying timeline and duties for the transfer of functions and property; providing special provisions and authority to Secretary of State to facilitate transfer; providing rule-making authority for Secretary of State; continuing existing rules previously promulgated by the board; authorizing Secretary of State to request repeal of rules previously promulgated by the board; establishing timeline for promulgation of rules by Secretary of State in 2018; authorizing the promulgation of emergency rules; transferring control of a special revenue account utilized by Board of Funeral Service Examiners to the Secretary of State; providing for the transfer of assets and liabilities to new account; providing for periodic sweep of funds into General Revenue Fund; eliminating outdated and obsolete language; authorizing Secretary of State to grant funeral service license; updating requirements for funeral service license; continuing certificates to operate a crematory; authorizing Secretary of State to grant certificate to operate a crematory; updating requirements for certificate to operate a crematory; updating language related to license and certificate reciprocity and courtesy card holders to give authority to Secretary of State; authorizing Secretary of State to enter into reciprocity agreements; authorizing Secretary of State to issue registration to be an apprentice; updating requirements for licensure of funeral establishments; authorizing Secretary of State to issue funeral establishment license; updating requirements for licensure of crematories; authorizing Secretary of State to issue crematory license; modifying requirements for inspectors and inspections; authorizing Secretary of State to appoint inspectors; updating requirements for renewal of licenses, certificates, courtesy cards, and registrations; eliminating requirement for Board of Funeral Service Examiners to provide continuing education; modifying order of persons authorized to give written permission for cremation; updating language concerning preneed affidavit; requiring Secretary of State to refuse to issue a license, certificate, renewal, or registration if certain requirements are not met; authorizing Secretary of State to take action against licensee, certificate holder, registrant, or applicant under certain circumstances; requiring Secretary of State establish means for public to submit complaints; requiring Secretary of State to investigate all complaints received; setting procedures for investigations; specifying powers and procedures for conducting hearings and rendering disposition of contested cases; granting the authority to suspend or revoke an authorization to practice without a prior hearing under certain circumstances; setting burden of proof; providing right of appeal from determination of Secretary of State; authorizing informal disposition; making violations of article a criminal act; establishing criminal penalties; authorizing Secretary of State or interested person to seek injunctions for violations of article; providing for referral of criminal matters to appropriate authorities; permitting criminal actions to be brought by Attorney General, United States Attorney, or local prosecuting attorney; providing that a single act is evidence of violation; providing for certain inapplicability of article; and correcting references and updating terms throughout.

On motion of Senator Ferns, the following amendment to the House of Delegates amendments to the bill was reported by the Clerk:

**Eng. Com. Sub. for Senate Bill 288**—A Bill to repeal §30-6-22a, §30-6-23, §30-6-24, §30-6-25, §30-6-26, §30-6-27, §30-6-28, §30-6-29, §30-6-30, and §30-6-31 of the Code of West Virginia, 1931, as amended; to amend and reenact §9-5-9 of said code; and to amend and reenact §30-6-1, §30-6-2, §30-6-3, §30-6-4, §30-6-5, §30-6-6, §30-6-7, §30-6-8, §30-6-9, §30-6-10, §30-6-11, §30-6-12, §30-6-13, §30-6-14, §30-6-15, §30-6-16, §30-6-17, §30-6-18, §30-6-19, §30-6-20, §30-6-21, and §30-6-22 of said code, all relating to regulation of cremation, embalming, and funeral service directing; defining terms; terminating the Board of Funeral Service Examiners; transferring the functions of the board to the Secretary of State; specifying timeline and duties for the transfer of functions and property; providing special provisions and authority to Secretary of State to facilitate transfer; providing rule-making authority for Secretary of State; continuing existing rules previously promulgated by the board; authorizing Secretary of State to request repeal of rules previously promulgated by the board; establishing timeline for promulgation of rules by Secretary of State in 2018; authorizing the promulgation of emergency rules; creating special revenue account; eliminating special revenue account utilized by Board of Funeral Service Examiners and transferring funds; providing for periodic sweep of funds into General Revenue Fund; eliminating outdated and obsolete language; authorizing Secretary of State to grant funeral service license; updating requirements for funeral service license; reclassifying certificate to operate crematory as license; authorizing Secretary of State to grant license to operate crematory; updating requirements for license to operate crematory; updating language related to license reciprocity and courtesy card holders to give authority to Secretary of State; authorizing Secretary of State to enter into reciprocity agreements; authorizing Secretary of State to issue registration to be an apprentice; updating requirements for licensure of funeral establishments; authorizing Secretary of State to issue funeral establishment license; updating requirements for licensure of crematories; authorizing Secretary of State to issue crematory license; modifying requirements for inspectors and inspections; authorizing Secretary of State to appoint inspectors; updating requirements for renewal of licenses, courtesy cards, and registrations; eliminating requirement for Board of Funeral Service Examiners to provide continuing education; modifying order of persons authorized to give written permission for cremation; updating language concerning preneed affidavit; requiring Secretary of State to refuse to issue license, renewal, or registration if certain requirements not met; authorizing Secretary of State to take action against licensee, registrant, or applicant under certain circumstances; requiring Secretary of State establish means for public to submit complaints; requiring Secretary of State to investigate all complaints received; setting procedures for investigations; specifying powers and procedures for conducting hearings and rendering disposition of contested cases; granting the authority to suspend or revoke an authorization to practice without a prior hearing under certain circumstances; setting burden of proof; providing right of appeal from determination of Secretary of State; authorizing informal disposition; making violations of article a criminal act; establishing criminal penalties; authorizing Secretary of State or interested person to seek injunctions for violations of article; providing for referral of criminal matters to appropriate authorities; permitting criminal actions to be brought by Attorney General in coordination with the local prosecuting attorney, United States Attorney, or law-enforcement officer; providing that single act is evidence of violation; providing for certain inapplicability of article; modifying code references as it relates to direct cremation or direct burial expenses for indigent persons; and correcting references and updating terms throughout.

Senator Mann requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as he is a funeral director.

The Chair replied that any impact on Senator Mann would be as a member of a class of persons and that he would be required to vote.

The question being on the adoption of Senator Ferns' amendment to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 288).

At the request of Senator Ferns, and by unanimous consent, Senator Ferns' amendment to the House of Delegates amendments to the bill was withdrawn.

Thereafter, at the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for S. B. 288) was referred to the Committee on Rules.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Com. Sub. for Senate Bill 355**, Dissolving IS&C Division under Office of Technology.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page two, section four, line seven, by striking out the word "design," and inserting in lieu thereof the word "design<sub>1</sub>";

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 thirteen, after the word "Finance." 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".



On motion of Senator Ferns, the following amendment to the House of Delegates amendments to the bill (Eng. Com. Sub. for Com. Sub. for S. B. 355) was reported by the Clerk and adopted:

**Eng. Com. Sub. for Com. Sub. for Senate Bill 355**—A Bill to repeal §5A-7-1, §5A-7-2, §5A-7-3, §5A-7-4, §5A-7-4a, §5A-7-5, §5A-7-6, §5A-7-7, §5A-7-8, §5A-7-9, §5A-7-10, and §5A-7-11 of the Code of West Virginia, 1931, as amended; to amend and reenact §5A-6-4 and §5A-6-8 of said code; and to amend said code by adding thereto two new sections, designated §5A-6-4d and §5A-6-4e, all relating to dissolving the Information Services and Communications Division; repealing article related to Information Services and Communications Division; authorizing Chief Technology Officer to provide training and other services; authorizing Chief Technology Officer provide information services; authorizing Chief Technology Officer to assess fees for services provided; requiring Chief Technology Officer provide fixed schedule of fees for providing information services; setting forth procedure to be followed if spending unit contests schedule; requiring the Chief Technology Officer to oversee telecommunications services to state spending units; requiring the Chief Technology Officer to supervise and maintain the central mailing office; directing the deposit of any moneys received for services; continuing special revenue account for administration of telecommunications services; directing Chief Technology Officer to review receipt of charges received from members; setting forth grounds for Chief Technology Officer to challenge charges with vendor and process for doing so; requiring Office of Technology apportion charges among spending units and bill spending units; requiring Office of Technology pay uncontested amounts due for telecommunications services; requiring state spending units pay statements from Office of Technology; authorizing the secretary to direct the transfer of funds into the special revenue account for unpaid telecommunications services; authorizing the secretary to assess a penalty with notice on spending units for unpaid amounts for telecommunications services; authorizing Chief Technology Officer to invoice spending units for amounts paid on behalf of the spending unit; providing a process for state spending units to contest amounts due; authorizing the Secretary of the Department of Administration to make a final decision on contested amounts due; authorizing Chief Technology Officer to discontinue telecommunication services to spending unit that fails to comply with provisions of article; authorizing a proportional fee be assessed against spending units; defining terms; granting rule-making authority; making technical corrections; authorizing a special fund to receive moneys for services provided by the agency; transferring Information Services and Communication Fund to Office of Technology; closing Chief Technology Officer Administration Fund and transferring any remaining balance; authorizing the Chief Technology Officer to grant waivers for certain services required by statute; and exempting constitutional officers from requirement to utilize certain services offered by Office of Technology.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Committee Substitute for Committee Substitute for Senate Bill 355, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Arvon and Rucker—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 355) passed with its Senate amended title.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Senate Bill 468**, Changing date and recipients for submission of Auditor's annual report.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

On page one, section seven, line three, by striking out the word "February 1" and inserting in lieu thereof the word "January 15".

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Senate Bill 468, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Arvon and Rucker—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 468) passed with its title.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 625**, Creating WV Volunteer Fire and Rescue Act of 2018.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

On page four, section two, line two, by striking out the words “in the performance of, or as a” and inserting in lieu thereof the words “as a proximate”;

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, lines twenty-seven and twenty-eight, by striking out the words “who died in the performance of duty” and inserting in lieu thereof the words “killed as a proximate result of the performance of his or her duties”;

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 page seven, section three-d, lines twenty-nine through thirty-two, by striking out all of subdivision (4);

On pages eight and nine, by striking out all of section twenty-five;

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 page nineteen, 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-six through twenty-nine, by striking out all of section thirty-three;

On page thirty, section thirty-b, line eleven, after the word “to” by inserting the words “the Joint Committee on Government and Finance and”;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 625**—A Bill to amend and reenact §5A-3-8 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §5A-3-8a; to amend and reenact §5H-1-2 of said code; to amend and reenact §7-1-3d of said code; to amend and reenact §8-15-3 of said code; to amend and reenact §16-4C-6 and §16-4C-8 of said code; to amend said code by adding thereto two new sections, designated §16-4C-8a and §16-4C-24; to amend said code by adding thereto a new section, designated §17-2A-8d; to amend said code by adding thereto three new sections, designated §29-3-5e, §29-3-5f and §29-3-8; to amend and reenact §29-3-12 of said code; and to amend said code by adding thereto a new section, designated §33-3-33b, all relating to fire and other emergency hazards generally; requiring Director of Purchasing Division make facilities and services of the division available to fire departments and companies and certain emergency medical services agencies; authorizing director to provide for implementation by legislative rules or other agreement; authorizing payment of death benefits to survivors of firefighter, emergency medical services, or law-enforcement provider who dies as a proximate result of the performance of his or her duties; providing for written designation of beneficiary to be made with State Fire Marshal or Commissioner of the Bureau for Public Health; requiring any county fire prevention units to be formed and recognized under the regulations of the State Fire Commission for local fire departments; increasing authorized reimbursement rate amount; providing exception for incidents or accidents involving hazardous materials or extended search and rescue and water rescue incidents; requiring payment of amounts owed as reimbursement within 90 days; authorizing written agreements between fire department or company and responsible party; modifying provisions relating to fire fees imposed on nonresidents of a municipality who are users of that municipality’s fire service; capping the amount of the fees which can be imposed; excluding charges for certain buildings; requiring contract to impose fees for services provided to property outside municipal boundaries; authorizing Commissioner of the Bureau for Public Health to establish one or more statewide contracts for equipment and supplies utilized by emergency medical services agencies; requiring statewide contracts be made available to certain emergency medical services agencies; authorizing development of uniform standards for equipment and supplies used by emergency medical services agencies; giving legislative rule-making authority to Commissioner of the Bureau for Public Health to implement provisions; requiring Commissioner of the Bureau for Public Health to recognize and give full credit for all continuing education credits approved or recognized by state or nationally recognized accrediting body; establishing courtesy certification program for certified emergency medical service personnel in states bordering West Virginia; relieving courtesy certification applicants from requirement to comply with state certification standards; authorizing rulemaking to implement courtesy certification program; providing for biennial renewal

of courtesy certification; authorizing revocation of courtesy certification under certain conditions; establishing special revenue fund known as Emergency Medical Services Equipment and Training Fund; authorizing use of fund for grants to equip emergency medical service providers and train emergency medical services personnel; requiring Commissioner of the Bureau for Public Health establish grant program for equipment and training of emergency medical services providers and personnel; setting eligibility and certain priorities for grant program; granting rule-making authority to implement grant program; authorizing Commissioner of Division of Highways enter into reimbursement agreements with certain fire departments for services provided relating to tree or debris removal from state highways and rights-of-way; setting conditions for and defining scope of reimbursement; retaining authority of commissioner to properly remove and dispose of cleared trees, debris, or other obstacles; granting legislative rule-making authority to implement reimbursement program; setting minimum provisions for legislative rule; authorizing State Fire Marshal establish one or more statewide contracts for equipment and supplies utilized by fire companies and departments; requiring statewide contracts be made available to certain fire companies and departments as well as any other agency or subdivision with a need for those equipment or supplies; authorizing development of uniform standards for equipment and supplies used by fire companies and departments; giving legislative rule-making authority to State Fire Commission to implement provisions; establishing courtesy certification program for certified firefighters in states bordering West Virginia as volunteer firefighters; relieving courtesy certification applicants from requirement to comply with state certification standards for volunteer firefighters; authorizing rulemaking to implement courtesy certification program; providing for biennial renewal of courtesy certification; authorizing revocation of courtesy certification under certain conditions; establishing special revenue fund known as Fire Service Equipment and Training Fund; authorizing use of fund for grants to equip volunteer and part-volunteer fire companies and departments and their members, and train volunteer and part-volunteer firefighters; requiring State Fire Marshal establish grant program for equipment and training of volunteer and part-volunteer fire companies and departments and volunteer firefighters; setting eligibility and certain factors for State Fire Marshal to consider in making grants; granting rule-making authority to implement grant program; requiring State Fire Marshal prepare certain reports and make certain recommendations; requiring study and report from Insurance Commissioner regarding issues related to workers' compensation for volunteer and part-volunteer fire departments; eliminating obsolete language; and making technical corrections.

On motion of Senator Ferns, the following amendments to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 625) were reported by the Clerk and considered simultaneously:

On page five, section two, subsection (e), by striking out "\$50,000" and inserting in lieu thereof "\$100,000";

On page five, section two, subsection (e), by striking out the word "killed" and inserting in lieu thereof the words "who died";

On page seven, section three-d, subsection (c), subdivision (3), by striking out "90" and inserting in lieu thereof "75";

On page seven, section three-d, after subdivision (3), by inserting a new subdivision, designated subdivision (4), to read as follows:

(4) If payment for services rendered has not been received within 90 days from the date of response, and if a payment schedule has not been established, a fire department or company

may proceed in magistrate court or in other appropriate court action to recover from the responsible party all fees associated with the response, including attorney fees and court costs.;

On page nine, article fifteen, section three, subsection (e), by striking out the words "section thirteen of this article" and inserting in lieu thereof the words "§8-13-13 of this code";

On page twenty-six, after the article heading, by inserting the following:

**“§33-3-33. Surcharge on fire and casualty insurance policies to benefit volunteer and part-volunteer fire departments and emergency medical services; Public Employees Insurance Agency and municipal pension plans; special fund created; allocation of proceeds; effective date.**

(a) For the purpose of providing additional revenue for volunteer fire departments, part-volunteer fire departments, and emergency medical services providers for operations, equipment, training, and workers' compensation coverage, and certain retired teachers and the teachers retirement reserve fund, there is hereby authorized and imposed on and after July 1, 1992 2018, on the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to one percent of the taxable premium for each such policy. ~~After June 30, 2005, the surcharge shall be imposed as specified in subdivisions (2) and (3) of this subsection. For purposes of this section, casualty insurance may not include insurance on the life of a debtor pursuant to, or in connection with, a specific loan or other credit transaction or insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy. The policy surcharge may not be subject to premium taxes, agent commissions, or any other assessment against premiums.~~

~~(2) After June 30, 2005, through December 31, 2005, for the purpose of providing additional revenue for volunteer fire departments, part-volunteer fire departments and to provide additional revenue to the Public Employees Insurance Agency and municipal pension plans, there is hereby authorized and imposed on and after July 1, 2005, on the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to one percent of the taxable premium for each such policy.~~

~~(3) After December 31, 2005, for the purpose of providing additional revenue for volunteer fire departments and part-volunteer fire departments, there is hereby authorized and imposed on the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to fifty-five one hundredths of one percent of the taxable premium for each such policy.~~

~~(4) For purposes of this section, casualty insurance may not include insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction or insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy. The policy surcharge may not be subject to premium taxes, agent commissions or any other assessment against premiums.~~

(b) The policy surcharge shall be collected and remitted to the Commissioner by the insurer, or in the case of surplus lines coverage, by the surplus lines licensee, or if the policy is issued by a risk retention group, by the risk retention group. The amount required to be collected under this section shall be remitted to the Commissioner on a quarterly basis on or before the twenty-fifth

day of the month succeeding the end of the quarter in which they are collected, except for the fourth quarter for which the surcharge shall be remitted on or before March 1 of the succeeding year.

(c) Any person failing or refusing to collect and remit to the Commissioner any policy surcharge and whose surcharge payments are not postmarked by the due dates for quarterly filing is liable for a civil penalty of up to \$100 for each day of delinquency, to be assessed by the Commissioner. The Commissioner may suspend the insurer, broker, or risk retention group until all surcharge payments and penalties are remitted in full to the Commissioner.

(d)~~(4)~~ All money from the policy surcharge shall be collected by the Commissioner who shall disburse the money received from the surcharge as follows:

(1) Fifty-five percent of the moneys received shall be deposited into a special account in the State Treasury, designated the Fire Protection Fund. The net proceeds of this portion of the tax and the interest thereon, after appropriation by the Legislature, shall be distributed quarterly on the first day of the months of January, April, July, and October to each volunteer fire company or department on an equal share basis by the State Treasurer. After June 30, 2005, the money received from the surcharge shall be distributed as specified in subdivisions (2) and (3) of this subsection.

~~(2)(A) After June 30, 2005, through December 31, 2005, all money from the policy surcharge shall be collected by the Commissioner who shall disburse one half of the money received from the surcharge into the Fire Protection Fund for distribution as provided in subdivision (1) of this subsection.~~

~~(B) The remaining portion of moneys collected shall be transferred into the fund in the state Treasury of the Public Employees Insurance Agency into which are deposited the proportionate shares made by agencies of this state of the Public Employees Insurance Agency costs of those agencies, until November 1, 2005. After the October 31, 2005, through December 31, 2005, the remain portion shall be transferred to the special account in the state Treasury, known as the Municipal Pensions and Protection Fund.~~

(2) Twenty percent of the moneys received shall be deposited into the Volunteer Fire Department Workers' Compensation Subsidy Program, established pursuant to §12-4-14a of this code.

(3) Fifteen percent of the moneys received shall be deposited into the Fire Service Equipment and Training Fund, established pursuant to §29-3-5f of this code.

(4) Ten percent of the moneys received shall be deposited into the Emergency Medical Services Equipment and Training Fund, established pursuant to §16-4C-24 of this code.

~~(3) After December 31, 2005, all money from the policy surcharge shall be collected by the Commissioner who shall disburse all of the money received from the surcharge into the Fire Protection Fund for distribution as provided in subdivision (1) of this subsection.~~

(5) Before each distribution date to volunteer fire companies or departments, the State Fire Marshal shall report to the State Treasurer the names and addresses of all volunteer and part-volunteer fire companies and departments within the state which meet the eligibility requirements established in §8-15-8a of this code.



(e) The allocation, distribution, and use of revenues provided in the Fire Protection Fund are subject to the provisions of §8-15-8a and §8-15-8b of this code.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 625**—A Bill to amend and reenact §5A-3-8 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §5A-3-8a; to amend and reenact §5H-1-2 of said code; to amend and reenact §7-1-3d of said code; to amend and reenact §8-15-3 of said code; to amend and reenact §16-4C-6 and §16-4C-8 of said code; to amend said code by adding thereto two new sections, designated §16-4C-8a and §16-4C-24; to amend said code by adding thereto a new section, designated §17-2A-8d; to amend said code by adding thereto three new sections, designated §29-3-5e, §29-3-5f and §29-3-8; to amend and reenact §29-3-12 of said code; to amend and reenact §33-3-33 of said code; and to amend said code by adding thereto a new section, designated §33-3-33b, all relating to creating the West Virginia Volunteer Fire and Rescue Act of 2018; requiring Director of Purchasing Division make facilities and services of the division available to fire departments and companies and certain emergency medical services agencies; authorizing director to provide for implementation by legislative rules or other agreement; authorizing payment of death benefits to survivors of firefighter, emergency medical services, or law-enforcement provider who dies as a proximate result of the performance of his or her duties; increasing death benefits to be paid; providing for written designation of beneficiary to be made on forms prescribed by State Fire Marshal or Commissioner of the Bureau for Public Health; requiring any county fire prevention units to be formed and recognized under the regulations of the State Fire Commission for local fire departments; increasing authorized reimbursement rate amount; providing exception for incidents or accidents involving hazardous materials or extended search and rescue and water rescue incidents; requiring payment of amounts owed as reimbursement within 75 days; authorizing written agreements between fire department or company and responsible party; permitting fire company or department to proceed to recover costs if payment or agreement not reached within 90 days; modifying provisions relating to fire fees imposed on nonresidents of a municipality who are users of that municipality's fire service; capping the amount of the fees that can be imposed; excluding charges for certain buildings; requiring contract to impose fees for services provided to property outside municipal boundaries; authorizing Commissioner of the Bureau for Public Health to establish one or more statewide contracts for equipment and supplies utilized by emergency medical services agencies; requiring statewide contracts be made available to certain emergency medical services agencies; authorizing development of uniform standards for equipment and supplies used by emergency medical services agencies; giving legislative rule-making authority to Commissioner of the Bureau for Public Health to implement provisions; requiring Commissioner of the Bureau for Public Health to recognize and give full credit for all continuing education credits approved or recognized by state or nationally recognized accrediting body; establishing courtesy certification program for certified emergency medical service personnel in states bordering West Virginia; relieving courtesy certification applicants from requirement to comply with state certification standards; authorizing rulemaking to implement courtesy certification program; providing for biennial renewal of courtesy certification; authorizing revocation of courtesy certification under certain conditions; establishing special revenue fund known as Emergency Medical Services Equipment and Training Fund; authorizing use of fund for grants to equip emergency medical service providers and train emergency medical services personnel; requiring Commissioner of the Bureau for Public Health establish grant program for equipment and training of emergency medical services providers and personnel; setting eligibility and certain priorities for grant program; granting rule-making authority to implement grant

program; authorizing Commissioner of Division of Highways enter into reimbursement agreements with certain fire departments for services provided relating to tree or debris removal from state highways and rights-of-way; setting conditions for and defining scope of reimbursement; retaining authority of commissioner to properly remove and dispose of cleared trees, debris, or other obstacles; granting legislative rule-making authority to implement reimbursement program; setting minimum provisions for legislative rule; authorizing State Fire Marshal establish one or more statewide contracts for equipment and supplies utilized by fire companies and departments; requiring statewide contracts be made available to certain fire companies and departments as well as any other agency or subdivision with a need for those equipment or supplies; authorizing development of uniform standards for equipment and supplies used by fire companies and departments; giving legislative rule-making authority to State Fire Commission to implement provisions; establishing courtesy certification program for certified firefighters in states bordering West Virginia to serve as volunteer firefighters; relieving courtesy certification applicants from requirement to comply with state certification standards for volunteer firefighters; authorizing rulemaking to implement courtesy certification program; providing for biennial renewal of courtesy certification; authorizing revocation of courtesy certification under certain conditions; establishing special revenue fund known as Fire Service Equipment and Training Fund; authorizing use of fund for grants to equip volunteer and part-volunteer fire companies and departments and their members, and train volunteer and part-volunteer firefighters; requiring State Fire Marshal establish grant program for equipment and training of volunteer and part volunteer fire companies and departments and volunteer firefighters; setting eligibility and certain factors for State Fire Marshal to consider in making grants; granting rule-making authority to implement grant program; requiring State Fire Marshal prepare certain reports and make certain recommendations; increasing surcharge on fire and casualty insurance policies; exempting certain casualty insurance policies from surcharge; prohibiting premium taxes, agent commissions, and other assessments from being charged against surcharge; designating where funds collected from surcharge are to be deposited; requiring study and report from Insurance Commissioner regarding issues related to workers' compensation for volunteer and part-volunteer fire departments; eliminating obsolete language; and making technical corrections.

Senator Boso requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as he serves as a volunteer firefighter.

The Chair replied that any impact on Senator Boso would be as a member of a class of persons and that he would be required to vote.

The question being on the adoption of Senator Ferns' amendments to the House of Delegates amendments to the bill, the same was put and prevailed.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Committee Substitute for Senate Bill 625, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 625) passed with its Senate amended title.

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

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Senate Bill 633**, Expiring funds from Insurance Commission Fund and appropriating funds to Consolidated Medical Services Fund.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

On page two, line two, after the word “by” by inserting the words “increasing an existing item of appropriation and by”.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Senate Bill 633, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President—33.

The nays were: None.

Absent: Rucker—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 633) passed with its title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 633) takes effect from passage.

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

At the request of Senator Trump, and by unanimous consent, Senator Trump announced a meeting of the committee of conference as to Engrossed Committee Substitute for Committee Substitute for Senate Joint Resolution 3 (*Judicial Budget Oversight Amendment*).

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments, as amended by the House of Delegates, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendments to the Senate amendments, as to

**Eng. Com. Sub. for House Bill 4428**, Allowing training hours earned through public school education or apprenticeship to count towards an applicant's occupational certification.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the Senate amendments to the bill were reported by the Clerk:

On page one, by striking out all of article thirty-three and inserting in lieu thereof the following:

#### **ARTICLE 2B. AREA VOCATIONAL PROGRAM.**

##### **§18-2B-9. Governor's Workforce Credential.**

(a) The Governor's Workforce Credential is a joint initiative between the Governor, the State Board and the State Superintendent aimed at preparing students to enter the workforce with industry ready skills and abilities that meet business and industry expectations. This credential creates a way for employers to identify potential employees who are prepared to enter the workforce and understand the industry accepted expectations of such employees. The credential honors those students who are able to meet or exceed rigorous requirements within their Career and Technical Education programs.

(b) The State Superintendent shall annually award the Governor's Workforce Credential to students in their senior year who meet the requirements to receive the credential as set forth in State Board policy.;

On page one, section fifteen-g, after the words "public school" by changing the period to a colon and inserting the following proviso: *Provided, however*, That no such student may displace a public school student.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for House Bill 4428**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-15g; to amend said code by adding thereto a new section, designated §18-2B-9; to amend said code by adding thereto a new article, designated §21-1E-1, §21-1E-2, §21-1E-3, §21-1E-4, and §21-1E-5; and to amend said code by

adding thereto a new article designated §30-1E-1, §30-1E-2, §30-1E-3, and §30-1E-4, all relating to addressing workforce needs; requiring county boards of education to permit students who are homeschooled or attend private schools to enroll and take classes at the county's vocational schools under certain conditions; defining and setting forth purpose of Governor's Workforce Credential and providing for State Superintendent to award Credential to students in senior year who meet requirements set forth in State Board policy; requiring standards and procedures for applying career technical training acquired in public schools, apprenticeships and training programs toward occupational testing, certification and/or licensure; establishing purpose; providing definitions; requiring rules providing standards and procedures be proposed by Commissioner of Labor and by licensing boards and commissions; requiring certain career and education related information be provided to high school students; and requiring Commissioner of Labor rule to include guidelines for collection and dissemination of information in manner easily accessible to both students and their parents.

On motion of Senator Ferns, the Senate refused to concur in the foregoing House amendments to the Senate amendments to the bill (Eng. Com. Sub. for H. B. 4428) and requested the House of Delegates to recede therefrom.

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

The Senate again proceeded to the fifth order of business.

Senator Boso, from the committee of conference on matters of disagreement between the two houses, as to

**Eng. Senate Bill 282**, Exempting the West Virginia State Conservation Committee from Purchasing Division Requirements.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendments of the House to Engrossed Senate Bill 282, having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses agree to recede from their respective positions as to the amendment of the House of Delegates on page two, section three, line thirty-three, and that both houses further agree to an amendment on page two, section three, line thirty-three, after the word "Services:", to read as follows: *And provided further*, That the provisions of this subdivision shall not apply to contracts for any natural disaster recovery activities entered into by the West Virginia State Conservation Committee or the West Virginia Conservation Agency.;

And,

That both houses recede from their respective positions as to the title of the bill and agree to the same as follows:

**Eng. Senate Bill 282**—A Bill to amend and reenact §5A-3-3 of the Code of West Virginia, 1931, as amended, relating to exempting the State Conservation Committee and the Conservation Agency from the Purchasing Division requirements for contracts related to natural disaster recovery activities and joint funding agreements with the United States Geological Survey.

Respectfully submitted,

Gregory L. Boso, *Chair*, Mark R. Maynard, Corey Palumbo, *Conferees on the part of the Senate*.

Roger Hanshaw, *Chair*, George Ambler, Andrew D. Byrd, *Conferees on the part of the House of Delegates*.

On motions of Senator Boso, severally made, the report of the committee of conference was taken up for immediate consideration and adopted.

Engrossed Senate Bill 282, as amended by the conference report, was then put upon its passage.

On the passage of the bill, as amended, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. S. B. 282) passed with its conference amended title.

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

Without objection, the Senate returned to the third order of business.

A message from the Clerk of the House of Delegates announced that that body 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

**Eng. House Bill 4629**, Relating to broadband enhancement and expansion policies generally.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Hanshaw, Zatezalo, and Isner.

A message from the Clerk of the House of Delegates announced that that body 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

**Eng. Com. Sub. for House Bill 4447**, Providing for a uniform and efficient system of broadband conduit installation.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Shott, Hanshaw, and Byrd.

