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TWENTY-THIRD DAY

Thursday, March 4, 2021

TWENTY-THIRD DAY

[DELEGATE HANSHAW, MR. SPEAKER, IN THE CHAIR]

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

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

The Clerk proceeded to read the Journal of Wednesday, March 3, 2021, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Summers announced that Com. Sub. for H. B. 2363, on Third reading, Special Calendar, had been transferred to the House Calendar; and Com. Sub. for S. B. 216, on First reading, Special Calendar, had been transferred to the House Calendar.

Committee Reports

On motion for leave, a bill was introduced (Originating in the Committee on Prevention and Treatment of Substance Abuse and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates D. Kelly, Hanna, Walker, Pushkin, Ellington, Holstein, Kessinger, Mandt, Reed and Rohrbach:

H. B. 2918 – “A Bill to amend and reenact §62-15B-1 and §61-15B-2 of the Code of West Virginia, 1931, relating to family drug treatment court; making permanent the pilot program; eliminating a report to the Legislative Oversight Commission on Health and Human Resources Accountability; and eliminating the ineligibility barrier for parents with a prior involuntary termination of parental rights of another child.

Pursuant to House Rule 80, the Speaker referred the Bill (H. B. 2918) to the Committee on the Judiciary.

On motion for leave, a bill was introduced (Originating in the Committee on Education and reported with the recommendation that it do pass), which was read by its title, as follows:

By Delegates Higginbotham and Griffith:

H. B. 2906 - “A Bill to amend and reenact §18-9D-15 of the Code of West Virginia, 1931, as amended, relating to the allocation of money among categories of projects; providing that the School Building Authority’s discretion be increased to allow them to allocate up to ten percent of their annual budget for major projects and improvements to vocational school programs throughout the State.”

Delegate Martin, Chair of the Committee on Political Subdivisions, submitted the following report, which was received:

Your Committee on Political Subdivisions has had under consideration:

H. B. 2592, Require Counties and Municipalities to hold all local elections during statewide elections,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2592) was referred to the Committee on the Judiciary.

Delegate Statler, Chair of the Committee on Fire Departments and Emergency Medical Services, submitted the following report, which was received:

Your Committee on Fire Departments and Emergency Medical Services has had under consideration:

H. B. 2722, Prohibiting the use of class B fire-fighting foam for testing purposes if the foam contains a certain class of fluorinated organic chemicals,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2722) was referred to the Committee on the Judiciary.

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

Your Committee on Banking and Insurance has had under consideration:

H. B. 2758, Requiring the Insurance Commissioner to regulate professional bondsmen,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2758) was referred to the Committee on the Judiciary.

Delegate Storch, Chair of the Committee on Pensions and Retirement, submitted the following report, which was received:

Your Committee on Pensions and Retirement has had under consideration:

H. B. 2862, Relating to the Deputy Sheriff Retirement System Act,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2862) was referred to the Committee on Finance.

Delegate Storch, Chair of the Committee on Pensions and Retirement, submitted the following report, which was received:

Your Committee on Pensions and Retirement has had under consideration:

H. B. 2854, Relating to the West Virginia Municipal Police Officers and Firefighters Retirement System,

And,

H. B. 2855, Relating to the Natural Resources Police Officers Retirement System,

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

In accordance with the former direction of the Speaker, the bills (H. B. 2854 and H. B. 2855) were each referred to the Committee on Finance.

Delegate Phillips, Chair of the Committee on Agriculture and Natural Resources, submitted the following report, which was received:

Your Committee on Agriculture and Natural Resources has had under consideration:

H. B. 2633, Creating the 2021 Farm Bill,

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

In accordance with the former direction of the Speaker, the bill (H. B. 2633) was referred to the Committee on Government Organization.

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

Your Committee on Finance has had under consideration:

S. B. 459, Relating to return of member's paid contributions to heirs after member's death under certain circumstances,

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

At the respective requests of Delegate Summers, and by unanimous consent, the bill (S. B. 459) was taken up for immediate consideration, read a first time and ordered to second reading.

Delegate Summers moved to dispense with the constitutional rule requiring the bill to be fully and distinctly read on three different days.

On this question, the yeas and nays were taken (**Roll No. 76**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Cooper and Pinson.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

The bill was then read a second time and ordered to third reading.

The bill was read a third time and put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 77**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Cooper.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 459) passed.

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

On this question, the yeas and nays were taken (**Roll No. 78**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Cooper.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 459) takes effect from its passage.

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

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

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

H. B. 2760, Relating to economic development incentive tax credits,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 2760 - "A Bill to amend and reenact §11-13Q-9, §11-13Q-10, §11-13Q-10a and §11-13Q-22 of the Code of West Virginia, 1931, as amended, all relating to economic development incentive tax credits; specifying economic opportunity tax credit new jobs percentage of 10 percent corresponding to the creation of 10 new jobs; terminating §11-13Q-10 to prevent conflict with the 10 new jobs language added to the economic opportunity tax credit; specifying changes to §11-13Q-22, to resolve technical conflict with other sections; eliminating superannuated reference to business franchise tax; eliminating superannuated reporting requirement; specifying manufacturing activities that qualify for high technology manufacturing tax credit; providing definitions; proscribing multiple tax credits for the same qualified investment; making stylistic changes pursuant to current drafting conventions; specifying effective dates,"

With the recommendation that the committee substitute do pass, but that it first be referred to the Committee on Finance.

In accordance with the former direction of the Speaker, the bill (Com. Sub. for H. B. 2760) was referred to the Committee on Finance.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with a title amendment, and the passage, as amended, of

Com. Sub. for S. B. 11, Declaring work stoppage or strike by public employees to be unlawful.