A message from the Clerk of the House of Delegates announced that that body 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

**Eng. Com. Sub. for Com. Sub. for Senate Joint Resolution 3**, Judicial Budget Oversight Amendment.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Shott, Hanshaw, and Byrd.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 64**, Designating Sunday, May 6, 2018, as World Moyamoya Awareness Day.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Health and Human Resources.

**Senate Concurrent Resolution 65**, US Army SP4 Wilbur Allen Smith Memorial Bridge.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Transportation and Infrastructure.

**Senate Concurrent Resolution 66**, Robert "Glen" Schoonover Memorial Bridge.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Transportation and Infrastructure.

**Senate Concurrent Resolution 67**, Requesting study on improving WV students' scores on educational tests.

On unfinished business, coming up in regular order, was reported by the Clerk and referred to the Committee on Education.

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for House Bill 4345**, Relating to limitations on permits for growers, processors and dispensaries of medical cannabis.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on Thursday, March 8, 2018, for amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the bill was withdrawn.

On motion of Senator Trump, the following amendment to the bill was reported by the Clerk and adopted:

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**CHAPTER 12. PUBLIC MONEYS AND SECURITIES.****ARTICLE 1. STATE DEPOSITORIES.****§12-1-2. Depositories for demand deposits; categories of demand deposits; competitive bidding for disbursement accounts; maintenance of deposits by State Treasurer; definition of spending unit.**

(a) The State Treasurer shall designate the state and national banks and the state and federal savings and loan associations in this state meeting the requirements of this chapter as depositories for all state funds placed in demand deposits: Provided, That the State Treasurer may designate a credit union only for the banking functions necessary for the West Virginia Medical Cannabis Act, pursuant to §16A-1-1 et seq. of this code.

(b) (1) Demand deposit accounts shall consist of receipt and disbursement accounts. Receipt accounts are accounts in which are deposited moneys belonging to or due the State of West Virginia or any official, department, board, commission, or agency of the state.

(2) Disbursement accounts are accounts from which are paid moneys due from the State of West Virginia or any official, department, board, commission, political subdivision, or agency of the state to any political subdivision, person, firm, or corporation, except moneys paid from investment accounts.

(3) Investment accounts are accounts established by the West Virginia Investment Management Board, the West Virginia Board of Treasury Investments, or the State Treasurer for the buying and selling of securities for investment purposes.

(c) The State Treasurer shall propose rules for legislative approval, in accordance with the provisions of §29A-3-1 et seq. of this code, concerning depositories for receipt accounts prescribing the selection criteria, procedures, compensation, and any other contractual terms it considers to be in the best interests of the state giving due consideration to: (1) The activity of the various accounts maintained in the depositories; (2) the reasonable value of the banking services rendered or to be rendered the state by the depositories; and (3) the value and importance of the deposits to the economy of the communities and the various areas of the state affected by the deposits.

(d) The State Treasurer shall select depositories for disbursement accounts through competitive bidding by eligible banks in this state. If none of the eligible banks in this state are able to provide the needed services, then the State Treasurer may include eligible banks outside this state in the competitive bidding process. The State Treasurer shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code, prescribing the procedures and criteria for the bidding and selection. The State Treasurer shall, in the invitations for bids, specify the approximate amounts of deposits, the duration of contracts to be awarded and any other contractual terms the State Treasurer considers to be in the best interests of the state, consistent with obtaining the most efficient service at the lowest cost.

The amount of money needed for current operation purposes of the state government, as determined by the State Treasurer, shall be maintained at all times in the State Treasury, in cash, in short term investments not to exceed five days or in disbursement accounts with financial institutions designated as depositories in accordance with the provisions of this section. No state officer or employee shall make or cause to be made any deposits of state funds in financial institutions which have not been designated as depositories.



(e) Except as otherwise provided in this code, only banks and state and federal savings and loan associations designated by the State Treasurer as depositories may accept deposits of state funds. Only the Legislature and the State Treasurer may determine whether funds are state funds and only the State Treasurer may approve the opening of an account or processing of a transaction with a financial institution: Provided, That the State Treasurer may designate a credit union to receive state funds only as they relate to the West Virginia Medical Cannabis Act, pursuant to §16A-1-1 et seq. of this code.

(f) Boards, commissions and spending units with authority pursuant to this code to deposit moneys in a financial institution without approval of the State Treasurer shall retain that authority and are not required to have the State Treasurer designate a financial institution as a depository: *Provided, That* boards, commissions and spending units with moneys deposited in financial institutions not approved for that purpose by the State Treasurer shall submit a report on those moneys annually to the Legislative Auditor and the State Treasurer.

(g) The provisions of this section shall not apply to the proceeds from the sale of general obligation bonds or bonds issued by the School Building Authority, the Parkways, Economic Development and Tourism Authority, the Housing Development Fund, the Economic Development Authority, the Infrastructure and Jobs Development Council, the Water Development Authority, or the Hospital Finance Authority.

(h) As used in this chapter, “spending unit” means a department, agency, board, commission, or institution of state government for which an appropriation is requested, or to which an appropriation is made by the Legislature.

### **§12-1-3. Depositories for interest earning deposits; qualifications.**

Any state or national bank or any state or federal savings and loan association, or a credit union designated by the State Treasurer to receive state funds only as they relate to the West Virginia Medical Cannabis Act, pursuant to §16A-1-1 et seq. of this code, in this state shall, upon request made to the State Treasurer, be designated as an eligible depository for interest earning deposits of state funds if such bank or state or federal savings and loan association meets the requirements set forth in this chapter. For purposes of this article, the term “interest earning deposits” includes certificates of deposit or other financial institution products. The State Treasurer shall make and apportion such interest earning deposits and shall prescribe the interest rates, terms and conditions of deposits, all in accordance with the provisions of §12-6-1 et seq. and §12-6A-1 et seq. of this code: *Provided, That* state or federal savings and loan associations insured by an agency of the federal government shall be eligible for such deposits not in excess of the amount insured by any agency of the federal government.

## **CHAPTER 16A. MEDICAL CANNABIS ACT.**

### **ARTICLE 2. DEFINITIONS.**

#### **§16A-2-1. Definitions.**

(a) The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

(1) “Act” means the West Virginia Medical Cannabis Act and the provisions contained in §60A-1-101 et seq. of this code.

(2) "Advisory board" means the advisory board established under §16A-11-1 *et seq.* of this code.

(3) "Bureau" mean the Bureau for Public Health within the West Virginia Department of Health and Human Resources.

(4) "Caregiver" means the individual designated by a patient, or, if the patient is under 18 years of age, an individual under §16A-5-1 *et seq.* of this code, to deliver medical cannabis.

(5) "Certified medical use" means the acquisition, possession, use, or transportation of medical cannabis by a patient, or the acquisition, possession, delivery, transportation, or administration of medical cannabis by a caregiver, for use as part of the treatment of the patient's serious medical condition, as authorized in a certification under this act, including enabling the patient to tolerate treatment for the serious medical condition.

(6) "Change in control" means the acquisition, by a person or group of persons acting in concert, of a controlling interest in an applicant or permittee either all at one time or over the span of a 12-consecutive-month period.

(7) "Commissioner" means the Commissioner of the Bureau for Public Health.

(8) "Continuing care" means treating a patient for ~~at least six months~~ in the course of which the practitioner has completed a full assessment of the patient's medical history and current medical condition, including an in-person consultation with the patient, and is able to document and make a medical diagnosis based upon the substantive treatment of the patient.

(9) "Controlling interest" means:

(A) For a publicly traded entity, voting rights that entitle a person to elect or appoint one or more of the members of the board of directors or other governing board or the ownership or beneficial holding of five percent or more of the securities of the publicly traded entity.

(B) For a privately held entity, the ownership of any security in the entity.

(10) "Dispensary" means a person, including a natural person, corporation, partnership, association, trust, or other entity, or any combination thereof, which holds a permit issued by the bureau to dispense medical cannabis. The term does not include a health care medical cannabis organization under §16A-13-1 *et seq.* of this code.

(11) "Family or household member" means the same as defined in §48-27-204 of this code.

(12) "Financial backer" means an investor, mortgagee, bondholder, note holder, or other source of equity, capital, or other assets, other than a financial institution.

(13) "Financial institution" means a bank, a national banking association, a bank and trust company, a trust company, a savings and loan association, a building and loan association, a mutual savings bank, a credit union, or a savings bank.

(14) "Form of medical cannabis" means the characteristics of the medical cannabis recommended or limited for a particular patient, including the method of consumption and any particular dosage, strain, variety and quantity or percentage of medical cannabis or particular active ingredient.

(15) "Fund" means the Medical Cannabis Program Fund established in section §16A-9-2 of this code.

(16) "Grower" means a person, including a natural person, corporation, partnership, association, trust, or other entity, or any combination thereof, which holds a permit from the bureau under this act to grow medical cannabis. The term does not include a health care medical cannabis organization under §16A-13-1 *et seq.* of this code.

(17) "Grower/processor" means either a grower or a processor.

(18) "Identification card" means a document issued under §16A-5-1 *et seq.* of this code that authorizes access to medical cannabis under this act.

(19) "Individual dose" means a single measure of medical cannabis.

(20) "Medical cannabis" means cannabis for certified medical use as set forth in this act.

(21) "Medical cannabis organization" means a dispensary, grower, or processor. The term does not include a health care medical cannabis organization under §16A-13-1 *et seq.* of this code.

(22) "Patient" means an individual who:

(A) Has a serious medical condition;

(B) Has met the requirements for certification under this act; and

(C) Is a resident of this state.

(23) "Permit" means an authorization issued by the bureau to a medical cannabis organization to conduct activities under this act.

(24) "Physician" or "practitioner" means a doctor of allopathic or osteopathic medicine who is fully licensed pursuant to the provisions of either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code to practice medicine and surgery in this state.

(25) "Post-traumatic stress disorder" means a diagnosis made as part of continuing care of a patient by a medical doctor, licensed counselor, or psychologist.

~~(26) "Practitioner" means a physician who is registered with the bureau under article four of this chapter.~~

~~(27)~~ (26) "Prescription drug monitoring program" means the West Virginia Controlled Substances Monitoring Program under §60A-9-1 *et seq.* of this code.

~~(28)~~ (27) "Principal" means an officer, director, or person who directly owns a beneficial interest in or ownership of the securities of an applicant or permittee, a person who has a controlling interest in an applicant or permittee or who has the ability to elect the majority of the board of directors of an applicant or permittee or otherwise control an applicant or permittee, other than a financial institution.

~~(29)~~ (28) "Processor" means a person, including a natural person, corporation, partnership, association, trust, or other entity, or any combination thereof, which holds a permit from the bureau

under this act to process medical cannabis. The term does not include a health care medical cannabis organization under §16A-13-1 *et seq.* of this code.

~~(30) “Registry” means the registry established by the bureau for practitioners~~

~~(31)~~ (29) “Serious medical condition” means any of the following, as has been diagnosed as part of a patient’s continuing care:

(A) Cancer;

(B) Positive status for human immunodeficiency virus or acquired immune deficiency syndrome;

(C) Amyotrophic lateral sclerosis;

(D) Parkinson’s disease;

(E) Multiple sclerosis;

(F) Damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity;

(G) Epilepsy;

(H) Neuropathies;

(I) Huntington’s disease;

(J) Crohn’s disease;

(K) Post-traumatic stress disorder;

(L) Intractable seizures;

(M) Sickle cell anemia;

(N) Severe chronic or intractable pain; ~~of neuropathic origin or severe chronic or intractable pain in which conventional therapeutic intervention and opiate therapy is contraindicated or has proved ineffective as determined as part of continuing care~~ or

(O) Terminally ill.

~~(32)~~ (30) “Terminally ill” means a medical prognosis of life expectancy of approximately one year or less if the illness runs its normal course.

### **ARTICLE 3. MEDICAL CANNABIS PROGRAM.**

#### **§16A-3-1. Establishment of program.**

(a) A medical cannabis program for patients suffering from serious medical conditions is established. The program shall be implemented and administered by the bureau. The bureau shall:

(1) Issue permits to medical cannabis organizations to authorize them to grow, process, or dispense medical cannabis and ensure their compliance with this act.

~~(2) Register practitioners and ensure their compliance with this act~~

~~(3)~~ (2) Have regulatory and enforcement authority over the growing, processing, sale, and use of medical cannabis in this state.

~~(4)~~ (3) Establish and maintain an electronic database to include activities and information relating to medical cannabis organizations, certifications, and identification cards issued, ~~practitioner registration~~ and electronic tracking of all medical cannabis as required under this act to include:

(A) ~~Insurance~~ Provisions to ensure that medical cannabis is not diverted or otherwise used for unlawful purposes by a practitioner or medical cannabis organization.

(B) Ability to establish the authenticity of identification cards.

(C) Recording recommended forms of medical cannabis, if any, provided in a certification filed by the practitioner.

(D) Monitoring all growth, transfer, possession, processing, testing, and dispensing of medical cannabis in this state.

(E) The tracking system under §16A-7-1 *et seq.* of this code must include information under §16A-8-1 *et seq.* of this code and any other information required by the bureau to be used by the bureau and dispensaries to enable a dispensary to lawfully provide medical cannabis. The tracking system and database shall be capable of providing information in real time. The database shall be capable of receiving information from a dispensary regarding the disbursement of medical cannabis to patients and caregivers. This information shall be immediately accessible to the bureau and other dispensaries to inhibit diversion and ensure compliance with this act.

~~(5)~~ (4) Maintain a directory of patients and caregivers approved to use or assist in the administration of medical cannabis within the bureau's database.

~~(6)~~ (5) Develop a four-hour training course for physicians regarding the latest scientific research on medical cannabis, including the risks and benefits of medical cannabis and other information deemed necessary by the bureau. ~~Successful completion of the course shall be approved as continuing education credits as determined by:~~

~~(A) The State Board of Medicine.~~

~~(B) The State Board of Osteopathic Medicine~~

~~(7)~~ (6) Develop a ~~two-hour~~ an eight-hour course for the principals and employees of a medical cannabis organization who either have direct contact with patients or caregivers or who physically handle medical cannabis. Employees must successfully complete the course no later than 90 days after commencing employment. Principals must successfully complete the course prior to commencing initial operation of the medical cannabis organization. The subject matter of the course shall include the following:

(A) Methods to recognize and report unauthorized activity, including diversion of medical cannabis for unlawful purposes and falsification of identification cards.

(B) Proper handling of medical cannabis and recordkeeping.

(C) The latest scientific research on medical cannabis, including the risk and benefits of medical cannabis.

~~(C)~~ (D) Any other subject required by the bureau.

~~(8)~~ (7) Develop enforcement procedures, including announced and unannounced inspections of facilities of the grower/processors and dispensaries, and all records of the medical cannabis organizations.

~~(9)~~ (8) Establish a program to authorize the use of medical cannabis to conduct medical research relating to the use of medical cannabis to treat serious medical conditions, including the collection of data and the provision of research grants.

~~(10)~~ (9) Establish and maintain public outreach programs about the medical cannabis program, including:

(A) A dedicated telephone number for patients, caregivers and members of the public to obtain basic information about the dispensing of medical cannabis under this act.

(B) A publicly accessible Internet website with similar information.

~~(11)~~ (10) Collaborate as necessary with other state agencies or contract with third parties as necessary to carry out the provisions of this act.

~~(12)~~ (11) Determine the number and type of medical cannabis products to be produced by a grower/processor and dispensed by a dispensary.

~~(13)~~ (12) Develop recordkeeping requirements for all books, papers, any electronic database or tracking system data and other information of a medical cannabis organization. Information shall be retained for a minimum period of four years unless otherwise provided by the bureau.

~~(14)~~ (13) Restrict the advertising and marketing of medical cannabis, which shall be consistent with the federal rules and regulations governing prescription drug advertising and marketing.

(14) Upon a recommendation of the advisory board, the bureau may authorize growers to subcontract with third-parties located within the state to grow medical cannabis; *Provided, That a grower may subcontract with no more than two persons or entities.*

(b) The bureau shall propose ~~rules for legislative promulgation~~ rules pursuant to the provisions of §29A-3-1 *et seq.* of this code as may be necessary to carry out and implement the provisions of this act. The bureau shall also have the power to propose and promulgate emergency rules under said article as may be necessary to carry out and implement the provisions of this act.

(c) The bureau may study and examine whether allowing medical cannabis in dry leaf or plant form to be dispensed and used by patients would further alleviate the symptoms of serious

medical conditions, and the results of any such study or examination shall be reported to the Joint Committee on Government and Finance.

### **§16A-3-3. Unlawful use of medical cannabis.**

(a) Except as provided in §16A-3-2, §16A-7-4, §16A-13-1 *et seq.* or §16A-14-1 *et seq.* of this code:

(1) The use of medical cannabis is unlawful and shall, in addition to any other penalty provided by law, be deemed a violation of the Uniform Controlled Substances Act under chapter 60A of this code; and

~~(b)~~ (2) It shall be unlawful to:

~~(4)~~ (A) Smoke medical cannabis.

~~(2)~~ (B) Except as provided under subsection ~~(c)~~ (b) of this section, incorporate medical cannabis into edible form or sell in edible form.

~~(3)~~ (C) Grow medical cannabis unless the grower/processor has received a permit from the bureau under this act.

~~(4)~~ (D) Grow or dispense medical cannabis unless authorized as a health care medical cannabis organization under §16A-13-1 *et seq.* of this code.

~~(5)~~ (E) Dispense medical cannabis unless the dispensary has received a permit from the bureau under this act.

~~(c)~~ (b) *Edible medical cannabis.* — Nothing in this act shall be construed to preclude the incorporation of medical cannabis into edible form by a patient or a caregiver in order to aid ingestion of the medical cannabis by the patient.

### **§16A-3-4. Confidentiality.**

(a) *Patient information.* — The bureau shall maintain a confidential list of patients and caregivers to whom it has issued identification cards. All information obtained by the bureau relating to patients, caregivers, and other applicants shall be confidential and not subject to public disclosure under §29B-1-1 *et seq.* of this code, including specifically the following:

(1) Individual identifying information about patients and caregivers.

(2) Certifications issued by practitioners.

(3) Information on identification cards.

(4) Information provided by the West Virginia State Police under §16A-5-2 of this code.

(5) Information relating to the patient's serious medical condition.

(b) *Public information.* — The following records are public records and shall be subject to the Freedom of Information Act, under §29B-1-1 *et seq.* of this code:

(1) Applications for permits submitted by medical cannabis organizations; and

~~(2) The names, business addresses and medical credentials of practitioners authorized to provide certifications to patients to enable them to obtain and use medical cannabis in this state. All other practitioner registration information shall be confidential and exempt from public disclosure under the Freedom of Information Act~~

~~(3) (2) Information relating to penalties or other disciplinary actions taken against a medical cannabis organization or practitioner by the bureau for violation of this act.~~

#### **ARTICLE 4. PRACTITIONERS.**

##### **§16A-4-1. Registration.**

[Repealed.]

##### **§16A-4-2. Practitioner restrictions.**

(a) *Practices prohibited.* — The following shall apply with respect to practitioners:

(1) A practitioner may not accept, solicit, or offer any form of remuneration from or to a prospective patient, patient, prospective caregiver, caregiver, or medical cannabis organization, including an employee, financial backer, or principal, to certify a patient, other than accepting a fee for service with respect to the examination of the prospective patient to determine if the prospective patient should be issued a certification to use medical cannabis.

(2) A practitioner may not hold a direct or economic interest in a medical cannabis organization.

(3) A practitioner may not advertise the practitioner's services as a practitioner who can certify a patient to receive medical cannabis.

(b) *Unprofessional conduct.* — A practitioner who violates subsection (a) of this section shall not be permitted to issue certifications to patients. ~~and shall be removed from the registry.~~

(c) *Discipline.* — In addition to any other penalty that may be imposed under this act, a violation of subsection (a) of this section or §16A-4-3(f) of this code shall be deemed unprofessional conduct under the West Virginia Medical Practice Act, and shall subject the practitioner to discipline by the West Virginia Board of Medicine and West Virginia Board of Osteopathic Medicine, as appropriate.

##### **§16A-4-3. Issuance of certification.**

(a) *Conditions for issuance.* — A certification to use medical cannabis may be issued by a practitioner to a patient if all of the following requirements are met:

(1) The practitioner has ~~been approved by the bureau for inclusion in the registry and has a~~ valid, unexpired, unrevoked, unsuspended license to practice medicine in this state at the time of the issuance of the certification.

(2) The practitioner has determined that the patient has a serious medical condition as defined in §16A-2-1 of this code and has included the condition in the patient's health care record.



(3) The patient is under the practitioner's continuing care for the serious medical condition.

(4) In the practitioner's professional opinion and review of past treatments, the practitioner determines the patient ~~is likely to~~ may receive therapeutic or palliative benefit from the use of medical cannabis. ~~and other treatments, including treatments involving opioids, have proven ineffective or otherwise are contraindicated.~~

(5) The practitioner has determined that the patient has no past or current medical condition(s) or medication use that would constitute a contraindication for the use of cannabis.

(6) The practitioner has determined that the patient is experiencing serious pathophysiological discomfort, disability or dysfunction that may be attributable to a serious medical condition and may possibly benefit from cannabis treatment when current medical research exhibits a moderate or higher probability of efficacy.

(7) The practitioner has educated the patient about cannabis and its safe use.

(b) *Contents.* — The certification shall include:

(1) The patient's name, date of birth, and address.

(2) The specific serious medical condition of the patient.

(3) A statement by the practitioner that the patient has a serious medical condition and the patient is under the practitioner's continuing care for the serious medical condition.

(4) The date of issuance.

(5) The name, address, telephone number, and signature of the practitioner.

(6) Any requirement or limitation concerning the appropriate form of medical cannabis and limitation on the duration of use, if applicable, including whether the patient is terminally ill.

(c) *Consultation.*

(1) A practitioner shall review the prescription drug monitoring program prior to:

(A) Issuing a certification to determine the controlled substance history of a patient.

(B) Recommending a change of amount or form of medical cannabis.

(2) The practitioner shall consider and give due consideration to other controlled substances the patient may be taking prior to certifying medical cannabis.

(d) *Other access by practitioner.* — A practitioner may access the prescription drug monitoring program to do any of the following:

(1) Determine whether a patient may be under treatment with a controlled substance by another physician or other person.

(2) Allow the practitioner to review the patient's controlled substance history as deemed necessary by the practitioner.

(3) Provide to the patient, or caregiver on behalf of the patient if authorized by the patient, a copy of the patient's controlled substance history.

(e) *Duties of practitioner.* — The practitioner shall:

(1) Provide the certification to the patient.

(2) Provide a copy of the certification to the bureau, which shall place the information in the patient directory within the bureau's electronic database. The bureau shall permit electronic submission of the certification.

(3) File a copy of the certification in the patient's health care record.

(f) *Prohibition.* — A practitioner may not issue a certification for the practitioner's own use or for the use of a family or household member.

#### **§16A-4-5. Duration.**

Receipt and possession of medical cannabis by a patient or caregiver from a dispensary may not exceed a 30-day supply of individual doses such amount as shall be determined and established by rules adopted by the bureau to be appropriate for a 30-day period, by the appropriate measure of volume, weight, or concentration level. During the last seven days of any 30-day period during the term of the identification card, a patient may obtain and possess a 30-day supply for the subsequent 30-day period. Additional 30-day supplies may be provided in accordance with this section for the duration of the authorized period of the identification card unless a shorter period is indicated on the certification.

### **ARTICLE 6. MEDICAL CANNABIS ORGANIZATIONS.**

#### **§16A-6-3. Granting of permit.**

(a) The bureau may grant or deny a permit to a grower, processor, or dispensary. In making a decision under this subsection, the bureau shall determine that:

(1) The applicant will maintain effective control of and prevent diversion of medical cannabis.

(2) The applicant will comply with all applicable laws of this state.

(3) The applicant is a resident of this state, as defined in §29-22B-327 of this code, or is organized under the law of this state. If the applicant is a corporation, partnership, association, trust, or other entity, or any combination thereof, at least a total of 51 percent of the interests of such entity is owned by current residents, and such current residents have all been residents of this state for seven consecutive years prior to the date of application.

(4) The applicant is ready, willing, and able to properly carry on the activity for which a permit is sought.

(5) The applicant possesses the ability to obtain in an expeditious manner sufficient land, buildings, and equipment to properly grow, process, or dispense medical cannabis.

(6) It is in the public interest to grant the permit.

(7) The applicant, including the financial backer or principal, is of good moral character and has the financial fitness necessary to operate.

(8) The applicant is able to implement and maintain security, tracking, recordkeeping and surveillance systems relating to the acquisition, possession, growth, manufacture, sale, delivery, transportation, distribution, or the dispensing of medical cannabis as required by the bureau.

(9) The applicant satisfies any other conditions as determined by the bureau.

(b) ~~Nontransferability~~ Transferability. — A permit issued under this chapter shall be ~~nontransferable~~ transferable, but only after 24 months from the date of issuance and subject to review and approval by the bureau, to any party that meets the minimum requirements to receive a permit as an original applicant.

(c) *Privilege* — The issuance or renewal of a permit shall be a revocable privilege.

~~(d) *Regions* — the bureau shall establish a minimum of three regions within this state for the purpose of granting permits to grower/processors and dispensaries and enforcing this act. The bureau shall approve permits for growers, processors and dispensaries in a manner which will provide an adequate amount of medical cannabis to patients and caregivers in all areas of this state. The bureau shall consider the following when issuing a permit:~~

~~(1) Regional population.~~

~~(2) The number of patients suffering from serious medical conditions.~~

~~(3) The types of serious medical conditions.~~

~~(4) Access to public transportation.~~

~~(5) Approval by local health departments.~~

~~(6) Whether the county has disallowed the location of a grower, processor or dispensary.~~

~~(7) Any other factor the bureau deems relevant.~~

#### **§16-6-4. Notice.**

[Repealed]

#### **§16A-6-6. Fees and other requirements.**

The following apply:

(1) For a grower or processor:

(A) An initial application fee in the amount of \$5,000 shall be paid. The fee is nonrefundable.

(B) A fee for a permit as a grower/processor in the amount of \$50,000 shall be paid. The permit shall be valid for one year. Applicants shall submit the permit fee at the time of submission of the application. The fee shall be returned if the permit is not granted.

(C) A renewal fee for the permit as a grower/processor in the amount of \$5,000 shall be paid and shall cover renewal for all locations. The renewal fee shall be returned if the renewal is not granted.

(D) An application to renew a permit must be filed with the bureau not more than six months nor less than four months prior to expiration.

(E) All fees shall be paid by certified check, ~~or~~ money order or electronic funds transfer.

(2) For a dispensary:

(A) An initial application fee in the amount of \$2,500 shall be paid. The fee is nonrefundable.

(B) A permit fee for a dispensary shall be \$10,000 for each location. The period of the permit is one year. An applicant shall submit the permit fee at the time of submission of the application. The fee shall be returned if the application is not granted.

(C) A renewal fee for the permit as a dispensary in the amount of \$2,500 shall be paid. The fee shall be returned if the renewal is not granted and shall cover renewal for all locations.

(D) An application to renew a permit must be filed with the bureau not more than six months nor less than four months prior to expiration.

(E) All fees shall be paid by certified check, ~~or~~ money order or electronic funds transfer.

(3) A fee of \$250 shall be required when amending the application to indicate relocation within this state or the addition or deletion of approved activities by the medical cannabis organization.

(4) Fees payable under this section shall be deposited into the fund.

#### **§16A-6-12. Persons convicted prohibited.**

(a) The following individuals may not hold volunteer positions or positions with remuneration in or be affiliated with a medical cannabis organization, including a clinical registrant under §16A-14-1 *et seq.* of this code, in any way if the individual has been convicted of any felony criminal offense related to the sale or possession of illegal drugs, narcotics, or controlled substances, convicted of any misdemeanor or felony offense contained in the Bribery and Corrupt Practices Act, §61-5A-1 *et seq.* of this code or substantially similar laws of other states or the federal government, convicted of any misdemeanor or felony offense involving fraud, deceit, crimes against the government or crimes of dishonesty, or conspiracy thereof to commit any of the foregoing offenses:

(1) Financial backers.

(2) Principals.

(3) Employees.

(b) If an individual seeking to hold a volunteer position or position with remuneration in or be affiliated with a dispensary is otherwise prohibited under subsection (a) of this section, such individual may seek a waiver from the bureau in order to hold such a position with a dispensary. The allowance of the waiver, including any additional restrictions or conditions as part of the

waiver, shall be in the discretion of the bureau: Provided, That under no circumstances may a person prohibited under subsection (a) of this section serve as a principal, financial backer, or manager who oversees conduct of the dispensary.

### §16A-6-13. Limitations on permits.

(a) The following limitations apply to approval of permits for growers, processors, and dispensaries, subject to the limitations in subsection (b) of this section:

(1) The bureau shall issue a minimum of 20 permits for growers, 20 permits for processors and 50 permits for dispensaries; Provided, That the bureau in consultation with the advisory board shall set limits on the number of permits for each, based upon patient need and demand and public safety. The bureau may not issue permits to more than ten 50 growers; Provided, That each grower may have up to two locations per permit.

~~(2) The bureau may not issue permits to more than ten 50 processors.~~

~~(3) The bureau may not issue permits to more than thirty 165 dispensaries, with no more than five in any region~~

~~(2)(4) The bureau may not issue more than two individual dispensary permits to one person.~~

~~(3)(5) The bureau may not issue more than one individual grower permit to one person.~~

~~(4)(6) The bureau may not issue more than one individual processor permit to one person.~~

~~(5)(7) A dispensary may only obtain medical cannabis from a grower or processor holding a valid permit under this act.~~

~~(6)(8) A grower or processor may only provide medical cannabis to a dispensary holding a valid permit under this act.~~

~~(7)(9) A grower or a processor may not be a dispensary. A grower may be a processor, and a processor may be a grower. Growers and processors may be dispensaries. Dispensaries may be growers and processors.~~

(b) Before a permit may be issued, the bureau shall obtain the following:

(1) A written approval from the board of health for the county in which the permit is to be located and operate business.

(2) A written statement from the county commission for the county in which the permit is to be located and conduct business that the county has not voted, pursuant to §16A-7-6 of this code to disapprove a medical cannabis organization to be located or operate within the county.