On motion of Delegate Summers, the House of Delegates concurred in the following Senate title amendment:

Com. Sub. for S. B. 11 – “ A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-45a, relating to declaring any work stoppage or strike by public employees to be unlawful; providing legislative findings; defining when a county board of education employee is considered to be participating in a concerted work stoppage or strike; prohibiting use of accrued and equivalent instructional time and delivery of instruction through alternative methods to cancel days lost due to a concerted work stoppage or strike; prohibiting a waiver by the state board for a county board of education’s noncompliance with the employment and instructional term requirements if the noncompliance is the result of a concerted work stoppage or strike; declaring participation in a concerted work stoppage or strike to be grounds for termination; requiring, if the employee remains employed, county boards of education to withhold the prorated salary or hourly pay of each employee participating in the concerted work stoppage or strike for each day the employee participates; and requiring the sums to be forfeited to the county board of education.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 79**), and there were—yeas 55, nays 44, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Anderson, Barach, Barnhart, Barrett, Bates, Boggs, Bridges, Brown, Dean, Diserio, Doyle, Evans, Ferrell, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Holstein, Hornbuckle, J. Kelly, Lovejoy, Miller, Paynter, Pethel, Pushkin, Queen, Reed, Reynolds, Riley, Rohrbach, Rowan, Rowe, Skaff, Storch, Thompson, Toney, Walker, Wamsley, Westfall, Williams, Worrell, Young and Zukoff.

Absent and Not Voting: Cooper.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 11) passed.

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

A message from the Senate, by

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

Com. Sub. for S. B. 102 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17A-3-15a, relating to disabled veterans and veterans who received the Purple Heart medal may park free at parking spaces controlled by this state or any

political subdivision thereof"; which was referred to the Committee on Veterans' Affairs and Homeland Security then Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 356 - "A Bill to amend and reenact §17B-2-7 of the Code of West Virginia, 1931, as amended, relating to allowing the written part of the operator's license examination to be given in school driver's education courses"; which was referred to the Committee on Education.

A message from the Senate, by

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

Com. Sub. for S. B. 387 - "A Bill to amend and reenact §9-3-6 of the Code of West Virginia, 1931, as amended, relating to the program for drug screening of applicants for cash assistance; and providing extension of time frame for program"; which was referred to the Committee on Health and Human Resources.

Resolutions Introduced

Delegates Storch, Anderson, Barach, Barnhart, Bates, Booth, Bridges, Brown, Bruce, Clark, Conley, Diserio, Doyle, Ellington, Evans, Fast, Ferrell, Fleischauer, Fluharty, Forsht, Garcia, Gearheart, Graves, Griffith, Hansen, Higginbotham, Holstein, Hornbuckle, Horst, Hott, D. Jeffries, J. Jeffries, Jennings, J. Kelly, Kimes, Longanacre, Lovejoy, Mallow, Mandt, Martin, Miller, Nestor, J. Pack, Phillips, Pinson, Pritt, Pushkin, Queen, Reed, Reynolds, Riley, Rohrbach, Rowan, Rowe, Skaff, Smith, Statler, Sypolt, Thompson, Walker, Wamsley, B. Ward, G. Ward, Williams, Worrell, Young, Zatezalo and Zukoff offered the following resolution, which was reported by the Clerk:

H. C. R. 23 - "Declaring March 4, 2021 to be Sexual Assault Awareness Day in West Virginia."

Whereas, All people have the right to be safe in their home, school, workplace, college campus, and community; and

Whereas, Sexual Assault Awareness Day draws attention to the fact that sexual violence is widespread and has implications for every community member; and

Whereas, One in six women and one in twenty-two men in West Virginia will be victims of an attempted or completed forcible rape; and

Whereas, Forcible rape is the top reason for incarceration in the state adult correctional facilities, costing the tax payers over \$42 million to incarcerate inmates for sex-related crimes in Division of Corrections and Rehabilitation's adult prison facilities alone for a single year; and

Whereas, Sexual violence can be reduced and prevented; and

Whereas, the West Virginia Foundation for Rape Information and Services and the state's rape crisis centers have been working for thirty-nine years individually and collaboratively to provide quality services and systemic change to give West Virginia residents of all ages the opportunity to live in communities and homes free from violence and fear; therefore, be it

Resolved by the Legislature of West Virginia:

That the House of Delegates declares March 4, 2021 to be Sexual Assault Awareness Day in West Virginia and commits itself to treating this problem with the seriousness that it deserves and working to achieve solutions that deter, prevent, and reduce sexual violence.

At the request of Delegate Summers, and by unanimous consent, reference of the resolution (H. C. R. 23) to a committee was dispensed with, and it was taken up for immediate consideration and adopted.

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

On motion for leave, a Joint Resolution was introduced, read by its title and referred as follows:

By Delegates Hanna, Keaton, Haynes, Martin, Hamrick, Paynter, Mandt, Dean and Holstein:

H. J. R. 25 - "Proposing an amendment to the Constitution of the State of West Virginia, amending section four, article IV thereof, relating to the age of elected officials and providing that Senators may be eligible to run if age 21 at the beginning of their term of office"; to the Committee on the Judiciary.

Bills Introduced

On motions for leave, bills were introduced, read by their titles, and severally referred as follows:

By Delegates Foster, Steele, Kimes, Kimble, Haynes, Wamsley and J. Pack:

H. B. 2907 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter, designated §8B-1-1, §8B-1-2, §8B-1-3, §8B-1-4, §8B-1-5, and §8B-1-6, all relating to creating the Local Government Labor and Consumer Marketing Regulatory Limitation Act; prohibiting political subdivisions from enacting certain ordinances, regulations, local policies, local resolutions, or other legal requirements; providing a short title; setting forth legislative findings and declarations; defining terms; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which regulates information requested, required, or excluded on an application for employment; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which requires an employer to pay a wage higher than any applicable state or federal law; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which requires an employer to pay wages or fringe benefits based on a rate prevailing in the locality or the state; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which regulates work stoppages, strike activity, or means by which employees organize; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which requires an employer to provide paid or unpaid leave time; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which requires an employer or its employees to participate in an apprenticeship or apprenticeship training program not required by federal or state law; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which regulates an employee's hours and scheduling; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which regulates standards or requirements regarding the sale or marketing of consumer merchandise that are different from or in addition to state law; providing that political subdivisions may not adopt or enforce any ordinance, regulation, local policy, local resolution, or other legal requirement which regulates

standards of care or conduct for certain professions; providing for civil relief; establishing a civil cause of action which, if proven in a court of competent jurisdiction, may permit a person to recover damages, including compensatory and punitive damages, costs and attorney's fees, injunctive relief, or any other appropriate equitable relief against any political subdivision violating the Local Government Labor and Consumer Marketing Regulatory Limitation Act; providing exceptions; clarifying effect on prior written agreements; providing that any prohibited ordinance, regulation, local policy, local resolution, or other legal requirement in effect prior to the effective date of chapter is void; providing that the prohibitions do not apply to employees of a political subdivision; and clarifying the effect on the West Virginia Alcohol and Drug-Free Workplace Act"; to the Committee on Political Subdivisions then the Judiciary.

By Delegate Foster:

H. B. 2908 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §46A-9-1, relating to requiring high-volume third-party sellers to provide information to online marketplaces; requiring ongoing verification of information; requiring high-volume third-party sellers to disclose certain information to consumers; providing for Attorney General enforcement of act; authorizing rulemaking by Attorney General; establishing preemption of municipal requirements; defining terms; and providing effective date"; to the Committee on Political Subdivisions then the Judiciary.

By Delegates Foster, Steele, Kimble, Haynes, Wamsley, Kessinger, Espinosa, Kimes and J. Pack:

H. B. 2909 - "A Bill to amend and reenact §30-1A-1, §30-1A-2, §30-1A-3, §30-1A-4, §30-1A-5, and §30-1A-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-1A-1a, all relating to regulation of occupations and professions; providing for legislative policy; providing for definitions; providing for criteria to analyze a required application to regulate an occupation or profession; providing for the Performance Evaluation and Research Division to conduct an analysis of the application; providing for a rebuttable presumption against regulating an occupation or profession absent certain conditions; providing for criteria to assess harms to consumers and possible recommendations that may be instituted against an occupation or profession; providing for an economic study of the recommendations made; providing for a time frame for the Performance Evaluation and Research Division to conduct the analysis and return a report; providing for recommendations based on the assessed harm to consumers in the Performance Evaluation and Research Division's report; providing for additional recommendations and findings by the Joint Standing Committee on Government Organization; providing that additional findings by the Joint Standing Committee on Government Organization are made public; providing for the committee's findings and recommendations along with any report be submitted to any committee considering legislation prior to voting; providing for the Performance Evaluation and Research Division begin a review of existing licenses under certain criteria; providing for an effective date for licensure review; providing for a review of a certain percentage of licenses annually; providing for annual licensing review to be set by the chairs of the Joint Standing Committee on Government Organization; providing for an eight-year review schedule; providing for the Performance Evaluation and Research Division to report its findings and recommendations to the committee relating to licensing review; providing an effective date for the Performance Evaluation and Research Division to begin reporting its findings and recommendations to the committee; and providing for mechanisms of statutory interpretation relating to government regulations of occupations or professions"; to the Committee on Government Organization.

By Delegates Foster, Kimble, Haynes, Wamsley, Kessinger, Espinosa, Kimes and J. Pack:

H. B. 2910 - "A Bill to amend and reenact §50-1-2 of the Code of West Virginia, 1931, as amended, relating to the allocation of magistrates serving in each county and provided for adjustment

of those numbers of magistrates every 10 years following the census”; to the Committee on the Judiciary.

By Delegates Foster, Kimble, Wamsley, Haynes, Storch, D. Kelly, Kimes and J. Pack:

H. B. 2911 - “A Bill to amend and reenact §9-8-4 of the Code of West Virginia, 1931, as amended, relating to eligibility verification for applicants for public assistance and authorizing rulemaking”; to the Committee on Senior, Children, and Family Issues then the Judiciary.

By Delegate Steele:

H. B. 2912 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new chapter, designated §60B-1-1, §60B-1-2, §60B-1-3, §60B-1-4, §60B-1-5, §60B-1-6, §60B-1-7, §60B-2-1, §60B-2-2, §60B-2-3, §60B-2-4, §60B-2-5, §60B-2-6, §60B-2-7, §60B-2-8, §60B-2-9, §60B-2-10, §60B-2-11, §60B-2-12, §60B-2-13, §60B-2-14, §60B-2-15, §60B-2-16, §60B-2-17, §60B-3-1, §60B-3-2, §60B-3-3, §60B-3-4, §60B-3-5, §60B-3-6, §60B-3-7, §60B-3-8, §60B-3-9, §60B-3-9a, §60B-3-10, §60B-3-11, §60B-3-12, §60B-3-13, §60B-3-14, §60B-3-15, §60B-3-16, §60B-3-17, §60B-3-18, §60B-3-19, §60B-3-20, §60B-3-21, §60B-3-22, §60B-3-22a, §60B-3-23, §60B-4-1, §60B-4-2, §60B-4-3, §60B-4-4, §60B-4-5, §60B-4-6, §60B-4-7, §60B-4-8, §60B-4-9, §60B-4-10, §60B-4-11, §60B-4-12, §60B-4-13, §60B-4-14, §60B-4-15, §60B-4-16, §60B-5-1, §60B-5-2, §60B-5-3, §60B-5-4, §60B-5-5, §60B-5-6, §60B-5-7, §60B-5-8, §60B-6-1, §60B-6-2, §60B-6-3, §60B-6-4, §60B-6-5, §60B-6-6, §60B-6-7, §60B-6-8, §60B-6-9, §60B-6-10, §60B-6-11, §60B-6-12, §60B-6-13, §60B-6-14, §60B-6-15, §60B-6-16, §60B-6-17, §60B-6-18, §60B-6-19, §60B-6-20, §60B-7-1, §60B-7-2, §60B-7-3, §60B-7-4, and §60B-7-5, all relating to cannabis and cannabis product sales, growth, and consumption in this state; providing for definitions; providing for a short title; providing for restrictions on sales and manufacturing; providing for sales made through the Cannabis Commission; providing for limitations on synthetic marijuana or synthetic cannabis; establishing the West Virginia Cannabis Commission; providing for rulemaking authority; providing for the appointment of the commissioner; providing for a four-year term as commissioner, clarifying that the commissioner serves at the Governor’s will and pleasure; providing for the commissioner taking the oath of office and requiring the commissioner to furnish a bond; establishing the powers and duties of the commission and commissioner; permitting the commissioner the authority to hire employees to serve at his or her will and pleasure; requiring employees furnish a bond before starting employment with the commission; providing for the commissioner’s authority to grant and revoke licenses; providing for regulations relating to advertisements of cannabis or cannabis products; providing for rulemaking; providing for cooperation between the commission and law enforcement, including local law enforcement; providing for the process of hearings and proceedings before the commission; providing for civil responsibility of all employees of the commission; requiring the Legislative Auditor to audit the Cannabis Commission every five years and permitting the State Auditor to audit at any time; providing for the commissioner to enter into contracts for scanner technology to verify age of cannabis or cannabis product consumers; providing for the sale of cannabis or cannabis products; providing the commissioner the ability to establish dispensaries of cannabis or cannabis products in counties subject to population requirements; providing for the commissioner to establish cannabis or cannabis product warehouses in certain economically advantageous counties in this state; providing that the commissioner hire managers for the dispensaries and warehouses; providing for rulemaking authority relating to sales of cannabis or cannabis products; providing for dispensaries to obtain inventory from warehouses to sell at retail; providing for the commission to determine the price of cannabis or cannabis products using certain price indices; providing the commissioner set retail tax rates on cannabis, cannabis products, or cannabis seeds; providing for statutory transfers of excess revenues and taxes greater than 110 percent the prior year’s budget be swept into the General Revenue Fund; providing that the commission may fix uniform prices; providing for local municipal sales taxes enacted be remitted to the county where the sale took place; providing for recordkeeping requirements; providing for inventory control through the commission; providing for operating hours of dispensaries; providing for limitations on advertising or recommending brands or strains of cannabis or cannabis products; permitting the commissioner acquire equipment necessary for the sale and age verification technology relating to cannabis or cannabis products; providing for sales to