## ARTICLE 7. MEDICAL CANNABIS CONTROLS.

### §16A-7-5. Prices.

The bureau and the Tax Division of the Department of Revenue shall monitor the price of medical cannabis sold by growers, processors, and by dispensaries, including a per-dose price. If the bureau and the Tax Division of the Department of Revenue determine that the prices are

unreasonable or excessive, the bureau may implement a cap on the price of medical cannabis being sold for a period of six months. The cap may be amended during the six-month period. If the bureau and the Tax Division of the Department of Revenue determine that the prices become unreasonable or excessive following the expiration of a six-month cap, additional caps may be imposed for periods not to exceed six months.

## ARTICLE 8. DISPENSARIES.

### §16A-8-1. Dispensing to patients and caregivers.

(a) *General rule.* — A dispensary that has been issued a permit under §16A-6-1 *et seq.* of this code may lawfully dispense medical cannabis to a patient or caregiver upon presentation to the dispensary of a valid identification card for that patient or caregiver. The dispensary shall provide to the patient or caregiver a receipt, as appropriate. The receipt shall include all of the following:

(1) The name, address, and any identification number assigned to the dispensary by the bureau.

(2) The name and address of the patient and caregiver.

(3) The date the medical cannabis was dispensed.

(4) Any requirement or limitation by the practitioner as to the form of medical cannabis for the patient.

(5) The form and the quantity of medical cannabis dispensed.

~~(b) *Requirements.* — A dispensary shall have a physician or a pharmacist onsite at all times during the hours the dispensary is open to receive patients and caregivers. A physician or a pharmacist shall, prior to assuming duties under this paragraph~~ All principals and employees of a dispensary shall successfully complete the course established in §16A-3-1(a) of this code. A physician may not issue a certification to authorize patients to receive medical cannabis or otherwise treat patients at ~~the~~ a dispensary.

(c) *Filing with bureau.* — Prior to dispensing medical cannabis to a patient or caregiver, the dispensary shall file the receipt information with the bureau utilizing the electronic tracking system. When filing receipts under this subsection, the dispensary shall dispose of any electronically recorded certification information as provided by rule.

(d) *Limitations.* — No dispensary may dispense to a patient or caregiver:

(1) A quantity of medical cannabis greater than that which the patient or caregiver is permitted to possess under the certification; or

(2) A form of medical cannabis prohibited by this act.

(e) *Supply.* — When dispensing medical cannabis to a patient or caregiver, the dispensary may not dispense an amount greater than a 30-day supply until the patient has exhausted all but a seven-day supply provided pursuant to §16A-4-5 of this code.

(f) *Verification.* — Prior to dispensing medical cannabis to a patient or caregiver, the dispensary shall verify the information in subsections (e) and (g) of this section by consulting the electronic tracking system included in the bureau's electronic database established under §16A-3-1 of this code and the dispensary tracking system under §16A-7-1 of this code.

(g) *Form of medical cannabis.* — Medical cannabis dispensed to a patient or caregiver by a dispensary shall conform to any requirement or limitation set by the practitioner as to the form of medical cannabis for the patient.

(h) *Safety insert.* — When a dispensary dispenses medical cannabis to a patient or caregiver, the dispensary shall provide to that patient or caregiver, as appropriate, a safety insert. The insert shall be developed and approved by the bureau. The insert shall provide the following information:

(1) Lawful methods under state law for administering medical cannabis in individual doses.

(2) Any potential dangers stemming from the use of medical cannabis.

(3) How to recognize what may be problematic usage of medical cannabis and how to obtain appropriate services or treatment for problematic usage.

(4) How to prevent or deter the misuse of medical cannabis by minors or others.

(5) Notice that the use of cannabis for medical purposes is not authorized by federal law.

(6) Any other information as determined by the bureau.

(i) *Sealed and labeled package.* — Medical cannabis shall be dispensed by a dispensary to a patient or caregiver in a sealed, properly labeled, and child-resistant package. The labeling shall contain the following:

(1) The information required to be included in the receipt provided to the patient or caregiver, as appropriate, by the dispensary.

(2) The packaging date.

(3) Any applicable date by which the medical cannabis should be used.

(4) A warning stating:

“This product is for medicinal use only. Women should not consume during pregnancy or while breastfeeding except on the advice of the practitioner who issued the certification and, in the case of breastfeeding, the infant's pediatrician. This product might impair the ability to drive or operate heavy machinery. Keep out of reach of children.”

(5) The amount of individual doses contained within the package and the species and percentage of tetrahydrocannabinol and cannabidiol.

(6) A warning that the medical cannabis must be kept in the original container in which it was dispensed.

(7) A warning that unauthorized use is unlawful and will subject the person to criminal penalties.

(8) Any other information required by the bureau.

#### **§16A-8-2. Facility requirements.**

(a) *General rule.* —

(1) Except as provided under subsection (c) of this section, a dispensary may only dispense medical cannabis in an indoor, enclosed, secure facility located within this state, as determined by the bureau.

(2) A dispensary may not operate on the same site as a facility used for growing and processing medical cannabis.

(3) A dispensary may not be located within 1,000 feet of the property line of a public, private or parochial school or a daycare center.

(4) A dispensary may, pursuant to bureau conditions and limitations, sell medical devices and instruments which are needed to administer medical cannabis under this act.

(b) *Adjustment or waiver of prohibition.* — The bureau may amend a prohibition under subsection (a)(3) of this section if it is shown by clear and convincing evidence that the amendment is necessary to provide adequate access to patients. An amendment may include additional security, physical plant of a facility or other conditions necessary to protect children.

### **ARTICLE 9. TAX ON MEDICAL CANNABIS.**

#### **§16A-9-1. Tax on medical cannabis.**

(a) *Tax imposed.*

(1) For the privilege of engaging or continuing within this state in the business of growing and processing medical cannabis, or purchasing and processing medical cannabis for sale to a dispensary, a tax is imposed on the gross receipts of a grower/processor received from the sale of medical cannabis by a grower/processor to a dispensary, to be paid by the grower/processor, at the rate of 10 percent. The tax shall be charged against and be paid by the grower/processor and shall not be added as a separate charge or line item on any sales slip, invoice, receipt, or other statement or memorandum of the price paid by a dispensary, patient, or caregiver.

(2) For purposes of §16A-9-1 et seq. of this code, the term “gross receipts” means and includes the gross receipts, however denominated and derived by the grower/processor from the sale, distribution, or transfer of medical cannabis to a dispensary, without any deduction on account of the cost of property sold, the cost of materials used to grow or process the medical cannabis, labor costs, taxes, royalties paid in cash or in kind, or otherwise, interest or discount paid, or any other expense however denominated. A dispensary that purchases medical cannabis from a grower/processor that does not have a permit issued by the bureau under this chapter shall pay the tax imposed by this article based on the amount paid to purchase or acquire the medical cannabis from a grower/processor that does not have a permit issued under this chapter.

(b) *Payment of tax and reports.* — A grower/processor shall make quarterly payments under this section for each calendar quarter at the rate prescribed in subsection (a) of this section on the gross receipts for the calendar quarter. The tax shall be due and payable on the 20th day of



January, April, July, and October for the preceding calendar quarter ~~on~~ in a form prescribed by the Tax Division of the Department of Revenue. The Tax Commissioner may require such forms, schedules, and returns, and impose such filing and remittance requirements as may be necessary or convenient for the efficient administration of taxes imposed by this section. The Tax Commissioner may issue such procedural, interpretive, or legislative rules, including emergency rules, as the Tax Commissioner may deem necessary or convenient for the efficient administration of taxes imposed by this section.

(c) *Electronic filing and payment required.* — Taxes imposed by this article shall be paid to the Tax Commissioner by electronic funds transfer unless electronic payment is prohibited by state or federal law. Tax returns required by this section shall be filed electronically with the Tax Commissioner.

(d) *Deposit of proceeds.* — All money received from the tax imposed under this section, including any interest and additions to tax paid under §11-10-1 *et seq.* of this code, shall be deposited into the Medical Cannabis Program Fund.

~~(d)~~ (e) *Exemption.* — Sales of medical cannabis under this chapter shall not be subject to a sales tax the taxes imposed by §11-15-1 *et seq.* and §11-15A-1 *et seq.* of this code.

~~(e)~~ (f) *Information.*

(1) A grower/processor that sells medical cannabis shall provide to the Tax Division of the Department of Revenue information required by the bureau, and any information required by the Tax Commissioner to administer, collect, and enforce the taxes imposed by this section.

(2) Notwithstanding any provision of §11-10-1 *et seq.* of this code to the contrary, the Tax Commissioner and the Commissioner of the Bureau of Public Health may enter into written agreements pursuant to which the Tax Commissioner will disclose to designated employees of the Bureau for Public Health, whether a particular grower, processor, or dispensary is in good standing with the Tax Commissioner, and the Commissioner will disclose to designated employees of the Tax Commissioner information a grower, processor, or dispensary provides to the Commissioner pursuant to this chapter. Information disclosed pursuant to a written agreement shall remain confidential in the hands of the receiver and shall not be disclosable under §29B-1-1 *et seq.* of this code.

### **§16A-9-2. Medical Cannabis Program Fund.**

(a) *Fund established* — The Medical Cannabis Program Fund is established as a special fund in the State Treasury. Money in the fund is appropriated as set forth in subsection (c) of this section. Any amount unspent at the end of a fiscal year shall be appropriated to the bureau for its operations.

(b) *Source of funds* — Fees and taxes payable under this act shall be deposited into the fund. The money deposited into the fund may only be used for the purposes set forth in this section. Any interest accrued shall be deposited into the fund.

(c) *Use of proceeds* — Money in the fund is allocated in accordance with the following percentages:

(1) Fifty-five percent of the revenue in the fund shall be allocated to the bureau.

(2) The remaining 45 percent of the revenue in the fund shall be allocated as follows:

(A) Fifty percent shall be allocated to: (i) the repayment of moneys appropriated by the Legislature and deposited in Medical Cannabis Program Implementation Fund, a fund established pursuant to §16A-15-10 of this code, to support the implementation of regulatory activities required by this chapter; and (ii) upon the repayment in full of the appropriation advanced by the Legislature pursuant to §16A-15-10 of this code or January 1, 2025, whichever occurs first, fifty percent of the allocation contained in this paragraph shall be deposited in the Fight Substance Abuse Fund created by §60A-9-8 of this code and fifty percent shall be deposited in the Department of Administration — Public Insurance Employees Insurance Agency — Basic Insurance Premium Fund, fund 2180.

(B) Forty percent shall be allocated to the Division of Justice and Community Services for grants to local law-enforcement agencies for training, drug diversion, and other programs focused on crime and addiction, pursuant to and in accordance with the provisions of §15-19A-1 *et seq.* of this code.

(C) Ten percent shall be allocated to the fund created in §30-29-4 of this code to be used for law enforcement professional training and professional development programs.

#### **§16A-9-3. Tax on medical cannabis crimes and penalties.**

Notwithstanding any provision in §11-9-1 *et seq.* of this code to the contrary, each and every provision of the “West Virginia Tax Crimes and Penalties Act” set forth in §11-9-1 *et seq.* of this code shall apply to the tax imposed by this article with like effect as if said act were applicable only to the tax imposed by this article of this code and were set forth in extenso in this article.

#### **§16A-9-4. Procedure and administration of the tax on medical cannabis.**

Notwithstanding any provision of §11-10-1 *et seq.* of this code to the contrary, each and every provision of the “West Virginia Tax Procedure and Administration Act” set forth in §11-10-1 *et seq.* of this code, shall apply to the tax imposed by this article with like effect as if said act were applicable only to the tax imposed by this article and were set forth in extenso in this article.

### **ARTICLE 11. MEDICAL CANNABIS ADVISORY BOARD.**

#### **§16A-11-1. Advisory board.**

(a) The Medical Cannabis Advisory Board is established within the bureau. The advisory board shall consist of the following members:

(1) The commissioner or a designee.

(2) The Superintendent of the West Virginia State Police or a designee.

(3) ~~Four~~ Five physicians licensed to practice in the state to be appointed by the State Medical Association with one from each of the following specialized medicine:

(A) Family Practice/Neurologist/General Practitioner;

(B) Pain Management;

(C) Oncologist/Palliative Care;

(D) Psychiatrist; and

(4) One pharmacist licensed to practice in the state, to be designated by the Board of Pharmacy.

(5) One pharmacologist who has experience in the science of cannabis and a knowledge of the uses, effects, and modes of actions of drugs, to be appointed by the Governor.

(6) One member who is a horticulturalist, to be designated by the West Virginia Commissioner of Agriculture.

(7) One member designated by the West Virginia Association of Alcoholism and Drug Counselors.

(8) An attorney licensed in the state who is knowledgeable about medical cannabis laws.

(9) One member appointed by the West Virginia Prosecuting Attorneys Institute.

(10) One member appointed by the Governor, who shall be a patient, a family or household member of a patient, or a patient advocate.

(11) Three osteopathic physicians licensed to practice in this state, appointed by the West Virginia Osteopathic Medical Association.

(b) *Terms.* — Except as provided under subsection (g) of this section, the members shall serve a term of four years or until a successor has been appointed and qualified, but no longer than six months beyond the four-year period.

(c) *Chair.* — The commissioner, or a designee, shall serve as chair of the advisory board.

(d) *Voting; quorum.* — A majority of the members shall constitute a quorum for the purpose of organizing the advisory board, conducting its business and fulfilling its duties. A vote of the majority of the members present shall be sufficient for all actions of the advisory board unless the bylaws require a greater number.

(e) *Attendance.* — A member of the advisory board who fails to attend three consecutive meetings shall be deemed vacant, unless the commissioner, upon written request from the member, finds that the member should be excused from a meeting for good cause. A member who cannot be physically present may attend meetings via electronic means, including video conference.

(f) *Governance.* — The advisory board shall have the power to prescribe, amend and repeal bylaws governing the manner in which the business of the advisory board is conducted and the manner in which the duties granted to it are fulfilled. The advisory board may delegate supervision of the administration of advisory board activities to an administrative commissioner and other employees of the bureau as the commissioner shall appoint.

(g) *Initial terms.* — The initial terms of members appointed under this article shall be for terms of one, two, three or four years, the particular term of each member to be designated by the commissioner at the time of appointment. All other members shall serve for a term of four years.

(h) *Vacancy.* — In the event that any member appointed under subsection (a) of this section shall die or resign or otherwise become disqualified during the member's term of office, a successor shall be appointed in the same way and with the same qualifications as set forth in this section and shall hold office for the unexpired term. An appointed member of the advisory board shall be eligible for reappointment.

(i) *Expenses.* — A member shall receive the amount of reasonable travel, hotel, and other necessary expenses incurred in the performance of the duties of the member in accordance with state rules, but shall receive no other compensation for the member's service on the board.

(j) *Duties.* — The advisory board shall have the following duties:

(1) To examine and analyze the statutory and regulatory law relating to medical cannabis within this state.

(2) To examine and analyze the law and events in other states and the nation with respect to medical cannabis.

(3) To accept and review written comments from individuals and organizations about medical cannabis.

(4) To issue two years after the effective date of this section a written report to the Governor, the Senate, and the House of Delegates.

(5) The written report under subdivision (4) shall include recommendations and findings as to the following:

(A) Whether to change the types of medical professionals who can issue certifications to patients.

(B) Whether to change, add, or reduce the types of medical conditions which qualify as serious medical conditions under this act.

(C) Whether to change the form of medical cannabis permitted under this act.

(D) Whether to change, add, or reduce the number of growers, processors, or dispensaries.

(E) How to ensure affordable patient access to medical cannabis.

(F) Whether to permit medical cannabis to be dispensed in dry leaf or plant form for administration by vaporization.

(6) The final written report under this section shall be adopted at a public meeting.

## **ARTICLE 12. OFFENSES RELATED TO MEDICAL CANNABIS.**

### **§16A-12-8. Additional penalties.**

(a) Civil penalties. — In addition to any other remedy available to the bureau, the bureau may assess a civil penalty for a violation of this act, a rule promulgated under this act or an order issued under this act or rule, subject to the following:

(1) The bureau may assess a penalty of not more than \$10,000 for each violation and an additional penalty of not more than \$1,000 for each day of a continuing violation. In determining the amount of each penalty, the bureau shall take the following factors into consideration:

(A) The gravity of the violation.

(B) The potential harm resulting from the violation to patients, caregivers, or the general public.

(C) The willfulness of the violation.

(D) Previous violations, if any, by the person being assessed.

(E) The economic benefit to the person being assessed for failing to comply with the requirements of this act, a rule promulgated under this act or an order issued under this act or rule.

(2) If the bureau finds that the violation did not threaten the safety or health of a patient, caregiver, or the general public and the violator took immediate action to remedy the violation upon learning of it, the bureau may issue a written warning in lieu of assessing a civil penalty.

(3) A person who aids, abets, counsels, induces, procures, or causes another person to violate this act, a rule promulgated under this act, or an order issued under this act or rule shall be subject to the civil penalties provided under this subsection.

(b) *Sanctions.* —

(1) In addition to the penalties provided in subsection (a) of this section, and any other penalty authorized by law, the bureau may impose the following sanctions:

(A) Revoke or suspend the permit of a person found to be in violation of this act, a rule promulgated under this act, or an order issued under this act or rule.

(B) Revoke or suspend the permit of a person for conduct or activity or the occurrence of an event that would have disqualified the person from receiving the permit.

~~(C) Revoke or suspend the registration of a practitioner for a violation of this act or a rule promulgated or an order issued under this act or for conduct or activity which would have disqualified the practitioner from receiving a registration~~

~~(D)~~ (C) Suspend a permit or registration of a person pending the outcome of a hearing in a case in which the permit or registration could be revoked.

~~(E)~~ (D) Order restitution of funds or property unlawfully obtained or retained by a permittee or registrant.

~~(F)~~ (E) Issue a cease and desist order.

(2) A person who aids, abets, counsels, induces, procures, or causes another person to violate this act shall be subject to the sanctions provided under this subsection.

(c) *Costs of action.* — The bureau may assess against a person determined to be in violation of this act the costs of investigation of the violation.

(d) *Minor violations.* — Nothing in this section shall be construed to require the assessment of a civil penalty or the imposition of a sanction for a minor violation of this act if the bureau determines that the public interest will be adequately served under the circumstances by the issuance of a written warning.

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 4345), as just amended, was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 4345 pass?”

On the passage of the bill, the yeas were: Baldwin, Beach, Blair, Boso, Clements, Drennan, Facemire, Ferns, Jeffries, Karnes, Mann, Maroney, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Woelfel, and Carmichael (Mr. President)—26.

The nays were: Arvon, Azinger, Boley, Cline, Gaunch, Maynard, and Weld—7.

Absent: Rucker—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4345) passed.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the title of the bill was withdrawn.

On motion of Senator Trump, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4345**—A Bill to repeal §16A-4-1 of the Code of West Virginia, 1931, as amended; to repeal §16A-6-4 of said code; to amend and reenact §12-1-2 and §12-1-3 of said code; to amend and reenact §16A-2-1 of said code; to amend and reenact §16A-3-1, §16A-3-3, and §16A-3-4 of said code; to amend and reenact §16A-4-2, §16A-4-3, and §16A-4-5 of said code; to amend and reenact §16A-6-3, §16A-6-6, §16A-6-12, and §16A-6-13 of said code; to amend and reenact §16A-7-5 of said code; to amend and reenact §16A-8-1 and §16A-8-2 of said code; to amend and reenact §16A-9-1 of said code; to amend said code by adding thereto three new sections, designated §16A-9-2, §16A-9-3, and §16A-9-4; and to amend and reenact §16A-11-1 of said code; to amend and reenact §16A-12-8 of said code, all relating to allowing the State Treasurer to designate a credit union only for the banking functions necessary for the West Virginia Medical Cannabis Act to be designated as an eligible depository; amending and removing definitions; removing the use of the four-hour training course for physicians as continuing

education credits under the boards of medicine and osteopathic medicine; increasing the two-hour training course for principals and employees to eight hours and adding requirements for the training; authorizing growers to subcontract with in-state third-parties to grow medical cannabis; removing the Freedom of Information Act exemption for practitioner credentials; repealing the section requiring registration of physicians eligible to issue certifications to patients to use medical cannabis; adjusting certification requirements to reflect the removal of the practitioner registry; removing the requirement that other treatments be ineffective before recommending medical cannabis; clarifying the duration of a dosage that may be dispensed; expanding on the requirement that applicants are required to be residents of this state; permitting transfer of permits under certain circumstances; removing the requirement for separate regions associated with medical cannabis organizations; repealing the section requiring notice be printed in the State Register; adding additional prior convictions that result in a prohibition of being affiliated with a medical cannabis organization; providing that the bureau for public health may study the use of dry leaf and plant forms and report any findings to the legislature; imposing a minimum number of permits for growers, processors, and dispensaries; allowing the bureau for public health in consultation with the medical cannabis advisory board to alter the number of permits for growers, processors, and dispensaries based on need and public safety; removing the prohibition on growers and processors from being a dispensaries and allowing vertical integration allowing growers, processors, and dispensaries to be growers, processors, or dispensaries; removing the requirement that a dispensary have a physician or pharmacist onsite at all times and clarifying other requirements; clarifying that Tax Division will administer, collect, and enforce medical cannabis tax; allowing Tax Division to promulgate legislative rules and emergency rules; defining "gross receipts"; clarifying imposition of tax; detailing imposition of tax with respect to growers or processors that sell to a dispensary in which they have an economic interest; removing the exemption on medical cannabis from the sales tax; permitting exchange of information; providing that information exchanged is not subject to disclosure under Freedom of Information Act; requiring payment of tax by electronic funds transfer; requiring electronic filing of tax returns; making tax subject to provisions of West Virginia Tax Crimes and Penalties Act and the West Virginia Tax Procedure and Administration Act; restructuring the allocation of money from the Medical Cannabis Program Fund; and adding three doctors of osteopathic medicine to the advisory board; removing the ability of the bureau to sanction the registration of a practitioner.

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

At the request of Senator Ferns, and by unanimous consent, the Senate returned to the fifth order of business.

### **Filed Conference Committee Reports**

The Clerk announced the following conference committee report had been filed at 6:36 p.m. today:

**Eng. Com. Sub. for House Bill 4447**, Providing for a uniform and efficient system of broadband conduit installation.

On motion of Senator Ferns, at 6:38 p.m., the Senate recessed until 7 p.m. tonight.

The Senate reconvened at 7 p.m. tonight.

At the request of Senator Ferns, and by unanimous consent, Senator Ferns announced a meeting of the committee of conference as to Engrossed Committee Substitute for House Bill 4001 (*Relating to eligibility and fraud requirements for public assistance*).

The Senate then resumed business under the fifth order.

### **Filed Conference Committee Reports**

The Clerk announced the following conference committee report had been filed at 7:02 p.m. tonight:

**Eng. Com. Sub. for Com. Sub. for Senate Joint Resolution 3**, Judicial Budget Oversight Amendment.

Without objection, the Senate returned to the third order of business.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to the House of Delegates amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Com. Sub. for Senate Bill 283**, Relating generally to procurement by state agencies.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to the House of Delegates amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Senate Bill 498**, Creating two-year pilot program allowing all-terrain or recreational vehicles in Cabwaylingo State Forest.

On motion of Senator Ferns, at 7:02 p.m., the Senate recessed until 7:30 p.m. tonight.

The Senate reconvened at 7:50 p.m. tonight and proceeded to the fifth order of business.

### **Filed Conference Committee Reports**

The Clerk announced the following conference committee report had been filed at 7:50 p.m. tonight:

**Eng. Com. Sub. for Senate Bill 392**, Reconfiguring membership of Emergency Medical Services Advisory Council.

The Clerk announced the following conference committee reports had been filed at 7:51 p.m. tonight:

**Eng. Com. Sub. for House Bill 4001**, Relating to eligibility and fraud requirements for public assistance.

And,

**Eng. House Bill 4629**, Relating to broadband enhancement and expansion policies generally.

On motion of Senator Unger, at 8:03 p.m., the Senate recessed until 8:30 p.m. tonight.



The Senate reconvened at 8:50 p.m. tonight and, at the request of Senator Ferns, and by unanimous consent, proceeded to the consideration of

**Eng. Com. Sub. for House Bill 4607**, Establishing certain criteria for the restricted operation of drones within State Parks, Forests, and Rail Trails.

On third reading, coming up out of regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4607) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 4607**—A Bill to amend and reenact §20-5-2 of the Code of West Virginia, 1931, as amended, relating to the Division of Natural Resources permitting the use of recreational unmanned aircraft systems in state parks, state forests, and on rail trails; requiring persons who intend to operate unmanned aircraft systems to register with the superintendent prior to participating in the use of any unmanned aircraft system; establishing certain criteria for the restricted operation of unmanned aircraft systems within state parks, forests, and rail trails; and clarifying that persons who operate unmanned aircraft systems assume full responsibility and liability.

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

The Senate proceeded to the eighth order of business, the next bill coming up in numerical sequence being

**Eng. House Bill 4465**, Authorizing the acupuncture board to issue certificates to perform auricular acudetox therapy.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Gaunch, unanimous consent was granted to offer an amendment to the bill on third reading.

Thereupon, on motion of Senator Gaunch, the following amendment to the bill was reported by the Clerk and adopted:

On pages one and two, by striking out all of section two and inserting in lieu thereof a new section, designated section two, to read as follows:

**§30-36-2. Definitions.**

(a) Unless the context in which used clearly requires a different meaning, as used in this article:

(1) "Acupuncture" means a form of health care, based on a theory of energetic physiology, that describes the interrelationship of the body organs or functions with an associated point or combination of points.

(2) "Board" means the West Virginia Acupuncture Board.

(3) "License" means a license issued by the board to practice acupuncture.

(4) "Moxibustion" means the burning of mugwort on or near the skin to stimulate the acupuncture point.

(5) "Practice acupuncture" means the use of oriental medical therapies for the purpose of normalizing energetic physiological functions including pain control, and for the promotion, maintenance, and restoration of health.

(b) (1) "Practice acupuncture" includes:

~~(4)~~ (A) Stimulation of points of the body by the insertion of acupuncture needles;

~~(2)~~ (B) The application of moxibustion; and

~~(3)~~ (C) Manual, mechanical, thermal, or electrical therapies only when performed in accordance with the principles of oriental acupuncture medical theories.

(2) The practice of acupuncture does not include the procedure of auricular acupuncture when used in the context of a chemical dependency treatment program when the person is trained and approved by the National Acupuncture Detoxification Association or an equivalent certifying body.

Having been engrossed, the bill (Eng. H. B. 4465), as just amended, was then read a third time and put upon its passage.

Pending discussion,

The question being "Shall Engrossed House Bill 4465 pass?"

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4465) passed with its title.

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

On motion of Senator Ferns, at 8:59 p.m., the Senate recessed for five minutes for the purpose of holding a meeting of the Committee on Rules at the rostrum.

The Senate reconvened at 9:02 p.m. tonight and, at the request of Senator Ferns, and by unanimous consent, returned to the fourth order of business.

Senator Carmichael, from the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration

**Eng. Com. Sub. for Senate Bill 288**, Regulating cremation, embalming and directing of funeral service.

Having been received as a House message and referred to the Committee on Rules in earlier proceedings today;

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

Respectfully submitted,

Mitch Carmichael,  
*Chairman ex officio.*

At the request of Senator Ferns, unanimous consent being granted, the bill (Eng. Com. Sub. for S. B. 288) contained in the preceding report from the Committee on Rules was taken up for immediate consideration.

On motion of Senator Ferns, the following amendment to the House of Delegates amendments to the bill (*shown in the Senate Journal of today, page 383 to 434, inclusive*) was again reported by the Clerk:

By striking out the title and substituting therefore a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 288**—A Bill to repeal §30-6-22a, §30-6-23, §30-6-24, §30-6-25, §30-6-26, §30-6-27, §30-6-28, §30-6-29, §30-6-30, and §30-6-31 of the Code of West Virginia, 1931, as amended; to amend and reenact §9-5-9 of said code; and to amend and reenact §30-6-1, §30-6-2, §30-6-3, §30-6-4, §30-6-5, §30-6-6, §30-6-7, §30-6-8, §30-6-9, §30-6-10, §30-6-11, §30-6-12, §30-6-13, §30-6-14, §30-6-15, §30-6-16, §30-6-17, §30-6-18, §30-6-19, §30-6-20, §30-6-21, and §30-6-22 of said code, all relating to regulation of cremation, embalming, and funeral service directing; defining terms; terminating the Board of Funeral Service Examiners; transferring the functions of the board to the Secretary of State; specifying timeline and duties for the transfer of functions and property; providing special provisions and authority to Secretary of State to facilitate transfer; providing rule-making authority for Secretary of State; continuing existing rules previously promulgated by the board; authorizing Secretary of State to request repeal of rules

previously promulgated by the board; establishing timeline for promulgation of rules by Secretary of State in 2018; authorizing the promulgation of emergency rules; creating special revenue account; eliminating special revenue account utilized by Board of Funeral Service Examiners and transferring funds; providing for periodic sweep of funds into General Revenue Fund; eliminating outdated and obsolete language; authorizing Secretary of State to grant funeral service license; updating requirements for funeral service license; reclassifying certificate to operate crematory as license; authorizing Secretary of State to grant license to operate crematory; updating requirements for license to operate crematory; updating language related to license reciprocity and courtesy card holders to give authority to Secretary of State; authorizing Secretary of State to enter into reciprocity agreements; authorizing Secretary of State to issue registration to be an apprentice; updating requirements for licensure of funeral establishments; authorizing Secretary of State to issue funeral establishment license; updating requirements for licensure of crematories; authorizing Secretary of State to issue crematory license; modifying requirements for inspectors and inspections; authorizing Secretary of State to appoint inspectors; updating requirements for renewal of licenses, courtesy cards, and registrations; eliminating requirement for Board of Funeral Service Examiners to provide continuing education; modifying order of persons authorized to give written permission for cremation; updating language concerning preneed affidavit; requiring Secretary of State to refuse to issue license, renewal, or registration if certain requirements not met; authorizing Secretary of State to take action against licensee, registrant, or applicant under certain circumstances; requiring Secretary of State establish means for public to submit complaints; requiring Secretary of State to investigate all complaints received; setting procedures for investigations; specifying powers and procedures for conducting hearings and rendering disposition of contested cases; granting the authority to suspend or revoke an authorization to practice without a prior hearing under certain circumstances; setting burden of proof; providing right of appeal from determination of Secretary of State; authorizing informal disposition; making violations of article a criminal act; establishing criminal penalties; authorizing Secretary of State or interested person to seek injunctions for violations of article; providing for referral of criminal matters to appropriate authorities; permitting criminal actions to be brought by Attorney General in coordination with the local prosecuting attorney, United States Attorney, or law-enforcement officer; providing that single act is evidence of violation; providing for certain inapplicability of article; modifying code references as it relates to direct cremation or direct burial expenses for indigent persons; and correcting references and updating terms throughout.