other states subject to certain federal requirements; providing for the required sale in sealed packages with child-proof packaging and clear and conspicuous warning labels; providing for rulemaking as to handling cannabis and cannabis products relating to sales; establishing the West Virginia Cannabis Commission Operating Fund and permitting certain expenditures; providing for the commissioner to provide security for dispensaries and warehouses in this state; providing for methods of payment to a dispensary for cannabis or cannabis products; providing for a limitation on the amount of cannabis or cannabis products that may be sold; providing for unlawful acts by purchasers; providing for conduct of purchasers when inside a dispensary in this state; providing for licenses to grow cannabis in this state; providing for qualifications for persons to obtain a license to grow cannabis in this state; providing that any licensed grower of cannabis in this state may only sell products to the commissioner; providing for separate licenses of noncontiguous farms or facilities to grow cannabis; providing for an application form for a person to apply for a license to grow cannabis; providing for 15 days before the commission shall issue a decision on a license application; providing for certain instances when a license may be refused; providing for license fees; requiring licensed growers submit reports to the commission; providing for rulemaking authority; providing for limitation on municipalities or counties from imposing a tax or fee on a licensed grower; providing for procedures for license revocation; providing for 10 days written notice to a licensee regarding a date and time for a hearing on the revocation of a license; providing that a licensee may be represented by counsel at a license revocation hearing; providing for appeal mechanisms; providing for the commission to enter into leasehold agreements to hold the land on which cannabis may be grown; providing for counties to hold an election to determine if cannabis or cannabis products should not be sold within the county; providing for the election if at least 25 percent of residents desire the election; providing for the form of the petition; providing for the notice of the election at the primary or general election within the county; providing for discontinuance of dispensaries in a county that has elected not to permit the sale of cannabis or cannabis products; limiting such elections from occurring within four years of a prior election; establishing criminal penalties; establishing limitations on the transportation of cannabis or cannabis products in this state; permitting search warrants to be issued when meeting certain conditions; establishing court procedures relating to conveyances of contraband and setting a fair price for such contraband; permitting the treatment of minors with an addiction to cannabis; establishing employee authority to make arrests under certain conditions; permitting the commissioner to enter into contracts with third party processors under certain conditions; requiring the commissioner to supervise third party processors; and requiring processing of cannabis or cannabis products to occur at the commission's warehouses"; to the Committee on Health and Human Resources then the Judiciary then Finance.

By Delegates Ferrell, Linville, Foster, Hamrick, Burkhammer, Queen, Summers, Mandt, Keaton, Reynolds and Wamsley:

H. B. 2913 - "A Bill to amend and reenact the Code of West Virginia, 1931, as amended, adding thereto a new section designated §3-8-12a, relating to the Social Media Integrity and Anti-Corruption in Elections Act; providing requirements for social media companies to prevent corruption and provide transparency of election-related content made available on social media websites; providing equal opportunities for all candidates and political parties to speak without policy or partisan-based censorship; setting forth definitions; providing for the protection of the integrity of elections by ensuring election-related content hosted, posted, and made available on social media websites is not monetized or otherwise used or manipulated for nefarious purposes; and providing civil penalties"; to the Committee on the Judiciary.

By Delegates Rowan, Rowe, Steele, Foster, Espinosa, Linville, Hardy, Skaff, Hornbuckle and Fluharty:

H. B. 2914 - "A Bill to amend and reenact §29-1-5 of the Code of West Virginia, 1931, as amended, relating to the Archives and History Commission; removing ex officio voting members; and update formatting"; to the Committee on Government Organization.

By Delegates Rowan, Rowe, Steele, Burkhammer, Linville, Hardy, Skaff, Hornbuckle and Fluharty:

H. B. 2915 - "A Bill to amend and reenact §5A-8-15 of the Code of West Virginia, 1931, as amended, relating to public records management and preservation; to increase available funds in the Public Records and Preservation Revenue Account for grants to counties for records management, access, and preservation purposes"; to the Committee on Finance.

By Delegates Rowan, Rowe, Steele, Foster, Burkhammer, Espinosa, Linville, Hardy, Young, Skaff and Hornbuckle:

H. B. 2916 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §4-13A-1, §4-13A-2, §4-13A-3, §4-13A-4, §4-13A-5, §4-13A-6, and §4-13A-7, related to the creation of the West Virginia Semiquincentennial Commission and Fund to support the celebration of the 250th anniversary of our nation's founding"; to the Committee on Government Organization.

By Delegates Burkhammer, J. Jeffries, Worrell, Pinson, Hanna and Clark:

H. B. 2917 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-9A-27, relating to creating the 'Save Women's Sports Act,' requiring, for an official or unofficial school-sanctioned athletic or sporting event, that each athlete's participation in the athletic or sporting event be based on the athlete's biological sex as indicated on the athlete's original birth certificate issued at the time of birth; providing a revised designation for sporting events; and providing a means by which civil actions can be commenced"; to the Committee on Education.

Special Calendar

Third Reading

Com. Sub. for H. B. 2013, Relating to the Hope Scholarship Program; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

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

"ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

§18-8-1. Compulsory school attendance; exemptions.