Senator Mann requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as he is a funeral director.

The Chair replied that any impact on Senator Mann would be as a member of a class of persons and that he would be required to vote.

The question being on the adoption of Senator Ferns' amendment to the House of Delegates amendments to the bill, the same was put and prevailed.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments as amended.

Engrossed Committee Substitute for Senate Bill 288, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard,

Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 288) passed with its Senate amended title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 288) takes effect from passage.

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

Without objection, the Senate returned to the third order of business.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment, as to

**Eng. Com. Sub. for Senate Bill 408**, Licensing of nursing homes and assisted living residences.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the bill was reported by the Clerk:

On page thirty, section fifteen, lines forty-four through forty-eight, by striking out all of subsection (e) and inserting in lieu thereof a new subsection, designated subsection (e), to read as follows:

(e) The amount of damages recovered by a resident, in an action brought pursuant to this section, are exempt for purposes of determining initial or continuing eligibility for medical assistance pursuant to §9-5-1 *et seq.* of this code and may neither be taken into consideration nor required to be applied toward the payment or part payment of the cost of medical care or services available pursuant to §9-5-1 *et seq.* of this code.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the bill.

Engrossed Committee Substitute for Senate Bill 408, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 408) passed with its title.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to the House of Delegates amendment, as amended by the House of Delegates, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment to the Senate amendments, as to

**Eng. Senate Bill 525**, Relating to certification for emergency medical training - mining.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the Senate amendments to the House of Delegates amendment to the bill was reported by the Clerk:

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Senate Bill 525**—A Bill to repeal §16-4C-6c of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §22A-10-3, relating to emergency medical technicians — mining; transferring certification requirements for emergency medical technician — mining to the chapter governing miners' health, safety and training; eliminating the authority of the director of Miners' Health Safety and Training to authorize providers to administer certification courses and examinations; modifying requirements for training personnel and independent trainers; and making technical corrections.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendment to the Senate amendment to the House of Delegates amendment to the bill.

Engrossed Senate Bill 525, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 525) passed with its House of Delegates amended title.

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

The Senate proceeded to the sixth order of business, which agenda includes the making of main motions.

Senator Ferns moved that the Senate reconsider the vote by which in earlier proceedings today it passed

**Eng. Com. Sub. for Senate Bill 625,** Creating WV Volunteer Fire and Rescue Act of 2018.

The bill still being in the possession of the Senate,

The question being on the adoption of Senator Ferns' aforesated motion, the same was put and prevailed.

The vote thereon having been reconsidered,

On motion of Senator Ferns, the Senate reconsidered the vote by which in earlier proceedings today it adopted Senator Ferns' motion that the Senate concur in the House of Delegates amendments, as amended, to the bill (*shown in the Senate Journal of today, pages 440 to 453, inclusive*).

The vote thereon having been reconsidered,

The question again being on the adoption of Senator Ferns' motion that the Senate concur in the House of Delegates amendments, as amended, to the bill (Eng. Com. Sub. for S. B. 625).

At the request of Senator Ferns, and by unanimous consent, his aforesated motion was withdrawn.

On motion of Senator Ferns, the Senate reconsidered the vote by which in earlier proceedings today it adopted Senator Ferns' amendments to the House of Delegates amendments to bill.

The vote thereon having been reconsidered,

The question again being on the adoption of Senator Ferns' amendments to the House of Delegates amendments to the bill.

At the request of Senator Ferns, unanimous consent being granted, Senator Ferns' amendments to the House of Delegates amendments to the bill were withdrawn.

On motion of Senator Ferns, the following amendments to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 625) were reported by the Clerk and considered simultaneously:

On page five, section two, subsection (e), by striking out "\$50,000" and inserting in lieu thereof "\$100,000";

On page five, section two, subsection (e), by striking out the word “killed” and inserting in lieu thereof the words “who died”;

On page seven, section three-d, subsection (c), subdivision (3), by striking out “90” and inserting in lieu thereof “75”;

On page seven, section three-d, after subdivision (3), by inserting a new subdivision, designated subdivision (4), to read as follows:

(4) If payment for services rendered has not been received within 90 days from the date of response, and if a payment schedule has not been established, a fire department or company may proceed in magistrate court or in other appropriate court action to recover from the responsible party all fees associated with the response, including attorney fees and court costs.;

On page nine, by striking out all of section three;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 625**—A Bill to amend and reenact §5A-3-8 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §5A-3-8a; to amend and reenact §5H-1-2 of said code; to amend and reenact §7-1-3d of said code; to amend and reenact §16-4C-6 and §16-4C-8 of said code; to amend said code by adding thereto two new sections, designated §16-4C-8a and §16-4C-24; to amend said code by adding thereto a new section, designated §17-2A-8d; to amend said code by adding thereto three new sections, designated §29-3-5e, §29-3-5f and §29-3-8; to amend and reenact §29-3-12 of said code; and to amend said code by adding thereto a new section, designated §33-3-33b, all relating to creating the West Virginia Volunteer Fire and Rescue Act of 2018; requiring Director of Purchasing Division make facilities and services of the division available to fire departments and companies and certain emergency medical services agencies; authorizing director to provide for implementation by legislative rules or other agreement; authorizing payment of death benefits to survivors of firefighter, emergency medical services, or law-enforcement provider who dies as a proximate result of the performance of his or her duties; increasing death benefits to be paid; providing for written designation of beneficiary to be made on forms prescribed by State Fire Marshal or Commissioner of the Bureau for Public Health; requiring any county fire prevention units to be formed and recognized under the regulations of the State Fire Commission for local fire departments; increasing authorized reimbursement rate amount; providing exception for incidents or accidents involving hazardous materials or extended search and rescue and water rescue incidents; requiring payment of amounts owed as reimbursement within 75 days; authorizing written agreements between fire department or company and responsible party; permitting fire company or department to proceed to recover costs if payment or agreement not reached within 90 days; authorizing Commissioner of the Bureau for Public Health to establish one or more statewide contracts for equipment and supplies utilized by emergency medical services agencies; requiring statewide contracts be made available to certain emergency medical services agencies; authorizing development of uniform standards for equipment and supplies used by emergency medical services agencies; giving legislative rule-making authority to Commissioner of the Bureau for Public Health to implement provisions; requiring Commissioner of the Bureau for Public Health to recognize and give full credit for all continuing education credits approved or recognized by state or nationally recognized accrediting body; establishing courtesy certification program for certified emergency medical service personnel in states bordering West



Virginia; relieving courtesy certification applicants from requirement to comply with state certification standards; authorizing rulemaking to implement courtesy certification program; providing for biennial renewal of courtesy certification; authorizing revocation of courtesy certification under certain conditions; establishing special revenue fund known as Emergency Medical Services Equipment and Training Fund; authorizing use of fund for grants to equip emergency medical service providers and train emergency medical services personnel; requiring Commissioner of the Bureau for Public Health establish grant program for equipment and training of emergency medical services providers and personnel; setting eligibility and certain priorities for grant program; granting rule-making authority to implement grant program; authorizing Commissioner of Division of Highways enter into reimbursement agreements with certain fire departments for services provided relating to tree or debris removal from state highways and rights-of-way; setting conditions for and defining scope of reimbursement; retaining authority of commissioner to properly remove and dispose of cleared trees, debris, or other obstacles; granting legislative rule-making authority to implement reimbursement program; setting minimum provisions for legislative rule; authorizing State Fire Marshal establish one or more statewide contracts for equipment and supplies utilized by fire companies and departments; requiring statewide contracts be made available to certain fire companies and departments as well as any other agency or subdivision with a need for those equipment or supplies; authorizing development of uniform standards for equipment and supplies used by fire companies and departments; giving legislative rule-making authority to State Fire Commission to implement provisions; establishing courtesy certification program for certified firefighters in states bordering West Virginia to serve as volunteer firefighters; relieving courtesy certification applicants from requirement to comply with state certification standards for volunteer firefighters; authorizing rulemaking to implement courtesy certification program; providing for biennial renewal of courtesy certification; authorizing revocation of courtesy certification under certain conditions; establishing special revenue fund known as Fire Service Equipment and Training Fund; authorizing use of fund for grants to equip volunteer and part-volunteer fire companies and departments and their members, and train volunteer and part-volunteer firefighters; requiring State Fire Marshal establish grant program for equipment and training of volunteer and part volunteer fire companies and departments and volunteer firefighters; setting eligibility and certain factors for State Fire Marshal to consider in making grants; granting rule-making authority to implement grant program; requiring State Fire Marshal prepare certain reports and make certain recommendations; requiring study and report from Insurance Commissioner regarding issues related to workers' compensation for volunteer and part-volunteer fire departments; eliminating obsolete language; and making technical corrections.

Following discussion,

The question being on the adoption of Senator Ferns' amendments to the House of Delegates amendments to the bill, the same was put and prevailed.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments, as just amended.

Engrossed Committee Substitute for Senate Bill 625, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 625) passed with its Senate amended title.

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

Without objection, the Senate returned to the third order of business.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments, as amended by the House of Delegates, passage as amended, to take effect July 1, 2018, and requested the concurrence of the Senate in the House of Delegates amendment to the Senate amendments, as to

**Eng. Com. Sub. for House Bill 4009**, State Settlement and Recovered Funds Accountability Act.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the Senate amendments to the bill was reported by the Clerk:

By striking out the title and substituting therefore a new title, to read as follows:

**Eng. Com. Sub. for House Bill 4009**—A Bill to repeal §5-3-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §5-3A-1, §5-3A-2, §5-3A-3, §5-3A-4, §5-3A-5, and §5-3A-6, all relating to creating the state Settlement and Recovered Funds Accountability Act; providing a short title; setting forth legislative findings; directing that recovered funds and assets to be deposited into the State Treasury in the General Revenue Fund of the state, and providing exceptions; directing that certain recovered funds and assets be held in trust to be deposited into a special revenue account in the State Treasury; requiring legislative appropriation of those funds and assets; creating two special revenue funds in the state treasury, known as the Consumer Protection Recovery Fund and the Consumer Protection Restitution Fund; requiring annual transfer of monies exceeding \$7 million in the Consumer Protection Recovery Fund to the General Revenue Fund; providing for disbursement of funds from the Consumer Protection Recovery Fund; requiring transfer of funds from the Consumer Protection Restitution Fund into the Consumer Protection Recovery Fund; authorizing the deposit and expenditure of attorney fees, expenses and costs awarded to the Attorney General from the fund; prohibiting agreements to settlement or agreement terms that are contrary to the provisions of law; requiring reporting by the Attorney General to report annually as to the receipts and expenditures of the funds and the disposition of causes; and repealing provisions requiring the Attorney General to deposit all fees received for representing the state into the General Revenue Fund.

On motion of Senator Ferns, the Senate concurred in the foregoing House of Delegates amendment to the Senate amendments to the bill.

Engrossed Committee Substitute for House Bill 4009, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Mann, Maroney, Maynard, Palumbo, Smith, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—25.

The nays were: Beach, Facemire, Jeffries, Ojeda, Plymale, Prezioso, Romano, and Stollings—8.

Absent: Rucker—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4009) passed with its House of Delegates amended title.

Senator Ferns moved that the bill take effect July 1, 2018.

On this question, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Boso, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Mann, Maroney, Maynard, Palumbo, Smith, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—25.

The nays were: Beach, Facemire, Jeffries, Ojeda, Plymale, Prezioso, Romano, and Stollings—8.

Absent: Rucker—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4009) takes effect July 1, 2018.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment, as amended by the House of Delegates, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment to the Senate amendment, as to

**Eng. Com. Sub. for House Bill 4150**, Prohibiting telecommunications and IP-enabled voice services from displaying the name or telephone number of the recipient.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the Senate amendment to the bill was reported by the Clerk:

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for House Bill 4150**—A Bill to amend the Code of West Virginia, 1931, as amended, to amend and reenact §46A-6F-501; all relating generally to prohibiting telemarketing companies from transmitting misleading or inaccurate caller identification information; and providing exceptions thereto.

On motion of Senator Ferns, the Senate concurred in the foregoing House of Delegates amendment to the Senate amendment to the bill.

Engrossed Committee Substitute for House Bill 4150, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4150) passed with its House of Delegates amended title.

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

At the request of Senator Woelfel, unanimous consent being granted, Senator Woelfel addressed the Senate commending Senator Boso for his work regarding Engrossed Committee Substitute for Senate Bill 625 (*Creating WV Volunteer Fire and Rescue Act of 2018*).

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments, as amended by the House of Delegates, passage as amended, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendment to the Senate amendments, as to

**Eng. Com. Sub. for House Bill 4156**, Establishing the qualifications of full and part time nursing school faculty members.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the Senate amendments to the bill was reported by the Clerk:

On page one, after the article heading, by inserting a new section, designated section one, to read as follows:

**§30-7-1. Definitions.**

As used in this article:

(a) “Advanced practice registered nurse” means a registered nurse who has acquired advanced clinical knowledge and skills preparing him or her to provide direct and indirect care to patients as a certified nurse practitioner, certified nurse-midwife, certified registered nurse anesthetist, or clinical nurse specialist, who has completed a board-approved graduate-level education program and who has passed a board-approved national certification examination.

(b) “Board” means the West Virginia Board of Examiners for Registered Professional Nurses;

(e) “Collaborative relationship” means a working relationship, structured through a written agreement, in which an advanced practice registered nurse may prescribe drugs in collaboration with a qualified physician;

“Direct patient care” means the provision of services to a sick, injured, mentally or physically disabled, elderly or fragile patient that requires some degree of interaction with that patient. Direct patient care may include assessment, treatment, counseling, procedures, self-care, patient education, administration of medication, and implementation of a care plan;

(d) “Practice of registered professional nursing” or “registered professional nursing” means the performance for compensation of any service requiring substantial specialized judgment and skill based on knowledge and application of principles of nursing derived from the biological, physical and social sciences, such as responsible supervision of a patient requiring skill in observation of symptoms and reactions and the accurate recording of the facts, or the supervision and teaching of other persons with respect to such principles of nursing, or in the administration of medications and treatments as prescribed by a licensed physician, a licensed dentist or a licensed advanced practice registered nurse, or the application of such nursing procedures as involve understanding of cause and effect in order to safeguard life and health of a patient and others; and

(e) “Temporary permit” means a permit authorizing the holder to practice registered professional nursing in this state until such permit is no longer effective or the holder is granted a license by the West Virginia State Board of Examiners for Registered Professional Nurses.

On motion of Senator Ferns, the Senate concurred in the foregoing House of Delegates amendment to the Senate amendments to the bill.

Engrossed Committee Substitute for House Bill 4156, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4156) passed with its Senate amended title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4156) takes effect from passage.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments, as amended by the House of Delegates, passage as amended, to take effect July 1, 2018, and requested the concurrence of the Senate in the House of Delegates amendments to the Senate amendments, as to

**Eng. Com. Sub. for House Bill 4338**, Relating to the powers and authority of the Divisions of Administrative Services, and Corrections and Rehabilitation of the Department of Military Affairs and Public Safety.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the Senate amendments to the bill were reported by the Clerk:

On page seven, section two, by striking out “(f)” and inserting in lieu thereof “(e)”;

On page seven, section two, by striking out “(e)” and inserting in lieu thereof “(f)”;

On page fourteen, section eleven, subsection (e), by striking out “§15A-3-118(b)” and inserting in lieu thereof “§15A-3-11(b)”;

On page sixteen, section twelve, by striking out the words “(c) The commission may establish” and inserting in lieu thereof the words “(d) The commissioner may establish”;

And by relettering the remaining subsections;

On page seventeen, section twelve, subsection (d), subdivision (2), by striking out “§15A-3-12(f)” and inserting in lieu thereof “§15A-3-12(g)”;

On page eighteen, section thirteen, by striking out the word “legislator” and inserting in lieu thereof the word “Legislature”;

On page twenty-five, section two, subsection (a), by striking out “under legislative rules, pursuant to §29A-3-1 *et seq.* of this code or policy directives promulgated by the commissioner” and inserting in lieu thereof “pursuant to legislative rules promulgated pursuant to §29A-3-1 *et seq.* of this code”;

On page thirty-two, section seven, subsection (e), by striking out “§15A-4-77(a)(5)” and inserting in lieu thereof “§15A-4-7(a)(5)”;

On page forty-three, section sixteen, by striking out the section caption and inserting in lieu thereof a new section caption, to read as follows:

**§15A-4-16. Gifts to or dealings with inmate or resident.:**

On page forty-nine, section twenty, after the word “program.” by inserting the following: A qualified inmate does not include an inmate convicted of a sexual offense or a violent felony.;

And,

On page fifty-four, section one, by striking out the words “(c) The Commissioner” and inserting in lieu thereof the words “(a) The Commissioner”.

On motion of Senator Ferns, the Senate concurred in the foregoing House of Delegates amendments to the Senate amendments to the bill.

Engrossed Committee Substitute for House Bill 4338, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4338) passed with its Senate amended title.

Senator Ferns moved that the bill take effect July 1, 2018.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4338) takes effect July 1, 2018.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments, as amended by the House of Delegates, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment to the Senate amendments, as to

**Eng. Com. Sub. for House Bill 4392**, Relating to Medicaid subrogation liens of the Department of Health and Human Resources.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the Senate amendments to the bill was reported by the Clerk:

By striking out the title and substituting therefore a new title, to read as follows:

**Eng. Com. Sub. for House Bill 4392**—A Bill to amend and reenact §9-5-11 of the Code of West Virginia, 1931, as amended, relating to Medicaid subrogation liens of the Department of Health and Human Resources; extending the definition of a liable “third-party” to include certain insurers; establishing notice requirements for claims and civil actions; providing authority for the secretary to negotiate and incentivize Medicaid members to prosecute lawsuits against liable third parties; providing a priority right to the department for subrogation payments; requiring department authorization before finalizing settlement in certain circumstances; establishing the notice, procedure and consent requirements for settlement allocation; establishing procedure in the event the department rejects the proposed allocation; establishing the burden of proof regarding allocation dispute proceedings in court; requiring the trial court to consider the department’s interests in maximizing recovery for purposes of the operation of the Medicaid program in an allocation dispute; requiring the trial court decision to reflect findings of fact and conclusions of law; where a final subrogation lien is less than \$1,500 those matters are exempt from the provisions of this section; modifying the penalty for failure of recipient’s legal representative to notify the department to include interest, and setting effective date.

On motion of Senator Ferns, the Senate concurred in the foregoing House of Delegates amendment to the Senate amendments to the bill.

Engrossed Committee Substitute for House Bill 4392, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4392) passed with its House of Delegates amended title.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments, as amended by the House of Delegates, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment to the Senate amendments, as to

**Eng. Com. Sub. for House Bill 4431**, Establishing the Mountaineer Trail Network Recreation Authority.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the Senate amendments to the bill was reported by the Clerk:



By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for House Bill 4431**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §20-14A-1, §20-14A-2, §20-14A-3, §20-14A-4, §20-14A-5, §20-14A-6, §20-14A-7, §20-14A-8, §20-14A-9, §20-14A-10, §20-14A-11, §20-14A-12, and §20-14A-13, all relating generally to the Mountaineer Trail Network Recreation Authority; providing a statement of legislative purpose and findings; defining terms; creating the Mountaineer Trail Network Recreation Authority, which is a public corporation and joint development entity of certain participating counties; providing for appointment of individuals to the board of the authority and the filling of vacancies in the board; prescribing the terms of appointment; requiring quarterly meetings of the board; describing how quorum is established; authorizing the board to promulgate bylaws and rules; providing that the authority is subject to freedom of information act laws; describing the powers and duties of the authority, acting through its board; requiring the board to appoint an executive director; describing powers and duties of the executive director; authorizing employment of staff; requiring creation of an annual budget; providing for payment of authority expenses; allowing reimbursement of board member expenses; establishing financial review, oversight and audit requirements; requiring reporting and oversight of funds received from the Legislature; requiring a permit to enter and use the trail; establishing prohibited actions by users of recreation area land and providing criminal penalties; limiting the liability of landowners of land used by the Authority with exception of deliberate, willful or malicious acts; setting forth purchasing and bidding procedures for Authority contracts for commodities and services by the Authority; providing criminal penalties for violation of purchasing and bidding requirements; prohibiting certain purchasing contracts with vendors that create conflicts of interest; providing criminal penalties for entering into prohibited purchasing contracts that create purchasing contracts by seeking extraordinary relief to correct violations, void unlawful contracts and protect authority funds; providing a process for four or more adjacent counties in the state to form a separate and distinct regional Mountaineer Trail Network Recreation Authority; providing that a regional Mountaineer Trail Network Recreation Authority must operate in compliance with all requirements applying to the Mountaineer Trail Network Recreation Authority; providing that a regional Mountaineer Trail Network Recreation Authority will promulgate its own rules and bylaws; providing that a regional Mountaineer Trail Network Recreation Authority has the same powers, and duties as of the Mountaineer Trail Network Recreation Authority; providing that all other provisions regarding requirements, limitations, and privileges of a user, the board, participating landowners, or participating counties of the Mountaineer Trail Network Recreation Authority shall apply to a user, the board, a participating landowner, or a participating county of a regional Mountaineer Trail Network Recreation Authority; and providing for severability.

On motion of Senator Ferns, the Senate refused to concur in the foregoing House amendment to the Senate amendments to the bill (Eng. Com. Sub. for H. B. 4431) and requested the House of Delegates to recede therefrom.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments, as amended by the House of Delegates, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment to the Senate amendments, as to

**Eng. Com. Sub. for House Bill 4603**, Providing immunity from civil liability to facilities and employees providing crisis stabilization.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the Senate amendments to the bill was reported by the Clerk:

On page one, section one, after the words “or agent” by changing the colon to a period and striking out the proviso.

On motion of Senator Ferns, the Senate concurred in the foregoing House of Delegates amendment to the Senate amendments to the bill.

Engrossed Committee Substitute for House Bill 4603, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4603) passed with its Senate amended title.

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

The Senate again proceeded to the fifth order of business.

Senator Trump, from the committee of conference on matters of disagreement between the two houses, as to

**Eng. Com. Sub. for Com. Sub. for Senate Joint Resolution 3**, Judicial Budget Oversight Amendment.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendments of the House to Engrossed Committee Substitute for Committee Substitute for Senate Joint Resolution 3, having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, that both houses recede from their respective positions as to the amendment of the House, striking out everything after the resolved clause, and agree to the same as follows:

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 judiciary shall be decreased~~, the Legislature may not decrease the total general revenue appropriations to the judiciary in the budget bill to an amount that is less than eighty-five percent of the amount of the total general revenue appropriations to the judiciary in the most recently enacted budget without a separate vote of the Legislature approved by a two-thirds vote of the members elected to each house, determined by yeas and nays and entered on the journals. and 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 however*, 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: "Providing that the total general revenue appropriations to the judiciary may be reduced in the budget bill, and setting forth the required procedures to be followed by the Legislature to enact any decrease in the total general revenue appropriations to the judiciary to an amount that is less than eight-five percent of the amount of the total general revenue appropriations to the judiciary in the most recently enacted budget; 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.;"

And,

That both houses recede from their respective positions as to the title of the bill and agree to a new title, to read as follows:

**Eng. Com. Sub. for Com. Sub. for Senate Joint Resolution 3**—Proposing an amendment to the Constitution of the State of West Virginia, amending section 51, article VI thereof, relating to the state budget and related matters; providing that total general revenue appropriations to the judiciary may be decreased in the budget bill; providing that the Legislature may not decrease the total general revenue appropriations to the judiciary in the budget bill to an amount that is less than eighty-five percent of the amount of the total general revenue appropriations to the judiciary in the most recently enacted budget without a separate vote of the Legislature approved by a two-thirds vote of the members elected to each house, determined by yeas and nays and entered on the journals; providing rights and duties of the Chief Justice of the Supreme Court of Appeals relating to appearances before the Legislature and answering inquiries with respect to any budget bill; amending and adding language regarding when the Governor shall submit the budget to the Legislature and matters that may be considered during an extended session to conform the section to more recent amendments to the constitution; making technical corrections to gender related language; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

Respectfully submitted,

Charles S. Trump IV, *Chair*, Ryan W. Weld, Michael A. Woelfel, *Conferees on the part of the Senate*.

John H. Shott, *Chair*, Roger Hanshaw, Andrew D. Byrd, *Conferees on the part of the House of Delegates*.

On motions of Senator Trump, severally made, the report of the committee of conference was taken up for immediate consideration and adopted.

Engrossed Committee Substitute for Committee Substitute for Senate Joint Resolution 3, as amended by the conference report, was then put upon its adoption.

On the adoption of the resolution, as amended, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Rucker and Woelfel—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the resolution (Eng. Com. Sub. for Com. Sub. for S. J. R. 3) adopted with its conference amended title, as follows:

**Eng. Com. Sub. for Com. Sub. for Senate Joint Resolution 3**—Proposing an amendment to the Constitution of the State of West Virginia, amending section 51, article VI thereof, relating to the state budget and related matters; providing that total general revenue appropriations to the

judiciary may be decreased in the budget bill; providing that the Legislature may not decrease the total general revenue appropriations to the judiciary in the budget bill to an amount that is less than 85 percent of the amount of the total general revenue appropriations to the judiciary in the most recently enacted budget without a separate vote of the Legislature approved by a two-thirds vote of the members elected to each house, determined by yeas and nays and entered on the journals; providing rights and duties of the Chief Justice of the Supreme Court of Appeals relating to appearances before the Legislature and answering inquiries with respect to any budget bill; amending and adding language regarding when the Governor shall submit the budget to the Legislature and matters that may be considered during an extended session to conform the section to more recent amendments to the constitution; making technical corrections to gender-related language; 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 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) On the second Wednesday of February in the year 2021 and every fourth year thereafter and on the second Wednesday of January in 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 the Legislature may not decrease the total general revenue appropriations to the judiciary in the budget bill to an amount that is less than 85 percent of the amount of the total general revenue appropriations to the judiciary in the most recently enacted budget without a separate vote of the Legislature approved by a two-thirds vote of the members elected to each house, determined by yeas and nays and entered on the journals. 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: *Provided, however*, 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 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 19 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: "Providing that the total general revenue appropriations to the judiciary may be reduced in the budget bill, and setting forth the required procedures to be followed by the Legislature to enact any decrease in the total general revenue appropriations to the judiciary to an amount that is less than 85 percent of the amount of the total general revenue appropriations to the judiciary in the most recently enacted budget; 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.

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

Senator Clements, from the committee of conference on matters of disagreement between the two houses, as to

**Eng. Com. Sub. for Senate Bill 582,** Allowing candidate for political party executive committee serve as election official.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendments of the House to Engrossed Committee Substitute for Senate Bill 582 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That the House recede from its position as to the amendment on page one, section twenty-eight, line eleven, after the word "committee" by inserting the following: "or delegate to the national convention of a political party";

That both parties recede from their respective positions as to the amendment on page one, section twenty-eight, line twelve, and that the Senate and the House agree to an amendment as follows:

On page one, section twenty-eight, line twelve, by striking out all of subsection (4) 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 an official write-in candidate for any office, other than for district, county, or state political party executive committee, in the precinct where the official serves;"

And,

That both parties recede from their respective positions as to the title of the bill and agree to the same as follows:

**Eng. Com. Sub. for Senate Bill 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; permitting candidates for district, county, or state political party executive committee to serve as election officials; and permitting the parent, child, sibling, or spouse of a candidate for district, county, or state political party executive committee, to serve as election officials.

Respectfully submitted,

Charles H. Clements, *Chair*, Michael J. Maroney, Stephen Baldwin, *Conferees on the part of the Senate*.

Charlotte Lane, *Chair*, Moore Capito, Rodney Miller, *Conferees on the part of the House of Delegates*.

Senator Clements, Senate cochair of the committee of conference, was recognized to explain the report.

Thereafter, on motion of Senator Clements, the report was taken up for immediate consideration and adopted.

Engrossed Committee Substitute for Senate Bill 582, as amended by the conference report, was then put upon its passage.

On the passage of the bill, as amended, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, and Carmichael (Mr. President)—31.

The nays were: Palumbo—1.

Absent: Rucker and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 582) passed with its conference amended title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, and Carmichael (Mr. President)—31.

The nays were: Palumbo—1.

Absent: Rucker and Woelfel—2.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 582) takes effect from passage.

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

Senator Boso from the committee of conference on matters of disagreement between the two houses, as to

**Eng. Com. Sub. for Senate Bill 392,** Reconfiguring membership of Emergency Medical Services Advisory Council.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendments of the House to Engrossed Committee Substitute for Senate Bill 392 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendments of House of Delegates, striking out everything after the enacting clause, and agree to the same as follows:

#### **ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.**

##### **§16-4C-5. Emergency Medical Services Advisory Council; duties; composition; appointment; meetings; compensation and expenses.**

(a) The Emergency Medical Services Advisory Council, heretofore created and established by former §16-4C-7 of this code, is continued for the purpose of developing, with the commissioner, standards for emergency medical service personnel and for the purpose of providing advice to the Office of Emergency Medical Services and the commissioner with respect to reviewing and making recommendations for, and providing assistance to, the establishment and maintenance of adequate emergency medical services for all portions of this state.

(b) The council shall have the duty to advise the commissioner in all matters pertaining to his or her duties and functions in relation to carrying out the purposes of this article.

(c) The council shall be composed of ~~45~~ 18 members appointed by the Governor by and with the advice and consent of the Senate. The Mountain State Emergency Medical Services Association shall submit to the Governor a list of six names of representatives from its association, and a list of three names shall be submitted to the Governor of representatives of their respective organizations by the County Commissioners' Association of West Virginia, the West Virginia State Firemen's Association, the West Virginia Hospital Association, the West Virginia Chapter of the American College of Emergency Physicians, the West Virginia Emergency Medical Services Administrators Association, the West Virginia Emergency Medical Services Coalition, the Ambulance Association of West Virginia, and the State Department of Education. The Governor shall appoint from the respective lists submitted two persons who represent the Mountain State Emergency Medical Services Association, one of whom shall be a paramedic and one of whom shall be an emergency medical technician-basic; and one person from the County Commissioners' Association of West Virginia, the West Virginia State Firemen's Association, the West Virginia Hospital Association, the West Virginia Chapter of the American College of Emergency Physicians, the West Virginia Emergency Medical Services Administrators Association, the West Virginia Emergency Medical Services Coalition, the Ambulance Association of West Virginia, and the State Department of Education. In addition, the Governor shall appoint:

(1) One person to represent emergency medical service providers operating within the state;

(2) One person to represent small emergency medical service providers operating within this state; and

~~(3) three persons to represent the general public~~ One person to represent emergency medical services training officers or representatives; and

(4) Two people to represent emergency medical services supervisors or administrators.

(5) Three persons to represent the general public who shall serve in an advisory capacity as non-voting members.

(d) Not more than six of the members may be appointed from any one congressional district.

~~(d)~~ (e) Each term is to be for three years, and no member may serve more than four consecutive terms.

~~(e)~~ (f) The council shall choose its own chairman and meet at the call of the commissioner at least twice a year.

~~(f)~~ (g) The members of the council shall receive compensation and expense reimbursement in an amount not to exceed the same compensation and expense reimbursement as is paid to members of the Legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law for each day or substantial portion thereof engaged in the performance of official duties.;

And,

That both houses recede from their respective positions as to the title of the bill and agree to a new title, to read as follows:

**Eng. Com. Sub. for Senate Bill 392**—A Bill to amend and reenact §16-4C-5 of the Code of West Virginia, 1931, as amended, relating to the Emergency Medical Services Advisory Council generally; and reconfiguring and increasing the membership of the council by adding three non-voting citizen members and requiring three members to be representative of professional groups.

Respectfully submitted,

Gregory L. Boso, *Chair*, Tom Takubo, Glenn D. Jeffries, *Conferees on the part of the Senate.*

Vernon Criss, *Chair*, Patrick Martin, John Williams, *Conferees on the part of the House of Delegates.*

On motions of Senator Boso, severally made, the report of the committee of conference was taken up for immediate consideration and adopted.

Engrossed Committee Substitute for Senate Bill 392, as amended by the conference report, was then put upon its passage.

On the passage of the bill, as amended, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann,

Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 392) passed with its conference amended title.

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

The Senate again proceeded to the sixth order of business.

Senators Beach, Carmichael (Mr. President), Arvon, Azinger, Baldwin, Blair, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Maroney, Maynard, Ojeda, Plymale, Prezioso, Romano, Rucker, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, and Woelfel offered the following resolution:

**Senate Resolution 68**—Memorializing the life of Stephen L. Cook, former member of the West Virginia Senate and the West Virginia House of Delegates, former Commissioner of Labor and dedicated public servant.

Whereas, Stephen L. Cook was born on December 30, 1941, in Clinton, Iowa, to Vernon and Bernice Cook. He received a B.B.A. and an M.A. in industrial relations and personnel from the University of Iowa; and

Whereas Stephen L. Cook married Carolyn A. Whitney and they moved to Morgantown, WV, in 1967. They had three children, Craig, Matthew, and Stephanie; and

Whereas, Stephen L. Cook served as Commissioner of the West Virginia Department of Labor, from 1977 to 1979. He was a Member of the West Virginia House of Delegates for nine years and was a Member of the West Virginia Senate for the 14th District from 1983 to 1986, serving as Chairman of the Energy Industry and Mining Committee. He was also a Delegate to the Democratic National Convention from West Virginia in 1996, 2000, and 2004; and

Whereas, Stephen L. Cook was also Assistant Business Manager for the West Virginia Laborers' District Council for 16 years, President of Laborers' Local 814, and served for 40 years as an officer and Delegate to the Monongalia-Preston Labor Council; and

Whereas, Stephen L. Cook was a Member of the West Virginia Political Science Association, the Industrial Relations Research Association, the Monongalia County Board of Education, and the West Virginia School Board Association. He also was a faculty member with West Virginia University's Institute for Labor Studies and Research for 23 years; and

Whereas, Sadly, Stephen L. Cook passed away on Friday, March 2, 2018, surrounded by his family. He is survived by his wife, Sharon Kaye (Blonairz) Cook whom he married on August 26, 1995; his brother, Gregory Cook; his sister Vicki (Cook) Baack; sons, Craig Cook, Matthew Cook, and Keith Blonairz; daughters, Stephanie (Cook) Radabaugh and Lisa Blonairz; and

grandchildren, Stephanie Cook, Abigail Radabaugh, Jaxon Radabaugh, Marlea Blonairz, and Reina Blonairz; therefore, be it

*Resolved by the Senate:*

That the Senate hereby memorializes the life of Stephen L. Cook, former member of the West Virginia Senate and the West Virginia House of Delegates, former Commissioner of Labor, and dedicated public servant; and, be it

*Further Resolved,* That the Senate extends its most sincere condolences to the family of Senator Stephen L. Cook; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the family of Senator Stephen L. Cook.

At the request of Senator Beach, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

Senator Ojeda offered the following resolution:

**Senate Resolution 69**—Urging Frontier Communications to prioritize negotiations with the Communications Workers of America and conclude a fair labor agreement to improve the lives of constituents and the working families in West Virginia.

Whereas, Over 1,400 Communications Workers of America members are currently fighting for a new contract to maintain their standard of living in contract negotiations with Frontier Communications; and

Whereas, These men and women are Communication Workers of America (CWA) members who have been employed by Frontier. Currently, they are standing road-side, picketing, and fighting for their jobs and encouraging Frontier to act promptly and considerably. The contract negotiations began in May 2017, and expired on March 3rd; and

Whereas, Every day, West Virginia CWA members are on the frontlines, and are committed to provide high quality telecommunication service to customers in communities where they live and work. The company has made a promise to provide high-quality service to customers across the state and these workers have generated profits for Frontier; and

Whereas, These dedicated workers live in West Virginia and want to continue to work in West Virginia; therefore, be it

*Resolved by the Senate:*

That Frontier Communications is hereby urged to prioritize negotiations with the Communications Workers of America and conclude a fair labor agreement to improve the lives of constituents and the working families in West Virginia; and, be it

*Further Resolved,* That the members of the West Virginia Senate stand with our union workers and urge Frontier Communications Chief Executive Officer Daniel McCarthy to negotiate a fair contract for the betterment of the West Virginia working families who depend on Frontier; and, be it

*Further Resolved*, That the Clerk of the West Virginia Senate is hereby requested to forward a copy of this resolution to the union representative of the union employees of Frontier Communication and to the Charleston office of Frontier Communications.

Which, under the rules, lies over one day.

At the request of Senator Plymale, unanimous consent being granted, Senators Plymale, Woelfel, Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Carmichael (Mr. President), Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Ojeda, Palumbo, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, and Weld offered the following resolution from the floor:

**Senate Resolution 70**—Recognizing Randy Moss for being inducted into the Pro Football Hall of Fame.

Whereas, Randy Moss was born on February 13, 1977, in Rand, West Virginia, the son of Maxine Moss and Randy Pratt; and

Whereas, Randy Moss was twice named the Evans Award winner as West Virginia's top high school basketball player in 1994 and 1995, and won the Kennedy Award as West Virginia's top high school football player in 1994; and

Whereas, During his career at Marshall University, Randy Moss set the I-AA record for most games with a touchdown reception (914), most consecutive games with a touchdown reception (13), most touchdown passes caught by a freshman (28), and most receiving yards by a freshman (1,709); and

Whereas, Randy Moss, as a freshman, helped lead Marshall to a Division I-AA championship. As a sophomore, he won the Biletnikoff Award as college football's top wide receiver. He holds the Marshall University record for career touchdown receptions with 53, and is fifth in career receiving yards with 3,467; and

Whereas, Randy Moss was selected by the Minnesota Vikings in the first round of the 1998 NFL Draft. As a rookie, he was named a Pro Bowl starter and the NFL Offensive Rookie of the Year. He set an NFL rookie record with 17 touchdown receptions. He ranks fourth in NFL history in career receiving yards and second in career receiving touchdowns; and

Whereas, Randy Moss was inducted into the Marshall Athletics Hall of Fame in 2009. He entered the Minnesota Vikings Ring of Honor in 2017; and

Whereas, On February 3, 2018, Randy Moss was selected to be inducted into the Pro Football Hall of Fame. His son, Thaddeus Moss, will serve as his presenter at his enshrinement ceremony to be held August 4, 2018; and

Whereas, Randy Moss has used his national platform to participate in, found, and finance many charitable endeavors; and

Whereas, In 2005, Randy Moss launched a Celebrity Charity Invitational Bass Tournament, which paired celebrities and corporate sponsors with pro fishermen to raise money for children with treatable mouth problems, such as cleft palate. The tournament's motto is "fish for a smile"; and



Whereas, In 2008, Randy Moss formed the Links for Learning Foundation, which was established to build learning centers for impoverished student populations in West Virginia; and

Whereas, Randy Moss is a shining example to all West Virginians of what can be accomplish with hard work, dedication, and commitment; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes Randy Moss for being inducted into the Pro Football Hall of Fame; and, be it

*Further Resolved,* That the Senate extends its sincere congratulations to Randy Moss for his induction into the Pro Football Hall of Fame; and, be it

*Further Resolved,* That the Senate extends its most sincere appreciation and gratitude to Randy Moss for his charitable works and dedication to the State of West Virginia; and, be it

*Further Resolved,* That the Clerk is hereby directed to forward a copy of this resolution to Randy Moss.

At the request of Senator Plymale, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

Thereafter, at the request of Senator Woelfel, and by unanimous consent, the remarks by Senator Plymale regarding the adoption of Senate Resolution 70 were ordered printed in the Appendix to the Journal.

At the request of Senator Ferns, unanimous consent being granted, the remarks by Senator Clements regarding the adoption of Senate Resolution 70 were ordered printed in the Appendix to the Journal.

On motion of Senator Ferns, at 10:20 p.m., the Senate recessed for 15 minutes.

The Senate reconvened at 11:01 p.m. tonight and, without objection, returned to the third order of business.

A message from the Clerk of the House of Delegates announced the adoption by that body of the committee of conference report, passage as amended by the conference report with its conference amended title, to take effect from passage, and requested the concurrence of the Senate in the adoption thereof, as to

**Eng. House Bill 4629**, Relating to broadband enhancement and expansion policies generally.

Whereupon, Senator Smith, from the committee of conference on matters of disagreement between the two houses, as to

**Eng. House Bill 4629**, Relating to broadband enhancement and expansion policies generally.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendment of the Senate to Engrossed House Bill 4629 having met, after full and free

conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the Senate, striking out everything after the enacting clause, and agree to the same as follows:

**CHAPTER 31G. BROADBAND ENHANCEMENT  
AND EXPANSION POLICIES**

**ARTICLE 1. BROADBAND ENHANCEMENT COUNCIL.**

**§31G-1-10. Pilot Project for cooperatives by political subdivisions.**

[Repealed].

**ARTICLE 2. COOPERATIVE ASSOCIATIONS.**

**§31G-2-1. Definitions.**

As used in this article:

(1) “Cooperative association” or “association” means any corporation organized under this article. Each association shall also comply with the requisite business corporation provisions of chapter thirty-one-d or thirty-one-f of this code, or the nonprofit corporation provisions of chapter thirty-one-e of this code.

(2) “Internet services” means providing access to, and presence on, the internet and other services. Data may be transmitted using several technologies, including dial-up, DSL, cable modem, wireless, or dedicated high-speed interconnects.

(3) “Member” means a member of an association without capital stock and a holder of common stock in an association organized with capital stock.

(4) “Qualified person” means a person who is engaged in the use of internet services, either in an individual capacity, as a political subdivision of this state, or as a business.

(5) “Qualified activity” means using internet services.;

And,

That both houses recede from their respective positions as to the title of the bill and agree to the same as follows:

**Eng. House Bill 4629**—A Bill to repeal §31G-1-10, of the Code of West Virginia, 1931, as amended; to amend and reenact §31G-2-1 of said Code; all relating to broadband enhancement and expansion policies generally; repealing language relating to pilot project for cooperative associations by political subdivisions; and providing that a political subdivision of this state may be a qualified person for the purposes of forming a cooperative association.

Respectfully submitted,

Roger Hanshaw, *Chair*, Mark Zatezalo, Phil Isner, *Conferees on the part of the House of Delegates*.

Randy E. Smith, *Chair*, C. Edward Gaunch, Glenn D. Jeffries, *Conferees on the part of the Senate*.

On motions of Senator Smith, severally made, the report of the committee of conference was taken up for immediate consideration and adopted.

Engrossed House Bill 4629, as amended by the conference report, was then put upon its passage.

On the passage of the bill, as amended, the yeas were: Arvon, Azinger, Baldwin, Beach, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Palumbo, Plymale, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Blair, Ojeda, Prezioso, and Rucker—4.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 4629) passed with its conference amended title.

Senator Ferns moved that the bill take effect from passage.

On this question, the yeas were: Arvon, Azinger, Baldwin, Beach, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maroney, Maynard, Palumbo, Plymale, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—30.

The nays were: None.

Absent: Blair, Ojeda, Prezioso, and Rucker—4.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4629) takes effect from passage.

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

A message from the Clerk of the House of Delegates announced the adoption by that body of the committee of conference report, passage as amended by the conference report with its conference amended title, and requested the concurrence of the Senate in the adoption thereof, as to

**Eng. Com. Sub. for House Bill 4447**, Providing for a uniform and efficient system of broadband conduit installation.

Whereupon, Senator Boso, from the committee of conference on matters of disagreement between the two houses, as to

**Eng. Com. Sub. for House Bill 4447**, Providing for a uniform and efficient system of broadband conduit installation.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendment of the Senate to Engrossed Committee Substitute for House Bill 4447 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the Senate, striking out everything after the enacting clause, and agree to the same as follows:

## **ARTICLE 2E. DIG ONCE POLICY.**

### **§17-2E-1. Legislative findings.**

(a) The Legislature finds that it is in the public interest to accommodate telecommunications facilities on Division of Highways right-of-way when the use of the right-of-way does not adversely affect the safety of the traveling public or impair the highway or its aesthetic quality or conflict with any federal, state, or local laws, rules, regulations, or policies.

(b) The Legislature further finds that a broadband connection is an essential part of developing the state and local economies, enhancing the transportation system and creating a safer and more secure environment for our citizens.

(c) The Legislature further finds that expanding telecommunication facilities will allow the state to participate in the E-Rate Program of funding for digital education in America to provide reliable services opportunities for education and training.

(d) The Legislature further finds that fast, reliable broadband connections enhance telemedical opportunities for our rural doctors and hospitals, linking them to our major medical centers. Thereby overcoming distance barriers, and improving access to medical services that often are not consistently available in rural communities.

(e) The Legislature further finds that instituting a dig once policy encourages telecommunications carriers to coordinate installation of broadband conduit to minimize costs to the carriers and minimize disruption and inconvenience to the traveling public.

### **§17-2E-2. Definitions.**

In this article, unless the context otherwise requires:

(1) "Broadband conduit" or "conduit" means a conduit, innerduct or microduct for fiber optic cables that support facilities for broadband service.

(2) "Broadband service" has the same meaning as defined in §31G-1-2 of this code.

(3) "Council" means the Broadband Enhancement Council.

(4) "Division" means the Division of Highways.

(5) “Longitudinal access” means access to or the use of any part of a right-of-way that extends generally parallel to the traveled right-of-way.

(6) “Permit” means an encroachment permit issued by the Commissioner of the Division of Highways under the authority of this Code, and pursuant to the “Accommodation of Utilities On Highway Right Of Way and Adjustment and Relocation Of Utility Facilities On Highway Projects Policy”, or equivalent policy, as currently enforced by the Division of Highways, that specifies the requirements and conditions for performing work in a right-of-way.

(7) “Right-of-way” means land, property, or any interest therein acquired or controlled by the West Virginia Division of Highways for transportation facilities or other transportation purposes or specifically acquired for utility accommodation.

(8) “Telecommunications carrier” means a telecommunications carrier:

(A) As determined by the Public Service Commission of West Virginia; or

(B) That meets the definition of telecommunications carrier with respect to the Federal Communications Commission, as contained in 47 U.S.C. §153.

(9) “Telecommunications facility” means any cable, line, fiber, wire, conduit, innerduct, access manhole, handhole, tower, hut, pedestal, pole, box, transmitting equipment, receiving equipment, power equipment or other equipment, system or device that is used to transmit, receive, produce or distribute a signal for telecommunications purposes via wireline, electronic or optical means.

(10) “Utility facility” has the meaning ascribed to it in §17-2A-17a of this Code.

(11) “Wireless access” means access to and use of a right-of-way for the purpose of constructing, installing, maintaining, using, or operating telecommunications facilities for wireless telecommunications

**§17-2E-3. Use of rights-of-way. Broadband conduit installation in rights of way; permits; agreements; compensation; valuation of compensation.**

(a) Before obtaining a permit for the construction or installation of a telecommunications facility in a right-of-way, a telecommunications carrier must enter into an agreement with the Division consistent with the requirements of this article.

(b) Before granting permitted longitudinal access or wireless access to a right-of-way, the Division of Highways shall

(1) first enter into an agreement with a telecommunications carrier that is competitively neutral and nondiscriminatory as to other telecommunications carriers.

(2) Upon receipt of any required approval or concurrence by the Federal Highway Administration the division may issue a permit granting access under this section: *Provided*, That the Division of Highways shall comply with all applicable federal regulations with respect to approval of an agreement, including but not limited to 23 C.F.R. §710.403 and 23 C.F.R. §710.405. The agreement shall be approved by the Commissioner of Highways in order to be effective and, without limitation:

(A) Specify the terms and conditions for renegotiation of the agreement;

(B) Set forth the maintenance requirements for each telecommunications facility;

(C) Be nonexclusive; and

(D) Be for a term of not more than 30 years.

(b) Unless specifically provided for in an agreement entered into pursuant to §17-2E-3(a) of this code, the Division of Highways may not grant a property interest in a right-of-way pursuant to this article.

(c) A telecommunications carrier shall compensate the Division of Highways for access to a right-of-way for the construction, installation, and maintenance of telecommunication facilities, the use of spare conduit or related facilities of the Division of Highways as part of any longitudinal access or wireless access granted to a right-of-way pursuant to this section. The compensation must be, without limitation:

(1) At fair market value;

(2) Competitively neutral;

(3) Nondiscriminatory;

(4) Open to public inspection;

(5) Calculated based on the geographic region of this state, taking into account the population and the impact on private right-of-way users in the region; and once calculated, set at an amount that encourages the deployment of digital infrastructure within this State;

(6) Paid in monetary compensation or with in-kind compensation, or a combination of monetary compensation and in-kind compensation; and

(7) Paid in a lump-sum payment or in annual installments, as agreed to by the telecommunications carrier and the Division of Highways.

(d) The division may consider adjustments for areas, the Division in conjunction with the Council, determines are underserved or unserved areas of the state and may consider the value to such areas for economic development, enhancing the transportation system, expanding opportunities for digital learning, and telemedicine.

(e) For the purpose of determining the amount of compensation a telecommunications carrier must pay the Division of Highways for the use of spare conduit or excess conduit or related facilities of the Division of Highways as part of any longitudinal access or wireless access granted to a right-of-way pursuant to this section, the division may:

(1) Conduct an analysis once every five years, in accordance with the rules, policies, or guidelines of the Division of Highways, to determine the fair market value of a right-of-way to which access has been granted pursuant to this section; and

(2) If compensation is paid in-kind, determine the fair market value of the in-kind compensation based on the incremental costs for the installation of conduit and related facilities.

(f) The value of in-kind compensation, or a combination of money and in-kind compensation, must be equal to or greater than the amount of monetary compensation that the Division of Highways would charge if the compensation were paid solely with money.

(g) The provisions of this article shall not apply to the relocation or modification of existing telecommunication facilities in a right-of-way, nor shall these provisions apply to aerial telecommunications facilities or associated apparatus or equipment in a right-of-way. Relocation of telecommunications facilities within rights-of-way for state highways shall be in accordance with the provisions of §17-4-17b of this code.

#### **§17-2E-4. Highway safety.**

(a) The Division of Highways, in its sole discretion, may deny any longitudinal access or wireless access if such access would compromise the safe, efficient, and convenient use of any road, route, highway, or interstate in this state for the traveling public.

(b) Any longitudinal access or wireless access to a right-of-way granted by the Division of Highways pursuant to this article does not abrogate, limit, supersede, or otherwise affect access granted or authorized pursuant to the division's rules, policies, and guidelines related to accommodation of utilities on highways' rights-of-way and adjustment and relocation of utility facilities on highway projects.

#### **§17-2E-5. Telecommunications carrier initiated construction and Joint use.**

(a) The Division of Highways shall provide for the proportionate sharing of costs between telecommunications carriers for joint trenching or trench sharing based on the amount of conduit innerduct space or excess conduit that is authorized in the agreements entered into pursuant to this article. If the division plans to use the trench, it shall pay its proportional share unless it is utilizing the trench as in-kind payment for use of the right-of-way.

(b) Upon application for a permit, the carrier will notify, by email, the West Virginia Broadband Enhancement Council and all other carriers on record with the West Virginia Broadband Enhancement Council of the application. Other carriers have 30 calendar days to notify the applicant if they wish to share the applicant's trench. This requirement extends to all underground construction technologies.

(c) The carrier shall also meet the following conditions for a permit:

(1) The telecommunications carrier will be required to place, at its sole expense, a Class II legal advertisement, in accordance with §59-3-2(a) of this code, and of a form and content approved by the Division of Highways, in the local project area newspaper, in the Charleston newspaper, on industry and the Division of Highways' websites, and within other pertinent media, announcing the general scope of the proposed installation within the right-of-way and providing competing telecommunications carriers the opportunity to timely express an interest in installing additional telecommunication facilities during the initial installation. The legal advertisement is to run at least two consecutive weeks, and the telecommunications carrier is to notify the division of any interest of other parties received.

(2) If a competing telecommunications carrier expresses interest in participating in the project, an agreement between the two (or more) telecommunications carriers will be executed by those entities, outlining the responsibilities and financial obligations of each, with respect to the

installation within the right-of-way. A copy of the executed agreement shall be provided to the Division of Highways.

(3) The telecommunications carrier that placed the legal advertisement is responsible for resolving in good faith all disputes between any competing telecommunications carriers that timely responded to the advertisement and that wishes to install facilities within the same portion of the rights-of-way to be occupied. Should a dispute arise between the initial telecommunications carrier and a competing telecommunications carrier, the initial telecommunications carrier will attempt to mediate the dispute. Any dispute that is not resolved by the telecommunications carriers shall be adjudicated by the Public Service Commission.

(d) If two or more telecommunications carriers are required or authorized to share a single trench, each carrier in the trench must share the cost and benefits of the trench in a fair, reasonable, competitively neutral, and nondiscriminatory manner. This requirement extends to all underground construction technologies.

(e) The Commissioner of the Division of Highways shall promulgate Rules governing the relationship between the telecommunications carriers, as hereinafter provided in this article.

#### **§17-2E-6. Monetary and in-kind compensation.**

(a) All monetary compensation collected by the Division of Highways pursuant to this article shall be deposited in the State Road Fund.

(b) In-kind compensation paid to the Division of Highways under an agreement entered into pursuant to this article may include, without limitation:

(1) Conduit or excess conduit;

(2) Innerduct;

(3) Dark fiber;

(4) Access points;

(5) Telecommunications equipment or services;

(6) Bandwidth; and

(7) Other telecommunications facilities as a component of the present value of the trenching.

(c) The Division of Highways shall value any in-kind compensation based on fair market value at the time of installation or review, and may also consider any valuation or cost information provided by the telecommunications carrier.

(d) In-kind compensation paid to the Division of Highways may be disposed of if both of the following conditions are met:

(1) The telecommunications facility received as in-kind payment has not been used within 10 years of its installation; and



(2) The Commissioner of the Division of Highways determines that the division does not have an immediately foreseeable need for the telecommunications facility.

(e) Upon determining that it is appropriate to dispose of the telecommunications facility, the division shall determine its current fair market value. The division shall offer the provider or providers who made the in-kind payment the option to purchase any telecommunications facility obtained from such provider. If the provider or providers do not purchase the telecommunications facility, it shall be offered for public auction in the same manner as the division auctions excess rights-of-way.

**§17-2E-7. Multiple carriers in a single trench.**

(a) If the Division of Highways enters into an agreement with two or more telecommunications carriers, a consortium or other entity whose members, partners or other participants are two or more telecommunications carriers, or, if the division requires or allows two or more telecommunications carriers to share a single trench, the agreements entered into pursuant to this article shall require that the telecommunications carriers share the obligation of compensating the Division of Highways on a fair, reasonable and equitable basis, taking into consideration the proportionate uses and benefits to be derived by each telecommunications carrier from the trench, conduits, and other telecommunications facilities installed under the agreements.

(b) The provisions of §17-2E-7(a) of this code do not prevent the Division of Highways from requiring every participating telecommunications carrier to bear joint and several liability for the obligations owed to the Division of Highways under the agreements.

(c) Any agreement requiring two or more telecommunications carriers to share the obligation of compensating the Division of Highways shall provide the division the right to review and audit the records and contracts of and among the participating carriers to ensure compliance with §17-2E-7(a) of this code.

**§17-2E-8. Existing policies.**

(a) The requirements set forth in this article do not alter existing rules, policies, and procedures relating to other utility facilities within a right-of-way or for accommodating utility facilities or other facilities under the control of the Division of Highways.

(b) The Division of Highways may consider the financial and technical qualifications of a telecommunications carrier when determining specific insurance requirements for contractors authorized to enter a right-of-way to construct, install, inspect, test, maintain, or repair telecommunications facilities with longitudinal access or wireless access to the right-of-way.

(c) If the Division of Highways authorizes longitudinal access, wireless access, or the use of, and access to, conduit or related facilities of the division for construction and installation of a telecommunications facility, the division may require an approved telecommunications carrier to install the telecommunications facility in the same general location as similar facilities already in place, coordinate their planning and work with other contractors performing work in the same geographic area, install in a joint trench when two or more telecommunications carriers are performing installations at the same time and equitably share costs between such carriers.

(d) The placement, installation, maintenance, repair, use, operation, replacement, and removal of telecommunications facilities with longitudinal access or wireless access to a right-of-

way or that use or access conduit or related facilities of the division shall be accommodated only when in compliance with this code and Division of Highways rules, policies and guidelines.

(e) Access to a right-of-way must be administered in compliance with the Telecommunications Act of 1996, 47 U.S.C. §151, et seq., as amended.

**§17-2E-9. Rulemaking authority.**

The Commissioner of the Division of Highways may promulgate rules pursuant to the provisions of §29A-3-15 of this code as may be necessary to carry out the purpose of this article, and as may have been specifically delineated within this article.;

And,

That both houses recede from their respective positions as to the title of the bill and agree to the same as follows:

**Eng. Com. Sub. for House Bill 4447**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-2E-1, §17-2E-2, §17-2E-3, §17-2E-4, §17-2E-5, §17-2E-6, §17-2E-7, §17-2E-8, and §17-2E-9, all relating to providing a uniform and efficient system of broadband conduit installation coinciding with the construction, maintenance, or improvement of highways and rights-of-way under the oversight of the Division of Highways; making legislative findings; defining terms; providing procedures for broadband conduit installation in rights-of-way; providing for highway safety guidelines; establishing a procedure for joint use between telecommunications carriers; setting forth a procedure for monetary and in-kind compensation; providing a method for Division of Highways to offer excess conduit to a telecommunications carrier; setting forth standards to be utilized in agreements entered into by the Division of Highways and two or more telecommunications carriers in a single trench; providing that existing rules, policies, and procedures of the Division of Highways and United States Code shall control; and providing that the Commissioner of the Division of Highways may promulgate rules.

Respectfully submitted,

John Shott, *Chair*, Roger Hanshaw, Andrew D. Byrd, *Conferees on the part of the House of Delegates.*

Gregory L. Boso, *Chair*, Dave Sypolt, Robert H. Plymale, *Conferees on the part of the Senate.*

Senator Boso, Senate cochair of the committee of conference, was recognized to explain the report.

Thereafter, on motion of Senator Boso, the report was taken up for immediate consideration and adopted.

Engrossed Committee Substitute for House Bill 4447, as amended by the conference report, was then put upon its passage.

On the passage of the bill, as amended, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann,

Maroney, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Rucker—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4447) passed with its conference amended title.

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

A message from the Clerk of the House of Delegates announced the adoption by that body of the committee of conference report, passage as amended by the conference report with its conference amended title, and requested the concurrence of the Senate in the adoption thereof, as to

**Eng. Com. Sub. for House Bill 4001**, Relating to eligibility and fraud requirements for public assistance.

Whereupon, Senator Maroney, from the committee of conference on matters of disagreement between the two houses, as to

**Eng. Com. Sub. for House Bill 4001**, Relating to eligibility and fraud requirements for public assistance.

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendments of the Senate to Engrossed Committee Substitute for House Bill 4001 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the Senate, striking out everything after the enacting clause, and agree to the same as follows:

## **CHAPTER 9. HUMAN SERVICES.**

### **ARTICLE 2. COMMISSIONER OF HUMAN SERVICES; POWERS, DUTIES AND RESPONSIBILITIES GENERALLY.**

#### **§9-2-6. Powers of secretary.**

Within limits of state appropriations and federal grants and subject to provisions of state and federal laws and regulations, the secretary, in addition to all other powers, duties, and responsibilities granted and assigned to that office in this chapter and elsewhere by law, is authorized to:

(1) Promulgate, amend, revise and rescind department rules respecting the organization and government of the department and the execution and administration of those powers, duties, and

responsibilities granted and assigned by this chapter and elsewhere by law to the department and the secretary.

(2) Promulgate, amend, revise, and rescind department rules and regulations respecting qualifications for receiving the different classes of welfare assistance consistent with or permitted by federal laws, rules and policies, but not inconsistent with state law: *Provided*, That rules and policies respecting qualifications shall permit the expenditure of state funds to pay for care rendered in any birthing center licensed under the provisions of ~~§16-2e-1~~ §16-2E-1, *et seq.* of this code by a licensed nurse midwife or midwife as this occupation is defined in §30-15-7 of this code and which care is within the scope of duties for such licensed nurse midwife or midwife as permitted by the provisions of section seven of said article.

(3) Obtain by purchase or lease grounds, buildings, office or other space, equipment, facilities and services as may be necessary for the execution and administration of those powers, duties, and responsibilities granted and assigned by this chapter and elsewhere by law to the department and the secretary.