(a) Exemption from the requirements of compulsory public school attendance established in §18-8-1a of this code shall be made on behalf of any child for the causes or conditions set forth in this section. Each cause or condition set forth in this section is subject to confirmation by the attendance authority of the county. A child who is exempt from compulsory school attendance under this section is not subject to prosecution under §18-8-2 of this code, nor is such a child a status offender as defined by §49-1-202 of this code.

(b) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of this subsection, relating to instruction in a private, parochial or other approved school, are met. The instruction shall be in a school approved by the county board and for a time equal to the instructional term set forth in §18-5-45 of this code. In all private, parochial or other schools approved pursuant to this subsection, it is the duty of the principal or other person in control, upon the request of the county superintendent, to furnish to the county board such information and records as may be required with respect to attendance, instruction and progress of students enrolled.

(c) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of either subdivision (1) or subdivision (2) of this subsection, both relating to home instruction, are met.

(1) The instruction shall be in the home of the child or children or at some other place approved by the county board and for a time equal to the instructional term set forth in §18-5-45 of this code. If the request for home instruction is denied by the county board, good and reasonable justification for the denial shall be furnished in writing to the applicant by the county board. The instruction shall be conducted by a person or persons who, in the judgment of the county superintendent and county board, are qualified to give instruction in subjects required to be taught in public elementary schools in the state. The person or persons providing the instruction, upon request of the county superintendent, shall furnish to the county board information and records as may be required periodically with respect to attendance, instruction and progress of students receiving the instruction. The state board shall develop guidelines for the home schooling of special education students including alternative assessment measures to assure that satisfactory academic progress is achieved.

(2) The child meets the requirements set forth in this subdivision: *Provided*, That the county superintendent may, after a showing of probable cause, seek from the circuit court of the county an order denying home instruction of the child. The order may be granted upon a showing of clear and convincing evidence that the child will suffer neglect in his or her education or that there are other compelling reasons to deny home instruction.

(A) Upon commencing home instruction under this section the parent of a child receiving home instruction shall present to the county superintendent or county board a notice of intent to provide home instruction that includes the name, address, and age of any child of compulsory school age to be instructed and assurance that the child shall receive instruction in reading, language, mathematics, science and social studies and that the child shall be assessed annually in accordance with this subdivision. The person providing home instruction shall notify the county superintendent upon termination of home instruction for a child who is of compulsory attendance age. Upon establishing residence in a new county, the person providing home instruction shall notify the previous county superintendent and submit a new notice of intent to the superintendent of the new county of residence: *Provided*, That if a child is enrolled in a public school, notice of intent to provide home instruction shall be given on or before the date home instruction is to begin.

(B) The person or persons providing home instruction shall submit satisfactory evidence of a high school diploma or equivalent, or a post-secondary degree or certificate from a regionally accredited institution or from an institution of higher education that has been authorized to confer a post-secondary degree or certificate in West Virginia by the West Virginia Council for Community and Technical College Education or by the West Virginia Higher Education Policy Commission.

(C) Annually, the person or persons providing home instruction shall obtain an academic assessment of the child for the previous school year in one of the following ways:

(i) The child receiving home instruction takes a nationally normed standardized achievement test published or normed not more than 10 years from the date of administration and administered under the conditions as set forth by the published instructions of the selected test and by a person qualified in accordance with the test's published guidelines in the subjects of reading, language, mathematics, science and social studies. The child is considered to have made acceptable progress when the mean of the child's test results in the required subject areas for any single year is within or above the fourth stanine or, if below the fourth stanine, shows improvement from the previous year's results;

(ii) The child participates in the testing program currently in use in the state's public schools. The test shall be administered to the child at a public school in the county of residence. Determination of acceptable progress shall be based on current guidelines of the state testing program;

(iii) A portfolio of samples of the child's work is reviewed by a certified teacher who determines whether the child's academic progress for the year is in accordance with the child's abilities. The teacher shall provide a written narrative about the child's progress in the areas of reading, language, mathematics, science and social studies and shall note any areas which, in the professional opinion of the reviewer, show need for improvement or remediation. If the narrative indicates that the child's academic progress for the year is in accordance with the child's abilities, the child is considered to have made acceptable progress; or

(iv) The child completes an alternative academic assessment of proficiency that is mutually agreed upon by the parent or legal guardian and the county superintendent.

(D) A parent or legal guardian shall maintain copies of each student's Academic Assessment for three years. When the annual assessment fails to show acceptable progress, the person or persons providing home instruction shall initiate a remedial program to foster acceptable progress. The county board upon request shall notify the parents or legal guardian of the child, in writing, of the services available to assist in the assessment of the child's eligibility for special education services. Identification of a disability does not preclude the continuation of home schooling. In the event that the child does not achieve acceptable progress for a second consecutive year, the person or persons providing instruction shall submit to the county superintendent additional evidence that appropriate instruction is being provided.

(E) The parent or legal guardian shall submit to the county superintendent the results of the academic assessment of the child at grade levels three, five, eight and 11, as applicable, by June 30 of the year in which the assessment was administered.

(3) This subdivision applies to both home instruction exemptions set forth in subdivisions (1) and (2) of this subsection. The county superintendent or a designee shall offer such assistance, including textbooks, other teaching materials and available resources, all subject to availability, as may assist the person or persons providing home instruction. Any child receiving home instruction may upon approval of the county board exercise the option to attend any class offered by the county board as the person or persons providing home instruction may consider appropriate subject to normal registration and attendance requirements.

(d) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of this subsection, relating to physical or mental incapacity, are met. Physical or mental incapacity consists of incapacity for school attendance and the performance of school work. In all cases of prolonged absence from school due to incapacity of the child to attend, the written statement of a licensed physician or authorized school nurse is required. Incapacity shall be narrowly defined and in any case the provisions of this article may not allow for the exclusion of the mentally, physically, emotionally or behaviorally handicapped child otherwise entitled to a free appropriate education.

(e) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if conditions rendering school attendance impossible or hazardous to the life, health or safety of the child exist.

(f) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code upon regular graduation from a standard senior high school or alternate secondary program completion as determined by the state board.

(g) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the child is granted a work permit pursuant to the subsection. After due investigation the county superintendent may grant work permits to youths under the termination age designated in §18-8-1a of this code, subject to state and federal labor laws and regulations. A work permit may not be granted on behalf of any youth who has not completed the eighth grade of school.

(h) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if a serious illness or death in the immediate family of the child has occurred. It is expected that the county attendance director will ascertain the facts in all cases of such absences about which information is inadequate and report the facts to the county superintendent.

(i) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of this subsection, relating to destitution in the home, are met. Exemption based on a condition of extreme destitution in the home may be granted only upon the written recommendation of the county attendance director to the county superintendent following careful investigation of the case. A copy of the report confirming the condition and school exemption shall be placed with the county director of public assistance. This enactment contemplates every reasonable effort that may properly be taken on the part of both school and public assistance authorities for the relief of home conditions officially recognized as being so destitute as to deprive children of the privilege of school attendance. Exemption for this cause is not allowed when the destitution is relieved through public or private means.

(j) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of this subsection, relating to church ordinances and observances of regular church ordinances, are met. The county board may approve exemption for religious instruction upon written request of the person having legal or actual charge of a child or children. This exemption is subject to the rules prescribed by the county superintendent and approved by the county board.

(k) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of this subsection, relating to alternative private, parochial, church or religious school instruction, are met. Exemption shall be made for any child attending any private school, parochial school, church school, school operated by a religious order or other nonpublic school which elects to comply with the provisions of §18-28-1 *et seq.* of this code.

(l) Completion of the eighth grade does not exempt any child under the termination age designated in §18-8-1a of this code from the compulsory attendance provision of this article.

(m) A child is exempt from the compulsory school attendance requirements set forth in §18-8-1a of this code if the child is an eligible recipient participating in the Hope Scholarship Program, as provided for in §18-31-1 *et seq.* of this code and provides a notice of intent to participate in the Hope Scholarship Program to the county superintendent. The county superintendent shall enter the following into the West Virginia Education Information System (WVEIS):

(1) The filing of the notice of intent pursuant to this subsection;

(2) In the case of a Hope Scholarship recipient who chooses an individualized instructional program, annually, the child's test results or determination that a student is making academic

progress commensurate with his or her age and ability, as applicable, pursuant to §18-31-8(a)(4) of this code; and

(3) In the case of an eligible recipient enrolling in a participating school, annually, the filing of a notice of enrollment pursuant to §18-31-11(a)(6) of this code.

§18-8-1a. Commencement and termination of compulsory school attendance; public school entrance requirements; exceptions.

(a) Notwithstanding the provisions of section one of this article, compulsory school attendance begins with the school year in which the sixth birthday is reached prior to September 1 of such year or upon enrolling in a publicly supported kindergarten program and, subject to subdivision (3) of this subsection, continues to the sixteenth birthday or for as long as the student continues to be enrolled in a school system after the sixteenth birthday.

(1) A child may be removed from such kindergarten program when the principal, teacher and parent or guardian concur that the best interest of the child would not be served by requiring further attendance: *Provided*, That the principal shall make the final determination with regard to compulsory school attendance in a publicly supported kindergarten program.

(2) The compulsory school attendance provision of this article shall be enforced against a person eighteen years of age or older for as long as the person continues to be enrolled in a school system and may not be enforced against the parent, guardian or custodian of the person.

(3) Notwithstanding the provisions of section one of this article, compulsory school attendance begins with the school year in which the sixth birthday is reached prior to September 1 of such year or upon enrolling in a publicly supported kindergarten program and continues to the seventeenth birthday or for as long as the student continues to be enrolled in a school system after the seventeenth birthday: *Provided*, That beginning in the school year 2019-2020, compulsory school attendance begins with the school year in which the sixth birthday is reached prior to July 1 of such year or upon enrolling in a publicly supported kindergarten program.

(b) A parent, as defined in §18-31-2 of this code, shall have the option, prior to enrolling in a publicly supported kindergarten program, to apply for a Hope Scholarship on behalf of his or her child as set forth in §18-31-1 et seq. of this code. Every year thereafter, a parent shall have the option to renew his or her child's enrollment in the Hope Scholarship Program pursuant to §18-31-8 of this code.

~~(b)~~ (c) Attendance at a state-approved or Montessori kindergarten, as provided in section eighteen, article five of this chapter, is deemed school attendance for purposes of this section. Prior to entrance into the first grade in accordance with section five, article two of this chapter, each child must have either:

(1) Successfully completed such publicly or privately supported, state-approved kindergarten program or Montessori kindergarten program; or

(2) Successfully completed an entrance test of basic readiness skills approved by the county in which the school is located. The test may be administered in lieu of kindergarten attendance only under extraordinary circumstances to be determined by the county board.

~~(e)~~(d) Notwithstanding the provisions of this section, section five, article two of this chapter and section eighteen, article five of this chapter, a county board may provide for advanced entrance or

placement under policies adopted by said board for any child who has demonstrated sufficient mental and physical competency for such entrance or placement.

~~(d)~~(e) This section does not prevent a student from another state from enrolling in the same grade in a public school in West Virginia as the student was enrolled at the school from which the student transferred.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-25. Funding for Hope Scholarship Program.

(a) Notwithstanding any other provision of this article to the contrary, for fiscal year 2023 and each fiscal year thereafter, in addition to all other amounts required by this article, the Department of Education shall include in its budget request, and the Governor shall include in each budget bill submitted to the Legislature, an appropriation to the Department of Education for the greater of an amount not less than two percent of net public school enrollment adjusted for state aid purposes or the total number of eligible Hope Scholarship applications received by the Hope Scholarship Board, if available, multiplied by the prior year's statewide average net state aid allotted per pupil. The amount appropriated shall be transferred by the Department of Education to the Hope Scholarship Board to be used solely to meet the Hope Scholarship Program obligations set forth in §18-31-1 et seq. of this code except as otherwise provided in this section. The Governor shall also provide in each budget for the reappropriation for expenditure during the ensuing fiscal year the balance to the Department of Education that was not transferred to the Hope Scholarship Board due to an accumulated balance from prior years as provided under subsection (b) of this section.

(b) Each fiscal year, the amount required to be requested and included in the budget bill for appropriation under subsection (a) of this section shall be reduced by the sum of:

(1) Any unused accumulated amounts transferred to the Hope Scholarship Board for these purposes from previous years; and

(2) Any unused appropriations made to the Department of Education for these purposes that were not transferred to the Hope Scholarship Board due to an accumulated balance from prior years.