(4) Sign and execute in the name of the state by the State Department of Health and Human Resources any contract or agreement with the federal government or its agencies, other states, political subdivisions of this state, corporations, associations, partnerships, or individuals: *Provided*, That the provisions of §5A-3-1 *et seq.* of this code are followed.

(5) Sign and execute a contract to implement professional health care, managed care, actuarial and health care-related monitoring, quality review/utilization, claims processing, and independent professional consultant contracts for the Medicaid program: *Provided*, That the provisions of §5A-3-1 *et seq.* of this code are followed: *Provided, however*, That a contract awarded under the agency purchasing process from April 1, 2009, to January 2, 2013, remains in full force and effect and the secretary retains sole authority to review, approve, and issue changes to contracts issued under the former purchasing process, and is responsible for challenges, disputes, protests, and legal actions related to such contracts.

(6) Establish such special funds as may be required by the federal Social Security Act, as amended, or by any other Act or Acts of Congress, in order for this state to take full advantage of the benefits and provisions thereof relating to the federal-state assistance and federal assistance programs administered by the department and to make payments into and disbursements out of any such special fund or funds in accordance with the requirements of the federal Social Security Act, as amended, or any other Act or Acts of Congress, and in accordance with applicable state law and the objects and purposes of this chapter. In addition, the State Department of Health and Human Resources, through the secretary, is hereby authorized to accept any and all gifts or grants, whether in money, land, services or materials, which gift or gifts, if in the form of moneys, shall be placed in a separate fund and expended solely for the purpose of public assistance programs. No part of this special fund shall revert to the General Revenue Funds of this state. No expenses incurred pursuant to this special fund shall be a charge against the General Funds of this state.

(7) Establish within the department an Office of Inspector General for the purpose of conducting and supervising investigations, performing inspections, evaluations, and review, and ~~for the purpose of~~ providing quality control for the programs of the department. The Office of Inspector General shall be headed by the Inspector General who shall report directly to the secretary. Neither the secretary nor any employee of the department may prevent, inhibit, or prohibit the Inspector General or his or her employees from initiating, carrying out, or completing

any investigation, ~~quality control~~ inspection, evaluation, review or other activity oversight of public integrity by the Office of the Inspector General. The secretary shall place within the Office of Inspector General any function he or she deems necessary. Qualification, compensation, and personnel practice relating to the employees of the Office of the Inspector General, including that of the position of Inspector General, shall be governed by the classified service provisions of §29-6-1 *et seq.* of this code and rules promulgated thereunder. The Inspector General shall supervise all personnel of the Office of Inspector General.

(8) Provide at department expense a program of continuing professional, technical, and specialized instruction for the personnel of the department.

(9) Pay from available funds all or part of the reasonable expenses incurred by a person newly employed by the department in moving his household furniture, effects, and immediate family from his or her place of residence in this state to his or her place of employment in this state; and to pay from available funds all or part of the reasonable expenses incurred by a department employee in moving his or her household furniture, effects, and immediate family as a result of a reassignment of the employee which is considered desirable, advantageous to and in the best interests of the state, but no part of the moving expenses of any one such employee shall be paid more frequently than once in 12 months or for any movement other than from one place of employment in this state to another place of employment in this state.

(10) Establish a program to provide reimbursement to employees of the department whose items of personal property, as defined by the department by policy, are damaged during the course of employment or other work-related activity as a result of aggressive behavior by a client or patient receiving services from the department: *Provided*, That such reimbursement is limited to a maximum amount of \$250 per claim.

(11) Establish and maintain such institutions as are necessary for the temporary care, maintenance, and training of children and other persons.

(12) Prepare and submit state plans which will meet the requirements of federal laws, rules governing federal-state assistance and federal assistance and which are not inconsistent with state law.

(13) Organize within the department a Board of Review, consisting of a chairman appointed by the secretary and as many assistants or employees of the department as may be determined by the secretary and as may be required by federal laws and rules respecting state assistance, federal-state assistance, and federal assistance, such Board of Review to have such powers of a review nature and such additional powers as may be granted to it by the secretary and as may be required by federal laws and rules respecting federal-state assistance and federal assistance.

(14) Provide by rules review and appeal procedures within the Department of Health and Human Resources as may be required by applicable federal laws and rules respecting state assistance, federal-state assistance, and federal assistance and as will provide applicants for, and recipients of, all classes of welfare assistance an opportunity to be heard by the Board of Review, a member thereof or individuals designated by the board, upon claims involving denial, reduction, closure, delay, or other action or inaction pertaining to public assistance.

(15) Provide by rules, consistent with requirements of applicable federal laws and rules, application forms and application procedures for the various classes of public assistance.

(16) Provide locations for making applications for the various classes of public assistance.

(17) Provide a citizen or group of citizens an opportunity to file objections and to be heard upon objections to the grant of any class of public assistance.

(18) Delegate to the personnel of the department all powers and duties vested in the secretary, except the power and authority to sign contracts and agreements.

(19) Make such reports in such form and containing such information as may be required by applicable federal laws and rules respecting federal-state assistance and federal assistance.

(20) Invoke any legal, equitable, or special remedies for the enforcement of the provisions of this chapter.

(21) Require a provider, subgrantee, or other entity performing services on behalf of the department to comply with all applicable laws, rules, and written procedures pertaining to the program for which the entity is providing or coordinating services, including, but not limited to, policy manuals, statements of work, program instructions, or other similar agreements. When submitting a claim for payment, the entity shall certify that it has complied with all material conditions for payment. Knowingly and intentionally submitting a claim or billing for services performed in material violation of any law, rule, policy, or other written agreement shall constitute fraud and the agreement for provision of services shall terminate. The entity shall be required to repay the department for any payment under the program for which the provider was not entitled, regardless of whether the incorrect payment was the result of department error, fraud, or other cause. A demand for repayment or termination of agreement for provision of services shall be subject to the due process procedures pursuant to §29A-5-1 et seq. of this code. The provisions of this subsection do not apply to fraud in the Medicaid program.

(22) Develop a data analytics pilot program to identify potential fraud and help guide policy objectives to eliminate future fraud. The Secretary shall submit a report containing the pilot program's results and recommendations to the Joint Committee on Government and Finance no later than December 31, 2020.

#### **§9-7-2. Definitions.**

For the purposes of this article:

(1) "Assistance" means money payments, medical care, transportation and other goods and services necessary for the health or welfare of individuals, including guidance, counseling, and other welfare services and shall include all items of any nature contained within the definition of "welfare assistance" in §9-1-2 of this ~~chapter~~ code.

(2) "Benefits" means money payments, goods, services, or any other thing of value.

(3) "Board and Care Facility" means a residential setting where two or more unrelated adults receive nursing services or personal care services.

(4) "Claim" means an application for payment for goods or services provided under the medical programs of the Department of Health and Human Resources.

~~(5)~~ "Entity" means any corporation, association, partnership, limited liability company, or other legal entity.

~~(6)~~ "Financial Exploitation" means the intentional misappropriation or misuse of funds or assets of another.

"Fraud" means a knowing misrepresentation, knowing concealment, or reckless statement of a material fact.

~~(7)~~ "Medicaid" means that assistance provided under a state plan implemented pursuant to the provisions of subchapter nineteen, chapter seven, Title 42, United States Code, as that chapter has been and may hereafter be amended.

~~(8)~~ "Person" means any individual, corporation, association, partnership, proprietor, agent, assignee, or entity.

~~(9)~~ "Provider" means any individual or entity furnishing goods or services under the medical programs of the Department of Health and Human Resources.

~~(10)~~ "Unit" means the Medicaid Fraud Control Unit established under §9-7-1 of this ~~article~~ code.

**§9-7-5. Bribery; false claims; conspiracy; criminal penalties; failure to maintain records.**

(a) A person shall not solicit, offer, pay, or receive any unlawful remuneration, including any kickback, rebate or bribe, directly or indirectly, with the intent of causing an expenditure of moneys from the medical services fund established pursuant to §9-4-2 of this ~~chapter~~ code, which is not authorized by applicable laws or rules and regulations.

(b) A person shall not make or present or cause to be made or presented to the Department of Health and Human Resources a claim under the medical programs of the Department of Health and Human Resources knowing the claim to be false, fraudulent, or fictitious.

(c) A person shall not enter into an agreement, combination or conspiracy to obtain or aid another to obtain the payment or allowance of a false, fraudulent, or fictitious claim under the medical programs of the Department of Health and Human Resources.

(d) Any person found to be in violation of §9-7-5 (a), §9-7-5(b) or §9-7-5(c) of this ~~section~~ code is guilty of a felony and, upon conviction, shall be imprisoned in a state correctional facility not less than one nor more than 10 years or shall be fined not to exceed \$10,000, or both fined and imprisoned.

(e) Any provider who, having submitted a claim for or received a benefit, payment, or allowance under the medical programs of the Department of Health and Human Resources, knowingly fails to maintain such records as are necessary to disclose fully the nature of a good or service for which a claim was submitted or benefit, payment, or allowance was received, or such records as are necessary to disclose fully all income and expenditures upon which rate of payment were based, for a period of at least five years following the date on which payment was received, shall be guilty of a misdemeanor and, upon conviction, may be imprisoned in a state correctional facility not to exceed one year or may be fined up to \$1,000, or both fined and imprisoned. Any person who knowingly destroys such records within five years from the date the

benefit, payment, or allowance was received, shall be guilty of a felony, and may be imprisoned in a state correctional facility not less than one nor more than 10 years or may be fined not to exceed \$10,000, or both fined and imprisoned.

**§9-7-6. Civil remedies; statute of limitations.**

(a) ~~Any person, firm, corporation, or other entity which willfully, by means of a false statement or representation, or by concealment of any material fact, or by other fraudulent scheme, devise or artifice on behalf of himself, herself, itself, or others, obtains or attempts to obtain benefits or payments or allowances under the medical programs of the Department of Health and Human Resources to which he or she or it is not entitled, or, in a greater amount than that to which he or she or it is entitled, makes or attempts to make, or causes to be made, a claim for benefits, payments, or allowances under the medical programs of the Department of Health and Human Resources, when such person, firm, corporation, or entity knows, or reasonably should have known, such claim to be false, fictitious, or fraudulent, or fails to maintain such records as are necessary shall be liable to the Department of Health and Human Resources in an amount equal to three times the amount of such benefits, payments, or allowances to which he or she or it is not entitled, and shall be liable for the payment of reasonable attorney fees and all other fees and costs of litigation.~~

(b) No criminal action or indictment need be brought against any person, firm, corporation or other entity as a condition for establishing civil liability hereunder.

(c) A civil action under this section may be prosecuted and maintained on behalf of the Department of Health and Human Resources by the Attorney General and the Attorney General's assistants or a prosecuting attorney and the prosecuting attorney's assistants or by any attorney in contract with or employed by the Department of Health and Human Resources to provide such representation.

(d) Any civil action brought under this section shall be brought within five years from the time the false, fraudulent, or fictitious claim was made. Claims will be judged based on the Medicaid or program rules in existence at the time of the claim submission.

**ARTICLE 8. ELIGIBILITY AND FRAUD REQUIREMENTS FOR PUBLIC ASSISTANCE.**

**§9-8-1. Definitions.**

As used in this article:

“Able bodied adult” means a person between the ages of 18 and 49 years of age without dependents and who does not meet any of the exemptions set forth in §9-8-2(a) of this code.

“Applicant” or “recipient” means a person who is applying for, or currently receiving, public assistance in the State of West Virginia from the department.

“Department” means the West Virginia Department of Health and Human Resources.

“Electronic benefit transfer” or “EBT” means any electronic system which allows the department to issue and track benefits via a magnetically encoded payment card.



“Good cause” means circumstances beyond the household’s control, including, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, natural disaster, a declared state of emergency due to inclement weather, or the unavailability of transportation.

“Public assistance” means government benefits provided to qualifying individuals on the basis of need to provide basic necessities to individuals and their families. These shall include, but are not limited to, the following:

(A) Supplemental Nutrition Assistance Program, or SNAP;

(B) Medicaid; and

(C) Temporary Assistance to Needy Families, or TANF.

“Secretary” means the Secretary of the West Virginia Department of Health and Human Resources.

“Work” or “working” means:

(A) Work in exchange for money;

(B) Work in exchange for goods or services (“in kind” work);

(C) Unpaid work, verified under standards established by the department in rule; or

(D) Any combination thereof.

### **§9-8-2. Work requirements.**

(a) All able bodied adults may receive Supplemental Nutrition Assistance benefits for only three months in each 36-month period. Recipients are exempt from the time limit if they are employed or are participating and complying with the requirements of a work, education, or volunteer program for at least 20 hours per week. *Provided*, That further exemptions may apply and shall be determined in accordance with federal law. *Provided, however*, that any such exemptions shall not exceed those granted by federal law.

(b) Beginning October 1, 2018, the department shall discontinue and shall not seek federal waivers granted pursuant to 7 U.S.C. § 2015(o) for Able Bodied Adults Without Dependents (ABAWD) for any county that cannot be demonstrated to have, through data in conformance with U.S. Bureau of Labor Statistics methodology set forth under federal law, a recent 12-month average unemployment rate above 10 percent; a recent 24-month average unemployment rate 20 percent above the national average for the same 24-month period; qualification for extended unemployment benefits; or designation as a “labor surplus area” by the U.S. Department of Labor. These waivers exempt able bodied adults with no children from work requirements for receipt of SNAP benefits. Notwithstanding any provision in this code to the contrary, all counties shall be ineligible for any such waiver effective October 1, 2022.

(c) The department shall submit a report to the Legislative Oversight Committee on Health and Human Resources Accountability, no later than October 1, 2020, on the employment impact of ABAWD requirements in those counties where they were implemented as of October 1, 2018.

The report shall include, on a county-by-county basis, information on the number of SNAP recipients subject to work requirements; the number exempted from work requirements and the reasons for exemption; the number of applicants denied benefits due to non-compliance with work requirements; the dollar amount of benefits withheld due to non-compliance; the estimated fiscal impact on SNAP retailers of withholding those benefits; the number of recipients who engaged in work, education, or volunteerism in order to maintain benefits; the efforts made to assist recipients with meeting work requirements in order to maintain benefits; and any such recommendations pertaining to work requirements as the department deems advisable.

(d) If a recipient resides in a county subject to the provisions of this article, an applicant shall be deemed as complying with the requirements of a work, education, or volunteer program if any of the following requirements are satisfied:

(1) Working at least 20 hours per week, averaged monthly, or 80 hours a month;

(2) Participating in, and complying with, the requirements of a work force training program of 20 hours per week, as determined by the department in rule;

(3) Volunteering 20 hours a week, as determined by the department in rule;

(4) Any combination of working, volunteering and/or participating in a work program for a total of 20 hours per week, as determined by the department in legislative rule; or

(5) Participating in, and complying with, a workfare program as set out in 7 C.F.R. 273.24(a)(3).

(e) As determined by the department, if a recipient would have worked an average of 20 hours per week but missed some work for good cause, the recipient shall be considered to have met the work requirement if the absence from work is temporary and the recipient retains his or her job. Good cause includes circumstances beyond the household's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, natural disaster, a declared state of emergency due to inclement weather, or the unavailability of transportation.

(f) If the department determines that a waiver, or an amendment to a waiver, is necessary to implement a policy that complies with 7 C.F.R. 273.24, it shall request the waiver or the amendment to the waiver from the United States Department of Agriculture.

(g) The department shall propose legislative rules in accordance with the provisions of this code for a plan for implementation of the requirements set forth in this section in counties that are subject to the requirements set forth in §9-8-2 (d) of this code.

### **§9-8-3. Income and identity verification.**

(a) By December 31, 2018, the department shall redesign an existing system or establish a new computerized income, asset, and identity eligibility verification system or contract with a third-party vendor to verify eligibility, eliminate the duplication of assistance, and deter waste, fraud, and abuse in each public assistance program which it administers.

(b) The department may contract with a third-party vendor to develop a system to provide a service or verify income, assets, and identity eligibility of applicants to prevent fraud,

misrepresentation, and inadequate documentation when determining eligibility for public assistance. This system or service shall be accessed prior to determining eligibility, periodically between eligibility redeterminations, and during eligibility redeterminations and reviews. The department may contract with a vendor to provide information to facilitate reviews of recipient eligibility conducted by the department.

(c) A contract made pursuant to this section may not include a provision that provides the vendor with a monetary incentive for reducing the number of recipients.

(d) Nothing in this article precludes the department from continuing to conduct additional eligibility verification processes currently in practice.

#### **§9-8-4. Eligibility verification.**

All applications for benefits must be processed through a system as set forth in this article. Complete applications, including the interview, shall be processed within 10 days of receipt or the maximum period required by federal law. Prior to determining eligibility, the department shall access information for every applicant from federal, state, and other sources: *Provided*, That such access does not violate any federal law.

#### **§9-8-5. Identity authentication.**

(a) Prior to awarding public assistance, applicants for benefits must complete a computerized identity authentication process to confirm the identity of the applicant. This shall be done with a knowledge-based questionnaire consisting of financial and/or personal questions. The questionnaire must contain questions tailored to assist persons without a bank account or those who have poor access to financial and banking services or who do not have an established credit history. The questionnaire may be submitted online, in-person, or via telephone.

(b) The department shall submit a report to the Legislative Oversight Committee on Health and Human Resources Accountability regarding the feasibility of implementing the photo EBT card option under 7 U.S.C. § 2016(h)(9). The study shall address certain operational issues to ensure that state implementation would be consistent with all federal requirements, and that program access is protected for participating households, including, but not limited to, allowing the recipient to designate permitted users for purposes of utilizing the photo EBT card.

#### **§9-8-6. Case review.**

(a) If the information obtained from the review provided in this article does not result in the department finding a discrepancy or change in an applicant's or recipient's circumstances affecting eligibility, the department shall not take any further action and shall continue processing the application.

(b) If the review results in a discrepancy, the department shall promptly redetermine eligibility.

#### **§9-8-7. Notice and right to be heard.**

(a) An applicant shall be given written notice and the opportunity to explain any issues with the application or redetermination as set forth in §9-8-6 of this code. Self-declarations by applicants or recipients shall be accepted as verification of categorical and financial eligibility if no

other verification source is available. In cases requiring expedited services an applicant's statement may be temporarily accepted until such time as verification is possible.

(b) The notice given to the applicant or recipient is required to describe the circumstances of the issue, the manner in which the applicant or recipient may respond, and the consequences of failing to take action. If the applicant does not respond timely as required by federal law, the department shall take appropriate action. The department may request additional information as it finds necessary to reach a decision.

(c) An individual may respond in writing, electronically, or verbally. If an individual responds verbally, staff shall note the time and contents of the response in the individual's file. The response by the individual may:

(1) Disagree with the findings of the department. The department shall reinvestigate the matter if the applicant or recipient disagrees. If the department finds that there has been an error, the department shall take immediate action to correct it. If the department determines that there is no error, the department shall determine the effect of the response on the applicant's or recipient's case and take appropriate action. Written notice of the department's action shall be given to the applicant or recipient; or

(2) Agree with the findings of the department. The department shall determine the effect on the applicant's or recipient's case and take appropriate action. Written notice of the department's action shall be given to the applicant or recipient.

(d) If the applicant fails to respond to the notice, the department shall deny or discontinue assistance for failure to verify information. Eligibility for assistance may not be established or reestablished until the issue has been resolved.

#### **§9-8-8. Referrals for fraud, misrepresentation or inadequate documentation.**

(a) After the case review as set forth in §9-8-6 of this code, the department shall refer cases of suspected fraud to the Office of Inspector General within the department. That office shall take appropriate action, including civil penalties or referral to an appropriate prosecuting attorney for criminal prosecution.

(b) In cases of substantiated fraud, upon conviction, the state shall review all appropriate legal options. These may include, but are not limited to, removal from other public assistance programs and garnishment of wages or state income tax refunds until the department recovers an equal amount of benefits fraudulently claimed.

(c) The department may refer suspected cases of fraud, misrepresentation, or inadequate documentation to appropriate agencies, divisions, or departments for review of eligibility issues in other public assistance programs. This should also include cases in which an individual is determined to be no longer eligible for the original program.

#### **§9-8-9. Reporting to the Governor and Legislature.**

The department shall prepare an annual report by January 15 each year to the Governor and Legislative Oversight Commission on Health and Human Resources Accountability. The report shall contain information on the effectiveness and general findings of the eligibility verification system, including the number of cases reviewed, the number of case closures, the number of

referrals for criminal prosecution, recovery of improper payment, collection of civil penalties, the outcomes of cases referred to the Office of Inspector General, and any savings that have resulted from the system.

**§9-8-10. Prohibitions on use of electronic benefit transfer cards.**

(a) To ensure that public assistance program funds are used for their intended purposes, funds available on electronic benefit transfer cards may not be used to purchase alcohol, liquor or imitation liquor, cigarettes, tobacco products, bail, gambling activities, lottery tickets, tattoos, travel services provided by a travel agent, money transmission to locations abroad, sexually oriented adult materials, concert tickets, professional or collegiate sporting event tickets, or tickets for other entertainment events intended for the general public.

(b) Electronic benefit transfer card transactions are prohibited at all casinos, gaming establishments, tattoo parlors, massage parlors, body piercing parlors, spas, nail salons, lingerie shops, vapor cigarette stores, psychic or fortune-telling businesses, bail bond companies, video arcades, movie theaters, swimming pools, cruise ships, theme parks, dog or horse racing facilities, pari-mutuel facilities, sexually oriented businesses, retail establishments which provide adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment, and businesses or retail establishments where minors under age 18 are not permitted.

(c) Upon enrollment, the department shall provide all applicants with an itemized list of prohibited purchases, including those specified in this section, and make such list available on the department's website.

(d) If a recipient is found to have violated the provisions of this section, the department shall issue a warning in writing to the recipient. The recipient is subject to disqualification of benefits for up to three months following the first offense, for up to one year following the second offense, and a permanent termination of benefits following the third offense, unless expressly prohibited by federal law.

**§9-8-11. Tracking out-of-state spending.**

(a) The department shall post on its website and provide to the Joint Committee on Government and Finance a report of Supplemental Nutrition Assistance Program and Temporary Assistance for Needy Families benefit spending on or before January 15 of each year.

(b) The report required by this section shall include:

(1) The dollar amount and number of transactions of Supplemental Nutrition Assistance Program benefits that are accessed or spent out-of-state, by state;

(2) The dollar amount and number of transactions of Temporary Assistance for Needy Families benefits that are accessed or spent out-of-state, by state;

(3) The dollar amount, number of transactions and times of transactions of Supplemental Nutrition Assistance Program benefits that are accessed or spent in-state, by retailer, institution or location; and

(4) The dollar amount, number of transactions and times of Temporary Assistance for Needy Families transactions of benefits that are accessed or spent in-state, disaggregated by retailer, institution, or location.

(c) The report required pursuant to this section shall not identify individual recipients.

### **§9-8-12. Rulemaking.**

The secretary may promulgate rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code which he or she finds necessary to effectuate the provisions of this article.

## **CHAPTER 61. CRIMES AND PUNISHMENT.**

### **ARTICLE 3. CRIMES AGAINST PROPERTY.**

#### **§61-3-54. Taking identity of another person; penalty.**

Any person who knowingly takes the name, birth date, social security number, or other identifying information of another person, without the consent of that other person, with the intent to fraudulently represent that he or she is the other person for the purpose of making financial or credit transactions in the other person's name, or for the purpose of gaining employment, is guilty of a felony and, upon conviction, shall be punished by confinement in the penitentiary not more than five years, or fined not more than \$1,000, or both: *Provided*, That the provisions of this section do not apply to any person who obtains another person's drivers license or other form of identification for the sole purpose of misrepresenting his or her age.;

And,

That both house recede from their respective positions as to the title of the bill and agree to a new title as follows:

**Eng. Com. Sub. for House Bill 4001**—A Bill to amend and reenact §9-2-6 of the Code of West Virginia, 1931, as amended; to amend and reenact §9-7-2, §9-7-5, and §9-7-6 of said code; to amend said code by adding thereto a new article, designated §9-8-1, §9-8-2, §9-8-3, §9-8-4, §9-8-5, §9-8-6, §9-8-7, §9-8-8, §9-8-9, §9-8-10, §9-8-11, and §9-8-12; and to amend and reenact §61-3-54 of said code, all relating to investigations, inspections, evaluations, and review conducted by the Department of Health and Human Resources to prevent fraud and abuse; disenrolling providers who commit fraud and requiring repayment; authorizing secretary to develop a data analytics pilot program to identify potential fraud and help guide policy objectives to eliminate future fraud; requiring a report on the pilot project to the Legislature; defining fraud as it relates to Medicaid; creating criminal penalties against providers for failure to keep medical records for a specific time period; authorizing a civil cause of action for fraud when a person or entity knew or reasonably should have known a claim to be false; enlarging the statute of limitations to file health care fraud civil actions; defining terms relating to public assistance; requiring the Department of Health and Human Resources to implement work requirements for applicants of Supplemental Nutrition Assistance Program (SNAP); to limit recipients to 3 months of benefits in any 36-month period unless the recipient is working or participating in a work, educational, or volunteer program for at least 20 hours a week; providing further exemptions to work requirements; requiring discontinuance of a federal waiver in certain counties; requiring a study of the impact of the SNAP work requirements in those counties where they were

implemented; eliminating the federal waiver statewide within a certain time-period; requiring a report to the legislature; establishing work requirements; authorizing a waiver to if necessary to implement a policy that complies with federal law; authorizing rulemaking; requiring a design or establishment of a computerized income, asset, and identity verification system for each public assistance program administered by the Department of Health and Human Resources; allowing for contracting with a third-party vendor; setting out required contract terms; requiring accessing information of various federal, state, and miscellaneous sources for eligibility verification; requiring identity authentication as a condition to receive public assistance; requiring the department to study the feasibility of requiring photos on EBT cards; specifying procedures for case review of public assistance benefits; setting forth notice requirements and right to a hearing; requiring referrals for fraud, misrepresentation, and inadequate documentation; authorizing referrals of suspected cases of fraud for criminal prosecution; requiring report to the Governor and Legislature; setting forth prohibitions on the use of an electronic benefit transfer card; tracking out-of-state spending of SNAP and TANF benefits; providing for rulemaking; and providing a penalty for taking the identity of another person for the purpose of gaining employment.

Respectfully submitted,

John Shott, *Chair*, Ray Hollen, Joe Canestraro, *Conferees on the part of the House of Delegates*.

Michael J. Maroney, *Chair*, Ryan W. Weld, Robert H. Plymale, *Conferees on the part of the Senate*.

On motions of Senator Maroney, severally made, the report of the committee of conference was taken up for immediate consideration.

The question being on the adoption of the report of the committee of conference as to Engrossed Committee Substitute for House Bill 4001.

Following discussion,

The question being on the adoption of the report of the committee of conference as to Engrossed Committee Substitute for House Bill 4001, the same was put and prevailed.

Engrossed Committee Substitute for House Bill 4001, as amended by the conference report, was then put upon its passage.

Pending discussion,

The question being "Shall Engrossed Committee Substitute for House Bill 4001 pass?"

On the passage of the bill, as amended, the yeas were: Arvon, Azinger, Baldwin, Blair, Boley, Clements, Cline, Drennan, Ferns, Gaunch, Karnes, Mann, Maroney, Maynard, Plymale, Smith, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—24.

The nays were: Beach, Boso, Facemire, Jeffries, Ojeda, Palumbo, Prezioso, Romano, and Stollings—9.

Absent: Rucker—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4001) passed with its conference amended title.

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

At the request of Senator Prezioso, and by unanimous consent, Senator Prezioso addressed the Senate commending the minority party caucus and staff.

Thereafter, at the request of Senator Gaunch, unanimous consent being granted, the remarks by Senator Prezioso were ordered printed in the Appendix to the Journal.

At the request of Senator Woelfel, and by unanimous consent, Senator Woelfel addressed the Senate regarding Megan Bailey, a Judith A. Herndon Fellowship Program intern, and Karenann Flouhouse, a Legislative Information Journalism Internship Program intern.

Thereafter, at the request of Senator Trump, unanimous consent being granted, the remarks by Senator Woelfel were ordered printed in the Appendix to the Journal.

The Senate resumed business under the third order.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Senate Bill 592**, Adding examination of advanced care technician for firefighter paramedic.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendments to the bill were reported by the Clerk:

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.

~~(c)~~ (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.;

And,

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Senate Bill 592**—A Bill to amend and reenact §8-15-20a of the Code of West Virginia, 1931, as amended; to amend and reenact §16-4C-6 of this code; and to amend said code by adding thereto a new section, designated §16-4C-6d, all relating to advanced care technicians and emergency medical technicians; authorizing commissioner of the Bureau of Public Health to certify certain scopes of practice and levels of certification; requiring an applicant to be certified; requiring examination for certification; and providing for qualified veterans to take certification examinations.

On motion of Senator Ferns, the following amendments to the House of Delegates amendments to the bill (Eng. S. B. 592) were reported by the Clerk and adopted:

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 either advanced care technician or advanced emergency medical 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 either advanced care technician or advanced emergency medical technician shall: (1) be a certified advanced care technician; (2) successfully pass either the advanced care technician or the advanced emergency medical technician examination as appropriate; and (3) meet the requirements of §8-15-17 of this code.

~~(e)~~ (d) Any person employed as a firefighter paramedic or either an advanced care technician or advanced emergency medical technician under the provisions of this section shall: (1) Maintain paramedic or either advanced care technician or advanced emergency medical 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 either advanced care technician or advanced emergency medical 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 either 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 cooperate with the Department of Administration, Purchasing Division to establish one or more statewide contracts for equipment and supplies utilized by emergency medical services agencies in accordance with §5A-3-1 et seq. of this code:

(1) Any statewide contract established hereunder shall be made available to any emergency medical services agency licensed under §16-4C-6a of this code that is designated to provide emergency response by one or more county emergency dispatch centers.

(2) The commissioner may develop uniform standards for equipment and supplies used by emergency medical services agencies in accordance with §5A-3-1 et seq. of this code.