ARTICLE 31. HOPE SCHOLARSHIP PROGRAM.

§18-31-1. Short title.

This article shall be known as the 'Hope Scholarship Act.' The program created by this act shall be known as the 'Hope Scholarship Program.'

§18-31-2. Definitions.

The following words have the meanings ascribed to them unless the context clearly indicates a different meaning:

(1) 'Account' or 'scholarship' means a Hope Scholarship account, awarded pursuant to this article, to which funds are allocated by the board to the parent or parents of an eligible Hope Scholarship student in order to pay qualifying education expenses to educate the student pursuant to the requirements and conditions of this article;

(2) 'Board' means the Hope Scholarship Board created pursuant to §18-31-3 of this code;

(3) 'Curriculum' means a complete course of study for a particular content area or grade level, including any supplemental materials required by the curriculum;

(4) 'Education service provider' means a person or organization that receives payments from Hope Scholarship accounts to provide educational goods and services to Hope Scholarship students;

(5) 'Eligible recipient' means a child who:

(A) Is a resident of this state; and

(B) Is enrolled full-time and attending a public elementary or secondary school program in this state for at least 45 days during an instructional term at the time of application and until an award letter is issued by the board under §18-31-5(c) of this code, or enrolled full-time in a public elementary or secondary school program in this state for the entire instructional term the previous year, or is eligible at the time of application to enroll in a kindergarten program in this state pursuant to §18-8-1a of this code, except that if on July 1, 2024, the participation rate of the combined number of students in the Hope Scholarship Program and students eligible who have applied to participate in the Hope Scholarship program during the previous school year is less than five percent of net public school enrollment adjusted for state aid purposes for the previous school year, then, effective July 1, 2026, a child is considered to meet the requirements of this paragraph if he or she is enrolled, eligible to be enrolled, or required to be enrolled in a kindergarten program or public elementary or secondary school program in this state at the time of application;

(6) 'Hope scholarship funds' means the moneys deposited in a Hope Scholarship student's account in accordance with the requirements of this article.

(7) 'Hope scholarship student' means a student who receives a scholarship pursuant to this article;

(8) 'Parent' means a biological parent, legal guardian, custodian, or other person with legal authority to act on behalf of an eligible recipient or Hope Scholarship student;

(9) 'Participating school' means any private school that provides education to elementary and/or secondary students and has notified the board of its intention to participate in the program and comply with the program's requirements;

(10) 'Resident school district' means the county school district in which the student resides; and

(11) 'Treasurer' means the West Virginia State Treasurer.

§18-31-3. West Virginia Hope Scholarship board; members; terms; compensation; proceedings generally.

(a) The West Virginia Hope Scholarship Program shall be administered by the West Virginia Hope Scholarship Board.

(b) The board shall consist of nine members and include the following:

(1) The State Treasurer;

(2) The State Auditor, or his or her designee;

(3) The State Attorney General, or his or her designee;

(4) The State Superintendent of Schools, or his or her designee;

(5) The Chancellor of Higher Education, or his or her designee;

(6) The Director of the Herbert Henderson Office of Minority Affairs, or his or her designee; and

(7) Three members appointed by the Governor with the advice and consent of the Senate who are parents of Hope Scholarship students, or for the initial appointments of board members following the effective date of this article, parents who intend to apply for the Hope Scholarship on behalf of eligible recipients, to be appointed as follows:

(A) Only state residents are eligible for appointment to the board;

(B) The members shall reside in geographically diverse areas of the state;

(C) Members shall be initially appointed to staggered terms as follows:

(i) One member appointed by the Governor to a one-year term;

(ii) One member appointed by the Governor to a two-year term; and

(iii) One member each appointed by the Governor to a three-year term.

After the initial staggering of terms, appointed board members shall serve for three-year terms and are eligible for reappointment at the expiration of their terms; and

(D) If there is a vacancy among appointed members, the vacancy shall be filled by appointment to the unexpired term of a person meeting the requirements of this section by the Governor with the advice and consent of the Senate. Members of the board shall serve until the later of the expiration of the term for which the member was appointed or the appointment of his or her successor.

(c) Members of the board shall serve without compensation. The board may reimburse members for all reasonable and necessary expenses, including travel expenses, actually incurred by board members in the conduct of their official duties. Any expense reimbursements shall be made from the West Virginia Hope Scholarship Program Expense Fund at the same rate paid to state employees.

(d) The Treasurer is the chairman and presiding officer of the board. The Treasurer may provide office space and staff to the board upon request of the board.

(e) The State Superintendent of Schools may provide staff to the board, upon request of the board.

(f) A majority of the members of the board constitutes a quorum for the transaction of the business of the board.

(g) Members of the board are subject to the ethical standards and financial disclosure requirements of the West Virginia Governmental Ethics Act in Chapter 6B of this code.

§18-31-4. Powers of the board.

The board is authorized to take any action necessary to effectuate the provisions of this article and to successfully administer the Hope Scholarship Program, subject to applicable state and federal law, including, but not limited to the following:

(1) Adopt and amend bylaws;

(2) Execute contracts and other instruments for necessary goods and services, employ necessary personnel and engage the services of private consultants, actuaries, auditors, counsel, managers, trustees, and any other contractor or professional needed for rendering professional and technical assistance and advice: *Provided*, That election of these services is not subject to the provisions of §5A-3-1 *et seq.* of this code;

(3) Implement the program through the use of financial organizations as account depositories and managers;

(4) Develop and impose requirements, policies, procedures, and guidelines to implement and manage the program;

(5) Determine whether an expenditure of Hope Scholarship funds is or was a qualifying expense to educate a Hope Scholarship student pursuant to §18-31-7 of this code. The board may approve or deny expenditures by a majority vote;

(6) Review any appeals made pursuant to §18-31-10(b) and §18-31-10(d) of this code;

(7) Establish the method by which moneys in the Hope Scholarship Expense Fund shall be allocated to pay for administrative costs and assess, collect and expend administrative fees, charges, and penalties;

(8) Authorize the assessment, collection and retention of fees and charges against the amounts paid into and the earnings on the Hope Scholarship funds by a financial institution, investment manager, fund manager, West Virginia Investment Management Board, West Virginia Board of Treasury Investments, or other professional managing or investing the Hope Scholarship funds and accounts;

(9) Invest and reinvest any of the funds and accounts under the board's control with a financial institution, an investment manager, a fund manager, the West Virginia Investment Management Board, West Virginia Board of Treasury Investments, or other professionals investing the funds and accounts: *Provided*, That investments made under this article shall be made in accordance with the provisions of §44-6C-1 *et seq.* of this code; and

(10) Solicit and accept gifts, including bequests and other testamentary gifts made by will, trust, or other disposition; grants; loans; aid; and property, real or personal of any nature and from any source, or to participate in any other way in any federal, state, or local governmental programs in carrying out the purposes of this article: *Provided*, That the board shall use the property received to effectuate the desires of the donor, and shall convert the property received into cash within 180 days of receipt.