(3) The commissioner shall propose legislative rules for promulgation in accordance with §29A-3-1 et seq. of this code to effectuate the provisions of this subsection; and

~~(n)~~ (o) 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 30 years have 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.;

And,

By striking out the title and substituting therefor a new title. to read as follows:

**Eng. Senate Bill 592**—A Bill to amend and reenact §8-15-20a of the Code of West Virginia, 1931, as amended; to amend and reenact §16-4C-6 of this code; and to amend said code by adding thereto a new section, designated §16-4C-6d, all relating to emergency medical services; authorizing municipalities to administer special examination for position of either advanced care technician or advanced emergency medical technician; setting qualifications for applicant for position of either advanced care technician or advanced emergency medical technician; establishing requirements for persons employed as advanced care technician or advanced emergency medical technician; requiring Commissioner of Bureau for Public Health to certify certain scopes of practice and levels of certification; identifying additional powers of Commissioner of Bureau for Public Health related to purchasing; providing for certain veterans to take certification examination for emergency medical technician; establishing eligibility requirements and procedures; authorizing additional training courses to be required under certain circumstances; and providing for procedures should veteran not pass examination.

On motion of Senator Ferns, the Senate concurred in the House of Delegates amendments, as amended.

Engrossed Senate Bill 592, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maynard, Ojeda,



Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Maroney and Rucker—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 592) passed with its Senate amended title.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment, as amended by the House of Delegates, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment to the Senate amendment, as to

**Eng. House Bill 4488**, Relating to the Hatfield-McCoy Recreation Authority.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the Senate amendment to the bill was reported by the Clerk:

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. House Bill 4488**—A Bill to amend and reenact §20-14-1, §20-14-2, §20-14-3, §20-14-4, and §20-14-8 of the Code of West Virginia, 1931, as amended, all relating to the Hatfield-McCoy Recreation Authority; updating legislative findings; adding the counties of Braxton, Clay, Fayette, Nicholas, and Webster to the list of participating counties; modifying the number of board members; providing that 10 members of the board constitutes a quorum; prohibiting persons from consuming non-intoxicating beer, nonintoxicating craft beer, or wine at any time within the Hatfield-McCoy Recreation Area; prohibiting a child under the age of six from being allowed on any trail within the Hatfield-McCoy Recreation Area; prohibits children under the age of eight years who are required to be in a child passenger safety device while occupying a motor vehicle from being allowed on any trail within the Hatfield-McCoy Recreation Area; and requiring all persons operating or riding upon an ATV, UTV, or motorcycle to follow the manufacturer's recommendations for that vehicle relating to age and size limitations for operators and passengers.

On motion of Senator Ferns, the Senate concurred in the foregoing House of Delegates amendment to the Senate amendment to the bill.

Engrossed House Bill 4488, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Maroney and Rucker—2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 4488) passed with its House of Delegates amended title.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment, as amended by the House of Delegates, passage as amended, and requested the concurrence of the Senate in the House of Delegates amendment to the Senate amendment, as to

**Eng. Com. Sub. for House Bill 4320**, Limiting the ability of an agent under a power of attorney to take self-benefiting actions.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

The following House of Delegates amendment to the Senate amendment to the bill was reported by the Clerk:

By striking out the title and substituting therefor a new title, to read as follows:

**Eng. Com. Sub. for House Bill 4320**—A Bill to amend and reenact §39B-1-114 of the Code of West Virginia, 1931, as amended; and to amend and reenact §39B-2-101 of said code, all relating to limiting the ability of an agent under a power of attorney to take self-benefiting actions; clarifying the presumption that an act is not within the scope of authority granted in a power of attorney when an agent benefits from the act to the detriment of an ancestor, spouse, heir, or descendant; requiring express grant of authority to exercise authority over the content of electronic communications sent or received by the principal; and clarifying the prohibition against an agent exercising 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.

On motion of Senator Ferns, the Senate concurred in the foregoing House of Delegates amendment to the Senate amendment to the bill.

Engrossed Committee Substitute for House Bill 4320, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Maroney and Rucker-2.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 4320) passed with its House of Delegates amended title.

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

The Senate proceeded to the fourth order of business.

Senator Boso, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**House Concurrent Resolution 47**, U. S. Army SPC 4 William L. Amos Memorial Bridge.

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

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

At the request of Senator Boso, unanimous consent being granted, the resolution (H. C. R. 47) contained in the preceding report from the Committee on Transportation and Infrastructure was taken up for immediate consideration.

The question being on the adoption of the resolution, the same was put and prevailed.

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

Senator Boso, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Com. Sub. for House Concurrent Resolution 53**, Pastor Robert L. 'Bob' Barker Memorial Bridge.

And,

**Com. Sub. for House Concurrent Resolution 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.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Gregory L. Boso,  
*Chair.*

At the request of Senator Boso, unanimous consent being granted, the resolutions (Com. Sub. for H. C. R. 53 and 85) contained in the preceding report from the Committee on Transportation and Infrastructure were taken up for immediate consideration and considered simultaneously.

The question being on the adoption of the resolutions, the same was put and prevailed.

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

Without objection, the Senate returned to the third order of business.

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendments to, and requested the Senate to recede therefrom, as to

**Eng. House Bill 2869**, Providing for paid leave for certain state officers and employees during a declared state of emergency.

On motion of Senator Ferns, the bill was taken up for immediate consideration.

On further motion of Senator Ferns, the Senate acceded to the request of the House of Delegates and receded from its amendments to the bill.

Engrossed House Bill 2869, as amended by deletion, was then put upon its passage.

On the passage of the bill, the yeas were: Arvon, Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Drennan, Facemire, Ferns, Gaunch, Jeffries, Karnes, Mann, Maynard, Ojeda, Palumbo, Plymale, Prezioso, Romano, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Maroney and Rucker—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2869) passed with its title.

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

At the request of Senator Ferns, unanimous consent being granted, Senator Ferns addressed the Senate commending the Senate staff.

On motion of Senator Blair, at 11:40 p.m., the Senate recessed for five minutes.

The Senate reconvened at 11:58 p.m. tonight and resumed business under the third order.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to the House of Delegates amendment to, and the passage as amended, to take effect from passage, of

**Eng. Com. Sub. for Senate Bill 10**, Relating generally to PSC jurisdiction.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the adoption of the committee of conference report, passage as amended by the conference report with its conference amended title, of

**Eng. Com. Sub. for Senate Bill 46**, Permitting pharmacists to inform customers of lower-cost alternative drugs.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the adoption of the committee of conference report, passage as amended by the conference report with its conference amended title, of

**Eng. Com. Sub. for Senate Bill 51**, Relating to domestic relations.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to the House of Delegates amendments to, and the passage as amended, of

**Eng. Com. Sub. for Senate Bill 244**, Specifying conditions for unlawful possession of firearm at school-sponsored activities.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to the House of Delegates amendments to, and the passage as amended, of

**Eng. Com. Sub. for Senate Bill 261**, Transferring certain powers and programs of WV Affordable Housing Trust Fund to WV Housing Development Fund.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to the House of Delegates amendment to, and the passage as amended, of

**Eng. Com. Sub. for Senate Bill 275**, Relating to tax on purchases of intoxicating liquors.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the adoption of the committee of conference report, passage as amended by the conference report with its conference amended title, of

**Eng. Senate Bill 282**, Exempting State Conservation Committee from Purchasing Division requirements for contracts related to flood recovery.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to the House of Delegates amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Com. Sub. for Senate Bill 313**, Waiving occupational fees and licensing requirements for certain low-income individuals, military families, and young workers.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the adoption of the committee of conference report, passage as amended by the conference report with its conference amended title, of

**Eng. Com. Sub. for Senate Bill 392**, Reconfiguring membership of Emergency Medical Services Advisory Council.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to the House of Delegates amendments to, and the passage as amended, of

**Eng. Com. Sub. for Senate Bill 446**, Creating Agritourism Responsibility Act.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to the House of Delegates amendments to, and the passage as amended, to take effect from passage, of

**Eng. Senate Bill 463**, Establishing group to examine benefits and need of transferring milk rules and regulations from DHHR to Agriculture.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to the House of Delegates amendments to, and the passage as amended, of

**Eng. Com. Sub. for Senate Bill 495**, Designating specific insurance coverages exempt from rate filing requirements.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to the House of Delegates amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Senate Bill 498**, Creating two-year pilot program allowing all-terrain or recreational vehicles in Cabwaylingo State Forest.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of the committee of conference report, and the rejection of

**Eng. Senate Bill 545**, Relating to driving privileges and requirements for persons under 18.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the adoption of the committee of conference report, passage as amended by the conference report with its conference amended title, to take effect from passage, of

**Eng. Com. Sub. for Senate Bill 582**, Allowing candidate for political party executive committee serve as election official.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to the House of Delegates amendments to, and the passage as amended, of

**Eng. Com. Sub. for Senate Bill 625**, Creating WV Volunteer Fire and Rescue Act of 2018.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

**Eng. Senate Bill 634**, Adding, increasing, and decreasing appropriations from General Revenue to DHHR.

A message from The Clerk of the House of Delegates announced the concurrence by that body in the adoption of the committee of conference report, passage as amended by the conference report with its conference amended title, of

**Eng. Com. Sub. for Com. Sub. for Senate Joint Resolution 3**, Judicial Budget Oversight Amendment.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 1**, US Army SGT Denver E. Short Memorial Road.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 3**, Michael Angiulli Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 14**, US Army SPC 4 William L. Amos Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 17**, John Hancock Hall Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 21**, US Army PFC Charles Thurman "Buddy" Ellis Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 22**, US Army Colonel Larkin Bilton Vance Memorial Highway.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 23**, Betty Jo Delong Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 25**, US Army PFC O. T. (Teaberry) Mullins Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 26**, US Army PFC Thomas Mayford Martin Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 27**, US Army CPL F. Lee Noel Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Com. Sub. for Senate Concurrent Resolution 29**, US Army SGT Benny Fleming Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 37**, Sheriff John E. White Memorial Road.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 43**, US Army T-4 CE Caesar Bango Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 48**, US Army MSG Monty Ray Skeen, Sr., Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 49**, US Army PFC Robert "Bobby" Tate, Jr., Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 52**, Deputy Sheriff John Janey Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 54**, Requesting study on effect of new vehicle weights on WV roads.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the adoption of

**Senate Concurrent Resolution 55**, Urging Congress pass law permitting WV to increase vehicle weight on interstate highways.



A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Com. Sub. for House Bill 2655**, Defining and establishing the crime of cyberbullying.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to, and the passage as amended, of

**Eng. Com. Sub. for House Bill 2799**, Prohibiting the superintendent of schools from requiring a physical examination to be included to the application for a minor's work permit.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Com. Sub. for House Bill 2982**, Relating to allowing draw games winners to remain anonymous.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to, and the passage as amended, of

**Eng. Com. Sub. for House Bill 4002**, Providing that all delegates shall be elected from one hundred single districts following the United States Census in 2020.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Com. Sub. for House Bill 4006**, Revising the processes through which professional development is delivered for those who provide public education.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Com. Sub. for House Bill 4187**, Business Liability Protection Act.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Com. Sub. for House Bill 4214**, Increasing penalties for unlawfully possessing or digging ginseng.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to, and the passage as amended, of

**Eng. Com. Sub. for House Bill 4217**, Permitting an attending physician to obtain a patient's autopsy report.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Com. Sub. for House Bill 4233**, Relating generally to fraudulent transfers.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, to take effect from passage, with its Senate amended title, of

**Eng. Com. Sub. for House Bill 4251**, Permitting employees of baccalaureate institutions and universities outside of this state to be appointed to board of governors.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Com. Sub. for House Bill 4270**, Providing for the timely payment of moneys owed from oil and natural gas production.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. House Bill 4324**, Relating to the employment of individuals by municipal paid fire departments under civil service.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Com. Sub. for House Bill 4350**, Eliminating the regulation of upholstery.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, to take effect from passage, with its Senate amended title, of

**Eng. House Bill 4389**, Expiring funds to the Enterprise Resource Planning System Fund.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Com. Sub. for House Bill 4394**, Relating to forest fires.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Com. Sub. for House Bill 4424**, Providing that the Ethics Act applies to certain persons providing services without pay to state elected officials.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Com. Sub. for House Bill 4524**, Establishing guidelines for the substitution of certain biological pharmaceuticals.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amended title, passage as amended, of

**Eng. Com. Sub. for House Bill 4571**, Relating to the final day of filing announcements of candidates for a political office.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the passage as amended, with its Senate amended title, of

**Eng. Com. Sub. for House Bill 4607**, Establishing certain criteria for the restricted operation of drones within State Parks, Forests, and Rail Trails.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendment to, and the passage as amended, of

**Eng. House Bill 4627**, Relating to providing a limitation on the eminent domain authority of a municipal park board.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the adoption as amended, of

**House Concurrent Resolution 62**, Pocahontas County Veterans Memorial Bridge.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the Senate amendments to, and the adoption as amended, of

**House Concurrent Resolution 75**, PVT George Howell, Continental Army Memorial Highway.

### Executive Communications

The Clerk then presented a communication from His Excellency, the Governor, advising that on March 10, 2018, he had approved **Enr. Committee Substitute for House Bill 4142**.

The Senate again proceeded to the sixth order of business.

Senator Ferns offered the following pre-adjournment resolution:

**Senate Resolution 71**—Raising a committee to notify the House of Delegates the Senate is ready to adjourn *sine die*.

*Resolved by the Senate:*

That the President be authorized to appoint a committee of three to notify the House of Delegates that the Senate has completed its labors and is ready to adjourn *sine die*.

At the request of Senator Ferns, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

Senator Carmichael (Mr. President), under the provisions of the foregoing resolution, appointed the following committee to notify the House of Delegates of impending Senate adjournment:

Senators Blair, Mann, and Unger.

Senator Ferns then offered the following resolution:

**Senate Resolution 72**—Raising a committee to notify His Excellency, the Governor, that the Legislature is ready to adjourn *sine die*.

*Resolved by the Senate:*

That the President be authorized to appoint a committee of three to join with a similar committee of the House of Delegates to notify His Excellency, the Governor, that the Legislature has completed its labors and is ready to adjourn *sine die*.

At the request of Senator Ferns, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

Under the provisions of the foregoing resolution, Senator Carmichael (Mr. President) appointed the following committee to notify His Excellency, the Governor, that the Senate is ready to adjourn:

Senators Prezioso, Cline, and Gaunch.

Thereafter, the President recognized the presence of a three-member delegation from the House of Delegates, namely:

Delegates C. Miller, Hamilton, and Canestraro, who announced that that body had completed its labors and was ready to adjourn *sine die*.

The President then acknowledged another delegation from the House of Delegates, consisting of

Delegates Kelly, Blair, and Moye, who announced that they had been appointed by that body to join with the similar committee named by the Senate to wait upon His Excellency and were ready to proceed with its assignment.

Senators Prezioso, Cline, and Gaunch, comprising the Senate committee, then joined with the House committee and proceeded to the executive offices to notify His Excellency, the Governor, of imminent legislative adjournment, and receive any message he might desire to transmit to the members of the Senate.

On motion of Senator Maynard, the Joint Committee on Enrolled Bills was directed after it has examined, found truly enrolled, and presented to His Excellency, the Governor, for his action, bills

passed but not presented to him prior to adjournment of the regular sixty-day session of the Legislature, to file its reports with the Clerk of bills so enrolled, showing the date such bills were presented to the Governor; said reports to be included in the final Journal, together with Governor's action on said bills.

In accordance with the foregoing motion, the following reports of the Joint Committee on Enrolled Bills were filed as follows:

Senator Maynard, from 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 14th 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:

**(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.

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

**(Com. Sub. for Com. Sub. for 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. 404)**, Relating to sex offender registry information.

**(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.

And,

**(Com. Sub. for S. B. 451)**, Relating generally to hunting and fishing.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
Roger Hanshaw,  
*Chair, House Committee.*

Senator Gaunch, from 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 14th 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. 152)**, Budget Bill.

**(S. B. 385)**, Decreasing and adding appropriations out of Treasury to DHHR and MAPS.

**(S. B. 633)**, Expiring funds from Insurance Commission Fund and appropriating funds to Consolidated Medical Services Fund.

**(S. B. 634)**, Adding, increasing, and decreasing appropriations from General Revenue to DHHR.

**(H. B. 4376)**, Expiring funds to the balance of the Department of Health and Human Resources.

**(H. B. 4379)**, Supplementing, amending, decreasing, and increasing items of the existing appropriations to the Department of Transportation.

And,

**(H. B. 4389)**, Expiring funds to the Enterprise Resource Planning System Fund.

Respectfully submitted,

C. Edward Gaunch,  
*Member, Senate Committee.*  
Roger Hanshaw,  
*Chair, House Committee.*

Senator Gaunch, from 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 15th 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 H. B. 4016)**, Relating to combatting waste, fraud, and misuse of public funds through investigations, accountability and transparency.

**(Com. Sub. for H. B. 4024)**, Relating generally to direct cremation or direct burial expenses for indigent persons.

**(Com. Sub. for H. B. 4275)**, Relating to the law-enforcement authority of the director and officers of the division of protective services.

**(Com. Sub. for H. B. 4336)**, Updating the schedule of controlled substances.

**(Com. Sub. for H. B. 4368)**, Relating to voluntary assignments of wages by state employees who have been overpaid.

**(H. B. 4434)**, Clarifying provisions relating to candidates unaffiliated with a political party as it relates to certificates of announcement.

**(Com. Sub. for H. B. 4453)**, Relating to judicial review of contested cases under the West Virginia Department of Health and Human Resources Board of Review.

**(H. B. 4462)**, Allowing off duty members and officers of the department of public safety to guard private property.

**(Com. Sub. for H. B. 4473)**, Relating to use of state funds for advertising to promote a public official or government office.

**(Com. Sub. for H. B. 4478)**, Authorizing public schools to distribute excess food to students.

**(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.

**(H. B. 4529)**, Relating to oath by municipal official certifying list of delinquent business and occupation taxes.

**(Com. Sub. for H. B. 4546)**, Relating to where an application for a marriage license may be made.

**(Com. Sub. for H. B. 4618)**, Relating to the authority of the Division of Protective Services.

And,

**(H. B. 4622)**, Relating to authorizing legislative rules regarding higher education.

Respectfully submitted,

C. Edward Gaunch,  
*Member, Senate Committee.*  
Roger Hanshaw,  
*Chair, House Committee.*

Senator Gaunch, from 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 16th 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 H. B. 2028)**, Relating to the venue for suits and other actions against the state.

**(Com. Sub. for H. B. 2464)**, Relating to disclaimers and exclusions of warranties in consumer transactions for goods.

**(Com. Sub. for H. B. 3005)**, Relating to regulation of unmanned aircraft systems.

**(Com. Sub. for H. B. 4023)**, Relating to the regulation of dialysis technicians.

**(H. B. 4025)**, Permitting reciprocity for licensure as a pharmacy technician.

**(Com. Sub. for H. B. 4027)**, Creating an education permit for allopathic physician resident.

**(Com. Sub. for H. B. 4035)**, Creating a legislative coalition to study and report to the Legislature on palliative care.

**(Com. Sub. for H. B. 4042)**, Redefining school zone to facilitate placement of school zone signs.

**(Com. Sub. for H. B. 4079)**, Promulgating administrative rules by various executive or administrative agencies of the state.

**(H. B. 4178)**, Permitting certain portions of certified nurse aide training to be provided through distance learning technologies.

**(H. B. 4183)**, Relating generally to standardized testing requirements for nonpublic schools.

**(Com. Sub. for H. B. 4276)**, Allowing magistrates to grant work release privileges.

**(Com. Sub. for H. B. 4279)**, Relating to adult protective services system.

**(Com. Sub. for H. B. 4400)**, Relating to the West Virginia Physicians Mutual Insurance Company.

And,

**(Com. Sub. for H. B. 4509)**, Relating to the establishment of substance abuse treatment facilities.

Respectfully submitted,

C. Edward Gaunch,  
*Member, Senate Committee.*  
Roger Hanshaw,  
*Chair, House Committee.*

Senator Gaunch, from 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 19th 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. 36)**, Relating generally to DNA testing.

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

**(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. 359)**, Authorizing Supreme Court establish curricula for mental hygiene commissioners and certain magistrates.

**(Com. Sub. for Com. Sub. for S. B. 465)**, Relating to mandated reporting of child abuse and neglect.

**(S. B. 479)**, Establishing local government monitoring by Auditor.

**(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.

**(S. B. 500)**, Authorizing City of White Sulphur Springs to expend principal and interest from special interest-bearing fund.

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

**(Com. Sub. for S. B. 522)**, Relating generally to Administrative Procedures Act.

**(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.

**(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. 616)**, Establishing maximum gross weight for certain wood-bearing trucks.

**(Com. Sub. for H. B. 2008)**, Relating to the Dealer Recovery Program.

**(Com. Sub. for H. B. 2655)**, Defining and establishing the crime of cyberbullying.

**(H. B. 2869)**, Providing for paid leave for certain state officers and employees during a declared state of emergency.

**(Com. Sub. for H. B. 2982)**, Relating to allowing draw games winners to remain anonymous.

**(Com. Sub. for H. B. 3089)**, Relating to the adoption of instructional resources for use in the public schools.

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

**(Com. Sub. for H. B. 4036)**, Increasing the maximum salaries of family case coordinators and secretary-clerks.

**(Com. Sub. for H. B. 4150)**, Prohibiting telecommunications and IP-enabled voice services from displaying the name or telephone number of the recipient.

**(Com. Sub. for H. B. 4186)**, Relating generally to guaranteed asset protection waivers.

**(H. B. 4626)**, Relating to West Virginia innovative mine safety technology tax credit act.

And,

**(H. B. 4628)**, Relating to authorizing the redirection of amounts collected from certain surcharges and assessments on workers' compensation insurance policies for periods prior to January 1, 2019.

Respectfully submitted,

C. Edward Gaunch,  
*Member, Senate Committee.*  
Roger Hanshaw,  
*Chair, House Committee.*

Senator Gaunch, from 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 20th 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:

**(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. 299)**, Relating to mandatory insurance coverage for medical foods for amino acid-based formulas.

**(Com. Sub. for Com. Sub. for S. B. 347)**, Relating to operation of motorboats.

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

**(Com. Sub. for S. B. 461)**, Extending time to file petition for motor fuel excise tax refund.

**(Com. Sub. for S. B. 475)**, Industrial Hemp Development Act.

**(Com. Sub. for S. B. 590)**, Providing special license plate for curing childhood cancer.

**(S. B. 612)**, Relating to sale of municipal property.

**(S. B. 626)**, Relating generally to coal mining.

And,

**(S. B. 631)**, Relating generally to one-call system.

Respectfully submitted,

C. Edward Gaunch,  
*Member, Senate Committee.*  
Roger Hanshaw,  
*Chair, House Committee.*

Senator Maynard, from 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 21st 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 H. B. 2799)**, Prohibiting the superintendent of schools from requiring a physical examination to be included to the application for a minor's work permit.

**(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.

**(Com. Sub. for H. B. 4156)**, Establishing the qualifications of full and part time nursing school faculty members.

**(Com. Sub. for H. B. 4214)**, Increasing penalties for unlawfully possessing or digging ginseng.

**(Com. Sub. for H. B. 4217)**, Permitting an attending physician to obtain a patient's autopsy report.

**(Com. Sub. for H. B. 4233)**, Relating generally to fraudulent transfers.

**(Com. Sub. for H. B. 4251)**, Permitting employees of baccalaureate institutions and universities outside of this state to be appointed to board of governors.

**(Com. Sub. for H. B. 4270)**, Providing for the timely payment of moneys owed from oil and natural gas production.

**(Com. Sub. for H. B. 4320)**, Limiting the ability of an agent under a power of attorney to take self-benefiting actions.

**(H. B. 4324)**, Relating to the employment of individuals by municipal paid fire departments under civil service.

**(Com. Sub. for H. B. 4338)**, Relating to the powers and authority of the Divisions of Administrative Services, and Corrections and Rehabilitation of the Department of Military Affairs and Public Safety.

**(Com. Sub. for H. B. 4392)**, Relating to Medicaid subrogation liens of the Department of Health and Human Resources.

**(H. B. 4486)**, Relating to persons required to obtain a license to engage in the business of currency exchange.

**(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

**(Com. Sub. for H. B. 4558)**, Establishing the Entrepreneurship and Innovation Investment Fund in the West Virginia Development Office.

**(Com. Sub. for H. B. 4571)**, Relating to the final day of filing announcements of candidates for a political office.

**(Com. Sub. for H. B. 4603)**, Providing immunity from civil liability to facilities and employees providing crisis stabilization.

**(Com. Sub. for H. B. 4607)**, Establishing certain criteria for the restricted operation of drones within State Parks, Forests, and Rail Trails.

And

**(H. B. 4627)**, Relating to providing a limitation on the eminent domain authority of a municipal park board.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
Roger Hanshaw,  
*Chair, House Committee.*

Senator Maynard, from 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 21st 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. 10)**, Relating generally to PSC jurisdiction.

**(Com. Sub. for S. B. 46)**, Permitting pharmacists to inform customers of lower-cost alternative drugs.

**(Com. Sub. for S. B. 51)**, Relating to domestic relations.

**(Com. Sub. for S. B. 82)**, Including rebuttable presumptions in certain cases for firefighters with regard to workers' compensation.

**(Com. Sub. for 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. 261)**, Transferring certain powers and programs of WV Affordable Housing Trust Fund to WV Housing Development Fund.

**(Com. Sub. for S. B. 271)**, Creating centralized Shared Services Section of Department of Administration.

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

**(Com. Sub. for S. B. 275)**, Relating to tax on purchases of intoxicating liquors.

**(S. B. 282)**, Exempting State Conservation Committee from Purchasing Division requirements for contracts related to flood recovery.

**(Com. Sub. for S. B. 283)**, Relating generally to procurement by state agencies.

**(Com. Sub. for S. B. 313)**, Waiving occupational fees and licensing requirements for certain low-income individuals, military families, and young workers.

**(Com. Sub. for S. B. 336)**, Providing certain DMV applicants ability to contribute to WV Department of Veterans Assistance.

**(S. B. 339)**, Relating to WV Retirement Health Benefit Trust Fund within PEIA.

**(Com. Sub. for S. B. 375)**, Relating to farmers markets.

**(Com. Sub. for S. B. 392)**, Reconfiguring membership of Emergency Medical Services Advisory Council.

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

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

**(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. 411)**, Removing Commissioner of Bureau for Public Health from State Board of Sanitarians.

**(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. 463)**, Establishing group to examine benefits and need of transferring milk rules and regulations from DHHR to Agriculture.

**(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.

**(S. B. 498)**, Creating two-year pilot program allowing all-terrain or recreational vehicles in Cabwaylingo State Forest.

**(Com. Sub. for S. B. 501)**, Relating to accrued benefit of retirees in Deputy Sheriff Retirement System.

**(Com. Sub. for S. B. 506)**, Deregulating persons who perform work on heating, ventilating, and cooling systems.

**(Com. Sub. for S. B. 521)**, Requiring chief executive of municipal law-enforcement agency be certified law-enforcement officer.

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

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

**(Com. Sub. for S. B. 548)**, Authorizing county commissions to pay election officials.

**(Com. Sub. for S. B. 582)**, Allowing candidate for political party executive committee serve as election official.

**(S. B. 585)**, Altering boundary line between Doddridge and Harrison counties.

**(Com. Sub. for S. B. 603)**, Relating to proceedings for involuntary custody for examination.

**(Com. Sub. for S. B. 625)**, Creating WV Volunteer Fire and Rescue Act of 2018.

**(S. B. 635)**, Relating to 2019 salary adjustment for employees of DHHR.

**(Com. Sub. for H. B. 2916)**, Authorizing certain first responders to carry firearms.

**(Com. Sub. for H. B. 4001)**, Relating to eligibility and fraud requirements for public assistance.

**(Com. Sub. for H. B. 4002)**, Providing that all delegates shall be elected from one hundred single districts following the United States Census in 2020.

**(Com. Sub. for H. B. 4006)**, Revising the processes through which professional development is delivered for those who provide public education.

**(Com. Sub. for H. B. 4009)**, State Settlement and Recovered Funds Accountability Act.

**(Com. Sub. for H. B. 4150)**, Prohibiting telecommunications and IP-enabled voice services from displaying the name or telephone number of the recipient.

**(Com. Sub. for H. B. 4157)**, Eliminating the refundable exemption for road construction contractors.

**(Com. Sub. for H. B. 4187)**, Business Liability Protection Act.

**(Com. Sub. for H. B. 4350)**, Eliminating the regulation of upholstery.

**(Com. Sub. for H. B. 4394)**, Relating to forest fires.

**(Com. Sub. for H. B. 4401)**, Relating to the registration of business.

**(Com. Sub. for H. B. 4424)**, Providing that the Ethics Act applies to certain persons providing services without pay to state elected officials.

**(Com. Sub. for H. B. 4447)**, Providing for a uniform and efficient system of broadband conduit installation.

**(H. B. 4488)**, Relating to the Hatfield-McCoy Recreation Authority.

**(Com. Sub. for H. B. 4524)**, Establishing guidelines for the substitution of certain biological pharmaceuticals.

And,

**(H. B. 4629)**, Relating to broadband enhancement and expansion policies generally.

Respectfully submitted,

Mark R. Maynard  
*Chair, Senate Committee.*  
Steve Westfall,  
*Member, House Committee.*

Senator Gaunch, from 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 23rd 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. 4166)**, Establishing a special revenue fund to be known as the “Capital Improvements Fund — Department of Agriculture Facilities”.

Respectfully submitted,

C. Edward Gaunch,  
*Member, Senate Committee.*  
Roger Hanshaw,  
*Chair, House Committee.*

### Executive Communications

Under authorization of Senate approval therefor in prior proceedings today, to include in this day’s Journal communications showing the Governor’s action on enrolled bills presented to him in post-session reports, the following are inserted hereinafter:

The Clerk then presented communications from His Excellency, the Governor, advising that on March 15, 2018, he had approved **Enr. Senate Bill 385, Enr. Senate Bill 633, Enr. Senate Bill 634, Enr. House Bill 4379, and Enr. House Bill 4389**; on March 20, 2018, he had approved **Enr. Committee Substitute for Senate Bill 37, Enr. Senate Bill 47, Enr. Committee Substitute for Senate Bill 110, Enr. Committee Substitute for Senate Bill 133, Enr. Committee Substitute for Senate Bill 134, Enr. Senate Bill 143, Enr. Committee Substitute for Senate Bill 146, Enr. Committee Substitute for Senate Bill 181, Enr. Senate Bill 242, Enr. Committee Substitute for Committee Substitute for Senate Bill 307, Enr. Committee Substitute for Committee Substitute for Senate Bill 319, Enr. Committee Substitute for Senate Bill 327, Enr. Senate Bill 338, Enr. Senate Bill 346, Enr. Committee Substitute for Senate Bill 348, Enr. Senate Bill 350, Enr. Senate Bill 351, Enr. Committee Substitute for Senate Bill 359, Enr. Senate Bill 364, Enr. Senate Bill 365, Enr. Committee Substitute for Senate Bill 395, Enr. Senate Bill 427, Enr. Senate Bill 444, Enr. Senate Bill 464, Enr. Committee Substitute for Senate Bill 522, Enr. Senate Bill 584, Enr. Committee Substitute for House Bill 2008, Enr. Committee Substitute for House Bill 2483, Enr. Committee Substitute for House Bill 2890, Enr. Committee Substitute for House Bill 4022, Enr. House Bill 4025, Enr. Committee Substitute for House Bill 4036, Enr. Committee Substitute for House Bill 4079, Enr. Committee Substitute for House Bill 4138, Enr. Committee Substitute for House Bill 4400, Enr. House Bill 4410, Enr. House Bill 4436, Enr. Committee Substitute for House Bill 4444, Enr. House Bill 4621, Enr. House Bill 4622, and Enr. House Bill 4626**; on March 21, 2018, he had approved **Enr. Committee Substitute for Senate Bill 46, Enr. Committee Substitute for Senate Bill 230, Enr. Committee Substitute for Senate Bill 261, Enr. Committee Substitute for Senate Bill 271, Enr. Committee Substitute for Senate Bill 336, Enr. Senate Bill 411, Enr. Senate Bill 525, Enr. Senate Bill 635, Enr. Committee Substitute for House Bill 2995, Enr. Committee Substitute for House Bill 4002, Enr. Committee Substitute for House Bill 4157, Enr. Committee Substitute for House Bill 4187, Enr. Committee Substitute for House Bill 4217, Enr. House Bill 4488, and Enr. Committee Substitute for House Bill 4558**; on March 22, 2018, he had approved **Enr. Committee Substitute for Senate Bill 51, Enr. Senate Bill 298, Enr. Senate Bill 339, Enr. Committee Substitute for Committee Substitute for Senate Bill 347, Enr. Committee Substitute for Senate Bill 438, Enr. Committee Substitute for Senate Bill 461, Enr. Senate Bill 539, Enr. Senate Bill 576, Enr. Committee Substitute for Senate**



Bill 616, Enr. Committee Substitute for House Bill 2693, Enr. Committee Substitute for House Bill 2696, Enr. Committee Substitute for House Bill 2799, Enr. House Bill 2869, Enr. Committee Substitute for House Bill 2983, Enr. Committee Substitute for House Bill 3104, Enr. Committee Substitute for House Bill 4027, Enr. Committee Substitute for House Bill 4035, Enr. Committee Substitute for House Bill 4042, Enr. House Bill 4183, Enr. Committee Substitute for House Bill 4238, Enr. Committee Substitute for House Bill 4251, Enr. House Bill 4285, Enr. Committee Substitute for House Bill 4343, Enr. Committee Substitute for House Bill 4368, Enr. Committee Substitute for House Bill 4394, Enr. House Bill 4433, Enr. House Bill 4434, Enr. House Bill 4462, Enr. House Bill 4486, Enr. Committee Substitute for House Bill 4522, Enr. Committee Substitute for House Bill 4619, Enr. House Bill 4627, and Enr. House Bill 4628; on March 27, 2018, he had approved Enr. Committee Substitute for Senate Bill 10, Enr. Committee Substitute for Senate Bill 36, Enr. Committee Substitute for Senate Bill 73, Enr. Committee Substitute for Senate Bill 82, Enr. Committee Substitute for Senate Bill 102, Enr. Committee Substitute for Senate Bill 244, Enr. Committee Substitute for Committee Substitute for Senate Bill 272, Enr. Committee Substitute for Committee Substitute for Senate Bill 273, Enr. Committee Substitute for Senate Bill 275, Enr. Senate Bill 282, Enr. Committee Substitute for Senate Bill 283, Enr. Committee Substitute for Senate Bill 290, Enr. Senate Bill 299, Enr. Committee Substitute for Senate Bill 375, Enr. Committee Substitute for Senate Bill 397, Enr. Committee Substitute for Senate Bill 401, Enr. Committee Substitute for Senate Bill 404, Enr. Senate Bill 406, Enr. Senate Bill 407, Enr. Committee Substitute for Senate Bill 408, Enr. Committee Substitute for Senate Bill 412, Enr. Senate Bill 425, Enr. Senate Bill 441, Enr. Committee Substitute for Senate Bill 443, Enr. Committee Substitute for Senate Bill 445, Enr. Committee Substitute for Senate Bill 446, Enr. Committee Substitute for Senate Bill 451, Enr. Committee Substitute for Senate Bill 456, Enr. Senate Bill 463, Enr. Committee Substitute for Committee Substitute for Senate Bill 465, Enr. Senate Bill 468, Enr. Committee Substitute for Senate Bill 469, Enr. Committee Substitute for Senate Bill 475, Enr. Senate Bill 479, Enr. Committee Substitute for Senate Bill 493, Enr. Committee Substitute for Senate Bill 495, Enr. Senate Bill 498, Enr. Committee Substitute for Senate Bill 499, Enr. Committee Substitute for Senate Bill 501, Enr. Committee Substitute for Senate Bill 506, Enr. Committee Substitute for Senate Bill 510, Enr. Committee Substitute for Senate Bill 521, Enr. Committee Substitute for Senate Bill 528, Enr. Committee Substitute for Senate Bill 543, Enr. Committee Substitute for Senate Bill 548, Enr. Committee Substitute for Senate Bill 555, Enr. Committee Substitute for Senate Bill 561, Enr. Committee Substitute for Senate Bill 574, Enr. Committee Substitute for Senate Bill 575, Enr. Committee Substitute for Senate Bill 582, Enr. Senate Bill 585, Enr. Committee Substitute for Senate Bill 589, Enr. Committee Substitute for Senate Bill 590, Enr. Committee Substitute for Senate Bill 603, Enr. Senate Bill 612, Enr. Committee Substitute for Senate Bill 625, Enr. Senate Bill 626, Enr. Senate Bill 631, Enr. Committee Substitute for House Bill 2028, Enr. Committee Substitute for House Bill 2464, Enr. Committee Substitute for House Bill 2654, Enr. Committee Substitute for House Bill 2655, Enr. Committee Substitute for House Bill 2694, Enr. Committee Substitute for House Bill 2843, Enr. Committee Substitute for House Bill 2916, Enr. Committee Substitute for House Bill 2982, Enr. Committee Substitute for House Bill 3005, Enr. Committee Substitute for House Bill 3089, Enr. Committee Substitute for House Bill 4001, Enr. Committee Substitute for House Bill 4013, Enr. Committee Substitute for House Bill 4015, Enr. Committee Substitute for House Bill 4016, Enr. Committee Substitute for House Bill 4023, Enr. Committee Substitute for House Bill 4024, Enr. Committee Substitute for House Bill 4150, Enr. Committee Substitute for House Bill 4156, Enr. Committee Substitute for House Bill 4169, Enr. Committee Substitute for House Bill 4175, Enr. House Bill 4178, Enr. Committee Substitute for House Bill 4180, Enr. Committee Substitute for House Bill 4207, Enr. Committee Substitute for House Bill 4214, Enr. Committee Substitute for House Bill

4230, Enr. Committee Substitute for House Bill 4233, Enr. Committee Substitute for House Bill 4236, Enr. Committee Substitute for House Bill 4270, Enr. Committee Substitute for House Bill 4275, Enr. Committee Substitute for House Bill 4276, Enr. Committee Substitute for House Bill 4279, Enr. Committee Substitute for House Bill 4289, Enr. Committee Substitute for House Bill 4320, Enr. House Bill 4324, Enr. House Bill 4332, Enr. Committee Substitute for House Bill 4336, Enr. Committee Substitute for House Bill 4338, Enr. Committee Substitute for House Bill 4347, Enr. Committee Substitute for House Bill 4350, Enr. Committee Substitute for House Bill 4401, Enr. House Bill 4402, Enr. House Bill 4422, Enr. Committee Substitute for House Bill 4424, Enr. Committee Substitute for House Bill 4447, Enr. Committee Substitute for House Bill 4453, Enr. Committee Substitute for House Bill 4473, Enr. Committee Substitute for House Bill 4478, Enr. Committee Substitute for House Bill 4502, Enr. Committee Substitute for House Bill 4509, Enr. Committee Substitute for House Bill 4524, Enr. House Bill 4529, Enr. Committee Substitute for House Bill 4546, Enr. Committee Substitute for House Bill 4571, Enr. Committee Substitute for House Bill 4603, Enr. Committee Substitute for House Bill 4607, Enr. Committee Substitute for House Bill 4618, Enr. House Bill 4624, and Enr. House Bill 4629; and on March 28, 2018, he had approved Enr. Committee Substitute for House Bill 4006.

[CLERK'S NOTE: Enr. Committee Substitute for Senate Bill 500 and Enr. Committee Substitute for House Bill 4186 became law without the Governor's signature on March 28, 2018, under the provisions of Subsection 11, Section 51, Article VI of the Constitution of West Virginia.]

**Jim Justice**  
**Governor of West Virginia**

March 15, 2018

**VIA HAND DELIVERY**

The Honorable Mac Warner  
Secretary of State  
Building 1, Suite 157-K  
State Capitol  
Charleston, West Virginia 25305

RE: Enrolled Committee Substitute for Senate Bill No. 152

Dear President Warner:

Pursuant to the provisions of section fifty-one, article VI of the Constitution of West Virginia, I hereby return Enrolled Committee Substitute for Senate Bill No. 152, passed March 10, 2018, approved with the following objections:

My first objection to the Bill is contained in Item 58, page 46, lines 24-29, which state:

**“From the above appropriation for Institutional Facilities Operations (fund 0525, appropriation 33500), together with available funds from the Division of Health – Hospital Services Revenue Account (fund 5156, appropriation 33500), on July 1, 2018, the sum of \$160,000 shall be transferred to the Department of Agriculture – Land Division – Farm Operating Fund (1412) as advance payment for the purchase of food products; actual payments for such purchases shall not be required until such credits have been completely expended.”**

The Department of Agriculture has requested this mandate for our health institutions to purchase food through them be eliminated due to the burden it places on the department in sourcing appropriate food products for these institutions. Therefore, I am reducing the amount in the language on page 46, line 26, by \$160,000 to \$0.

My second objection to the Bill is contained in Item 68, pages 55 and 56, lines 44-48, which state:

**“From the above appropriation to Unclassified (fund 0450, appropriation 09900), on July 1, 2018, the sum of \$300,000 shall be transferred to the Department of Agriculture – Land Division – Farm Operating Fund (1412) as advance payment for the purchase of food products; actual payments for such purchases shall not be required until such credits have been completely expended.”**

Provisions in HB 4338 that reorganized the state correctional agencies into a Division of Corrections and Rehabilitation eliminated the requirement that correctional institutions buy food products from the Department of Agriculture. Therefore, I am reducing the amount in the language on page 55, line 45, by \$300,000 to \$0.

My third objection to the Bill is contained in Item 72, page 59, lines 21-24, which state:

**“From the above appropriations, on July 1, 2018, the sum of \$50,000 shall be transferred to the Department of Agriculture – Land Division – Farm Operating Fund (1412) as advance payment for the purchase of food products; actual payments for such purchases shall not be required until such credits have been completely expended.”**

Provisions in HB 4338 that reorganized the state correctional agencies into a Division of Corrections and Rehabilitation eliminated the requirement that correctional institutions buy food products from the Department of Agriculture. Therefore, I am reducing the amount in the language on page 59, line 21, by \$50,000 to \$0.

My fourth objection to the Bill is contained in Item 202, pages 110 and 111, lines 16-21, which state:

**“From the above appropriation to Institutional Facilities Operations, together with available funds from the Consolidated Medical Services Fund (fund 0525, appropriation 33500) on July 1, 2018, the sum of \$160,000 shall be transferred to the Department of Agriculture – Land Division – Farm Operating Fund (1412) as advance payment for the purchase of food products; actual payments for such purchases shall not be required until such credits have been completely expended..”**

The Department of Agriculture has requested this mandate for our health institutions to purchase food through them be eliminated due to the burden it places on the department in sourcing appropriate food products for these institutions. Therefore, I am reducing the amount in the language on page 110, line 18, by \$160,000 to \$0.

For the reasons stated herein, I have approved, subject to the above objections, Enrolled Committee Substitute for Senate Bill No. 152.

Sincerely,

Jim Justice  
Governor

cc: The Hon. Mitch Carmichael  
President, West Virginia Senate  
The Hon. Tim Armstead  
Speaker, West Virginia House of Delegates

**Jim Justice**  
**Governor of West Virginia**

March 15, 2018

**VIA HAND DELIVERY**

The Honorable Mac Warner  
Secretary of State  
Building 1, Suite 157-K  
State Capitol  
Charleston, West Virginia 25305

RE: Enrolled House Bill 4376

Dear Secretary Warner:

Pursuant to the provisions of section fifty-one, article VI of the Constitution of West Virginia, I hereby return Enrolled Committee Substitute for House Bill 4376, passed March 8, 2018, approved with the following objections:

My first objection to the Bill is contained in the title of the bill, on page 1, lines 1-16, which state:

**“AN ACT expiring funds to the balance of the Department of Health and Human Resources, Division of Health -- Medical Cannabis Program Fund, fund 5420, fiscal year 2018, organization 0506, in the amount of \$2,953,990 from the Department of Health and Human Resource, Division of Health – The Vital Statistics Account, fund 5144, fiscal year 2018, organization 0506, and making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2018, to the Department of Health and Human Resource, Division of Health – The Vital Statistics Account, fund 5144, fiscal year 2018, organization 0506, to the Department of Health and Human Resources, Division of Health - Laboratory Services Fund, fund 5163, fiscal year 2018, organization 0506, to the Department of Health and Human Resource, Division of Health – Medical Cannabis Program Fund, fund 5420, fiscal year 2018, organization 0506, and to the Department of Health and Human Resources, Division of Human Services – Health Care Provider Tax, Medicaid State Share Fund, fund 5090, fiscal year 2018, organization 0511, by supplementing and amending chapter one, Acts of the Legislature, 1st extraordinary session, 2017, known as the budget bill..”**

Included in this supplemental bill is an expiration to the Medical Cannabis Program Fund to fund startup costs associated with the Medical Cannabis Program. Since the program's inception, the State Treasurer has stated his objection to processing funds in the State Treasury related to cannabis due to federal banking regulations. To alleviate any of those concerns, I am going to veto this expiration to the Medical Cannabis Program Fund and search for a solution that will resolve this issue and allow the program to be implemented as mandated in the statute.

Therefore, on page 1, line 3, I am reducing the amount in the language by \$2,953,990 to \$0.

My second objection to the Bill is contained on page 2, lines 4-9, which state:

“That the balance of funds available for expenditure in the fiscal year ending June 30, 2018, to the Department of Health and Human Resources, Division of Health – The Vital Statistics Account, fund 5144, fiscal year 2018, organization 0506, be decreased by expiring the amount of \$2,953,330 to the Department of Health and Human Resources, Division of Health – Medical Cannabis Program Fund, fund 5420, fiscal year 2018, organization 0506, to be available for expenditure during the fiscal year ending June 30, 2018.”

Having deleted language in the title of the Bill in objection one above, I am reducing the amount in the language on page 2, line 7 by \$2,953,330 to \$0.

For the reasons stated herein, I have approved, subject to the above objections, Enrolled Committee Substitute for House Bill 2801.

Sincerely,

Jim Justice  
Governor

cc: The Honorable Mitch Carmichael  
President of the Senate  
The Honorable Tim Armstead  
Speaker of the House of Delegates

#### **Veto Messages**

**Jim Justice**  
**Governor of West Virginia**

March 28, 2018

#### **VIA HAND DELIVERY**

The Honorable Mac Warner  
Secretary of State  
Building 1, Suite 157-K  
State Capitol  
Charleston, West Virginia 25305

RE: Enrolled Committee Substitute for the Committee Substitute for Senate Bill 141

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for the Committee Substitute for Senate Bill 141.

Enrolled Committee Substitute for the Committee Substitute for Senate Bill 141 amends and reenacts current West Virginia Code §7-7-6e. The current law requires the assessment and collection of \$1 on all breeding age sheep and goats to participate in the Coyote Control Program. The bill expands the assessment and collection of \$1 on breeding age cows to participate in the

Coyote Control Program. It creates a new fee for cow owners. It could be the first step toward making the fee for cow owners mandatory.

For these reasons, I must disapprove and return Enrolled Committee Substitute for the Committee Substitute for Senate Bill 141.

Sincerely,

Jim Justice  
Governor

cc: The Honorable Mitch Carmichael  
President of the Senate  
The Honorable Tim Armstead  
Speaker of the House of Delegates

**Jim Justice**  
**Governor of West Virginia**

March 28, 2018

**VIA HAND DELIVERY**

The Honorable Mac Warner  
Secretary of State  
Building 1, Suite 157-K  
State Capitol  
Charleston, West Virginia 25305

RE: Enrolled Committee Substitute for Senate Bill 313

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for Senate Bill No. 313.

Enrolled Committee Substitute for Senate Bill 313 exempts all licensure fees for three groups of individuals: low income individuals, military families and young workers (ages 18-25). This exemption applies to all licensing boards included in WV Code Chapter 30 and apply to all licensing fees for the board, as long as the applicant continues to meet the exemption.

Although the intentions behind this bill were noble, the implementation of the exemptions are overly broad by incorporating an exemption for a group of young workers (age 18-25), who are applying for a professional license and beginning what could be a very lucrative career. Allowing an exemption for this group does not serve the laudable goals that the bill intended.

In addition, the fees that would be waived by this bill make up a substantial component of their annual budget, which is used for the oversight, investigation and discipline of the license holders. If a board's budget is reduced by the waiving of these licensing fees, it will damage the public safety efforts that the board is charged with instituting.

For these reasons, I must disapprove and return Enrolled Committee Substitute for Senate Bill No. 313.

Sincerely,

Jim Justice  
Governor

cc: The Honorable Mitch Carmichael  
President of the Senate  
The Honorable Tim Armstead  
Speaker of the House of Delegates

**Jim Justice**  
**Governor of West Virginia**

March 28, 2018

**VIA HAND DELIVERY**

The Honorable Mac Warner  
Secretary of State  
Building 1, Suite 157-K  
State Capitol  
Charleston, West Virginia 25305

RE: Enrolled Senate Bill 322

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Senate Bill 322.

Enrolled Senate Bill 322 amends and reenacts current West Virginia Code §19-1-3. The bill authorizes the Department of Agriculture's Commissioner of Agriculture to employ a general counsel and other such personnel necessary to perform the duties of the office.

The Attorney General's office currently provides legal services to the Department of Agriculture. The bill would provide for an expansion of government within the Department of Agriculture by authorizing the employment of a general counsel and other support staff.

For this reason, I must disapprove and return Enrolled Senate Bill 322.

Sincerely,

Jim Justice  
Governor

cc: The Honorable Mitch Carmichael  
President of the Senate  
The Honorable Tim Armstead  
Speaker of the House of Delegates

**Jim Justice**  
**Governor of West Virginia**

March 28, 2018

**VIA HAND DELIVERY**

The Honorable Mac Warner  
State of West Virginia  
Secretary of State  
Building 1, Suite 157-K  
State Capitol  
Charleston, West Virginia 25305

Re: Enrolled Senate Bill 343

Dear Secretary of State Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return the Enrolled Senate Bill 343.

The provisions of this bill conflict with W. Va. Code §11A-3-56. The bill increases, from \$200 to \$500, the maximum amount that a county sheriff is to pay the purchaser of a redeemed tax delinquent property for additional expenses incurred in preparing the list for the notice to redeem and any incidental title examination. W. Va. Code §11A-3-58 requires a sheriff pay the purchaser for such expenses once the land has been redeemed pursuant to W. Va. Code §11A-3-56 and the deputy commissioner has delivered the redemption money to the sheriff. The bill does not amend W. Va. Code §11A-3-56, which requires a person redeeming property to pay the deputy commissioner up to \$200 for additional expenses incurred in the preparing the list for the notice to redeem and any incidental title examination. Therefore, enactment of this bill could result in county sheriffs paying more to purchasers than is received from owners of redeemed property. For this reason, I disapprove and return Enrolled Senate Bill 343.

Sincerely,

Jim Justice

Governor

cc: The Honorable Mitch Carmichael  
President of the Senate  
The Honorable Tim Armstead  
Speaker of the House of Delegates

**Jim Justice**  
**Governor of West Virginia**

March 28, 2018

**VIA HAND DELIVERY**

The Honorable Mac Warner  
Secretary of State



State of West Virginia  
Building 1, Suite 157-K  
State Capitol  
Charleston, WV 25305

Re: Enrolled Committee Substitute for Senate Bill 392

Dear Secretary of State Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return the Enrolled Committee Substitute for Senate Bill 392.

The bill is technically flawed because its title is defective. See *State ex rel. Davis v. Oakley*, 156 W. Va. 154, 191 S.E.2d 610 (1972) (requiring bill title to provide notice of bill's contents). The bill attempts to modify the membership of the Emergency Medical Services Advisory Council. The bill's title provides that it relates to "reconfiguring and increasing the membership of the council by *adding three nonvoting citizen members* and requiring three members to be representative of profession groups." (Emphasis added). However, the bill does not add any additional citizen members to the council. W.Va. Code §16C-4C-5 currently requires that the council include three persons to represent the general public. In regard to citizen members, the bill actually strips away the voting rights of the three members currently required to represent the general public. In addition to this technical defect, I also disapprove of the policy of eliminating the voting privileges of council members whose sole responsibility is to represent the interests of the general public. For these reasons, I disapprove and return Enrolled Committee Substitute for Senate Bill No. 392.

Sincerely,

Jim Justice

Governor

cc: The Honorable Mitch Carmichael  
President of the Senate  
The Honorable Tim Armstead  
Speaker of the House of Delegates

**Jim Justice**  
**Governor of West Virginia**

March 28, 2018

**VIA HAND DELIVERY**

The Honorable Mac Warner  
Secretary of State  
Building 1, Suite 157-K  
State Capitol  
Charleston, West Virginia 25305

RE: Enrolled Committee Substitute for Senate Bill 434

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for Senate Bill No. 434.

Enrolled Committee Substitute for Senate Bill 434 makes confidential and not subject to disclosure documents regarding the hiring, discipline, terminating, credentialing, issuing and renewing of staff privileges, as well as alleged misconduct of a health care provider. It further mandates nondisclosure for performance improvement, review, recommendation and audit documents regarding the performance of health care professionals.

To shield such documents from disclosure does not allow patients harmed in the course of their treatment, to fully seek redress of their damages and be made whole. It puts patients at a disadvantage as they pursue their claims. The bill is bad public policy for West Virginia because it does not promote patient rights and public safety.

For these reasons, I must disapprove and return Enrolled Committee Substitute for Senate Bill No. 434.

Sincerely,

Jim Justice  
Governor

cc: The Honorable Mitch Carmichael  
President of the Senate  
The Honorable Tim Armstead  
Speaker of the House of Delegates

**Jim Justice**  
**Governor of West Virginia**

March 28, 2018

**VIA HAND DELIVERY**

The Honorable Mac Warner  
Secretary of State  
Building 1, Suite 157-K  
State Capitol  
Charleston, West Virginia 25305

RE: Enrolled Committee Substitute for Senate Bill 442

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for Senate Bill No. 442.

Enrolled Committee Substitute for Senate Bill No. 442 requires the Public Employees Insurance Agency (PEIA), managed care organizations (MCOs) and private commercial insurance companies to develop forms and accept electronic prior authorization requests by specific deadlines. Most notably, the legislation purports to void the existing contractual agreements governing the prior authorization process by declaring them "unenforceable".

Enrolled Committee Substitute for Senate Bill 442 is concerning because it voids current contracts governing prior authorization response times would be ruled as unconstitutional. WV Code §33-4-22(i) of the bill violates the Contracts Clause of both the Constitutions of the United States (U.S. Const. Art. I, § 10, cl. 1) and of West Virginia (W. Va. Const. Art. III, § 3, cl. 4). Both the Supreme Court of Appeals of West Virginia and the United States Supreme Court have held state laws unconstitutional where a state statute "impairs the obligation of an existing contract" Devon Corp. v. Miller, 167 W. Va. 362, 280 S.E.2d. 108 (1981), cert. denied. 455 U.S. 993, 102 S. Ct. 1622, 7 L. Ed. 2d 855 (1982). If this provision would become law, insurance companies, with current contracts that govern response times for prior authorizations, would have no alternative but to unilaterally alter these contracts based on the requirements of this bill. This legislative interference with current contracts would be unconstitutional.

For these reasons, I must disapprove and return Enrolled Committee Substitute for Senate Bill No. 442.

Sincerely,

Jim Justice  
Governor

cc: The Honorable Mitch Carmichael  
President of the Senate  
The Honorable Tim Armstead  
Speaker of the House of Delegates

**Jim Justice**  
**Governor of West Virginia**

March 28, 2018

**VIA HAND DELIVERY**

The Honorable Mac Warner  
Secretary of State  
Building 1, Suite 157-K  
State Capitol  
Charleston, West Virginia 25305

RE: Enrolled Committee Substitute for House Bill 4009

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for House Bill No. 4009.

Enrolled Committee Substitute for House Bill 4009 requires the award or recovery of funds or assets, because of lawsuit or settlement, to the state of any kind be deposited in the General Revenue Fund. Funds or assets collected would be required to be dispersed only through a legislative appropriation which would significantly delay any implementation of correcting the problem or redress of the damages awarded.

Although this bill was intended to disallow unfettered use of an officeholder's discretionary settlement funds, its application to the Executive Branch is ill conceived and does not take into

consideration the practical effect on an agency when actual monetary damages are incurred because of a breach of contract. For example, if the roof on a state building is being repaired, is damaged during performance and there is a failed completion of the initial contractor's work, the state agency may have to bring an action against the contractor for the damages. In this instance, the state agency may be required to hire another contractor to repair the damages and complete the work, causing the agency to incur substantial additional damages. The agency would be required to recover by court action, then the damages received for the roof are then deposited to the General Fund. Under this bill, only in the event if the Legislature chose to re-appropriate, would the agency recover for its loss.

Additionally, when the recovery of settlement funds are damages because of a fraud investigation against a vendor or constituent, to reallocate the money to the General Fund impedes the purpose of the state's litigation against a fraudulent vendor and limits the agency's ability to complete the contract.

Also, the bill does not allow for the return of any administrative costs on behalf of the state agency in a damage award to the state agency involved in the litigation or prosecution of the case. However, the bill does specifically to the Attorney General to recover those costs. The lack of administrative costs contemplated in this bill could discourage state agencies from bringing lawsuits or assisting in the prosecution of cases in the future.

Finally, to require that any damages awarded to a state agency be deposited in the General Revenue Fund and then be re-appropriated through the legislative process would significantly delay the timely operation of state contracts and perhaps result in more damages, especially in instances where mitigation of damages is required.

I look forward to the opportunity to address this important issue with the WV Legislature, however, for these reasons, I must disapprove and return Enrolled Committee Substitute for House Bill No. 4009.

Sincerely,

Jim Justice  
Governor

cc: The Honorable Mitch Carmichael  
President of the Senate  
The Honorable Tim Armstead  
Speaker of the House of Delegates

**Jim Justice**  
**Governor of West Virginia**

March 28, 2018

**VIA HAND DELIVERY**

The Honorable Mac Warner  
Secretary of State  
Building 1, Suite 157-K  
State Capitol  
Charleston, West Virginia 25305

RE: Enrolled Committee Substitute for House Bill 4166

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for House Bill No. 4166.

Enrolled Committee Substitute for House Bill No. 4166 creates a new West Virginia Code §19-1-4e and amends and reenacts West Virginia Code §19-12A-6a. The new section establishes a new Capital Improvements Fund for Department of Agriculture facilities that is not needed. The Department of Agriculture construction and improvements can be funded by annual appropriations through the regular budget process.

For these reasons, I must disapprove and return Enrolled Committee Substitute for House Bill No. 4166.

Sincerely,

Jim Justice  
Governor

cc: The Honorable Mitch Carmichael  
President of the Senate  
The Honorable Tim Armstead  
Speaker of the House of Delegates

**Jim Justice**  
**Governor of West Virginia**

March 28, 2018

**VIA HAND DELIVERY**

The Honorable Mac Warner  
Secretary of State  
State of West Virginia  
Building 1, Suite 157-K  
State Capitol  
Charleston, WV 25305

Re: Enrolled Committee Substitute for House Bill 4199

Dear Secretary of State Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for House Bill 4199. The provisions of this bill would allow authorized medication assistive personnel, instead of certified nurses, to dispense medication to nursing home residents. Nursing home residents are among our most vulnerable citizens and deserve the highest level of professional care. Lessening the professional standards for the those caring for nursing home residents would inevitably result in diminished care. For this reason, I disapprove and return Enrolled Committee Substitute for House Bill 4199.

Sincerely,

Jim Justice  
Governor

cc: The Honorable Mitch Carmichael  
President of the Senate  
The Honorable Tim Armstead  
Speaker of the House of Delegates

**Jim Justice**  
**Governor of West Virginia**

March 28, 2018

**VIA HAND DELIVERY**

The Honorable Mac Warner  
Secretary of State  
Building 1, Suite 157-K  
State Capitol  
Charleston, West Virginia 25305

RE: Enrolled Committee Substitute for House Bill 4392

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for House Bill No. 4392 for technical reasons.

Enrolled Committee Substitute for House Bill 4392 contains a significant technical flaw that inadvertently creates an incorrect burden of proof that the allocation agreed to by the parties was proper on the WV Department of Health and Human Resources. This technical error would require that the WVDHHR take a contrary legal position than it should be taking, undercutting the Department's case and causing confusion. This technical error is sufficient to require a technical veto.

For these reasons, I must disapprove and return Enrolled Committee Substitute for House Bill No. 4392.

Sincerely,

Jim Justice  
Governor

cc: The Honorable Mitch Carmichael  
President of the Senate  
The Honorable Tim Armstead  
Speaker of the House of Delegates

All business of the sixty-day session now being concluded,

Senator Prezioso, from the select committee to notify His Excellency, the Governor, that the Senate is ready to adjourn *sine die*, returned to the chamber and was recognized by the President. Senator Prezioso then reported this mission accomplished.

Thereupon,

On motion of Senator Ferns, at 12:01 a.m., the Senate adjourned *sine die*.

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