§18-31-5. Award of Hope Scholarships.

(a) The Hope Scholarship Program is established to provide the option for a parent to better meet the individual education needs of his or her eligible child. The program shall be operational no later than July 1, 2022.

(b) The board shall create a standard application form that a parent can submit to establish his or her student's eligibility for the award of Hope Scholarship funds, to be placed in a personal education savings account to be used for qualifying education expenses on behalf of the eligible recipient as

provided for in §18-31-7 of this code. Information about scholarship funds and the application process shall be made available on the board's website.

(c) The board shall make such applications available no later than March 1, 2022 and shall begin accepting applications immediately thereafter. The board may update the application as needed. The board shall issue an award letter to eligible recipients within 45 days of receipt of a completed application and all required documentation.

(d) The board shall approve an application for a Hope Scholarship if all of the following circumstances are met:

(1) A parent submits an application for a Hope Scholarship in accordance with the legislative rules promulgated by the board;

(2) A student on whose behalf the parent is applying is an eligible recipient, as provided for in §18-31-2(5) of this code;

(3) The parent signs an agreement with the board, promising to do all of the following:

(A) To provide an education for the eligible recipient in at least the subjects of reading, language, mathematics, science, and social studies;

(B) To use the Hope Scholarship funds exclusively for qualifying expenses as provided for in §18-31-7 of this code;

(C) To comply with the rules and requirements of the Hope Scholarship program; and

(D) To afford the Hope Scholarship student opportunities for educational enrichment such as organized athletics, art, music, or literature; and

(4) The board confirms with the West Virginia Department of Education that the student satisfies §18-31-2(5)(B) of this code: *Provided*, That if the department does not reply within 30 days, this criteria is considered satisfied.

(e) An application for a Hope Scholarship is confidential and not a public record subject to release pursuant to the West Virginia Freedom of Information Act, as codified in §29B-1-1 *et seq.* of this code.

§18-31-6. Funding of Hope Scholarships; program and expense funds.

(a) There is hereby created in the State Treasury a special revenue fund designated and known as the West Virginia Hope Scholarship Program Fund. The fund shall be administered by the Treasurer and shall consist of funds transferred by the Department of Education in accordance with §18-9A-25 of this code. All interest and other returns derived from the deposit and investment of moneys in the Hope Scholarship Fund shall be credited to the fund. Any balance, including accrued interest and other returns, remaining in the fund at the end of each fiscal year shall not revert to the General Revenue Fund but shall remain in the fund and be expended as provided by this section.

(b) The amount of Hope Scholarship funds made available to an eligible recipient on a yearly basis shall be equal to 100 percent of the prior year's statewide average net state aid share allotted per pupil based on net enrollment adjusted for state aid purposes, subject to the provisions of subsection (c) of this section: *Provided*, That the amount of Hope Scholarship funds made available to an eligible student per school year may not exceed \$3,000: *Provided, however*, That the amount of the funding to an eligible recipient who is awarded a Hope Scholarship account for less than a full

fiscal year shall be prorated based on the portion of the fiscal year the eligible recipient is awarded the Hope Scholarship account. On or prior to the submission of the Department of Education's budget request each year, the board shall notify the Department of Education of the total number of eligible Hope Scholarship applications received by the board, for purposes of facilitating the necessary transfer of moneys pursuant to §18-9A-25 of this code.

(c) Expenditures from the Hope Scholarship Fund shall be limited to the purposes set forth in this article: *Provided*, That an amount not to exceed five percent of the fund shall be transferred annually to the West Virginia Hope Scholarship Program Expense Fund established in subsection (h) of this section to cover the annual administrative costs of the Hope Scholarship Program. If the number of Hope Scholarship accounts increases significantly after any fiscal year, the Treasurer may request an appropriation by the Legislature to the West Virginia Hope Scholarship Program Expense Fund in an amount equal to the administrative costs associated with the increase in Hope Scholarship accounts.

(d) The first deposit of Hope Scholarship funds into an eligible recipient account shall be subject to the execution of the parental agreement required by §18-31-5 of this code. Upon execution of the required parental agreement, and subject to the provisions of §18-31-9(e) of this code, one half of the total annually required deposit shall be made no later than August 15 of every year into an eligible recipient's Hope Scholarship account, and one half of the total annually required deposit shall be made no later than January 15 of every year. Any funds remaining in a Hope Scholarship account at the end of the fiscal year may be carried over to the next fiscal year upon successful renewal of the account.

(e) Funds deposited in a student's Hope Scholarship account, other than those funds expended on transportation services pursuant to §18-31-7(11) of this code, do not constitute taxable income to the parent or the Hope Scholarship student.

(f) The board shall continue to make deposits into an eligible recipient's Hope Scholarship account in accordance with the provisions of this section unless any of the following conditions have occurred:

(1) A parent of an eligible recipient fails to renew a Hope Scholarship account or withdraws from the Hope Scholarship Program;

(2) The board determines that a student is no longer eligible for a Hope Scholarship;

(3) The board suspends or revokes participation in the Hope Scholarship Program for failure to comply with the requirements of this article;

(4) The Hope Scholarship student successfully completes a secondary education program; or

(5) The Hope Scholarship student reaches 21 years of age.

(g) If any of the conditions in subsection (f) of this section occur, the board shall notify the parent that the eligible recipient's account will be closed in 45 calendar days. If a parent fails to adequately address the condition or conditions upon which closure is based or does not respond within 30 calendar days of receipt of notice, the board shall close the account and any remaining moneys shall be returned to the state.

(h)(1) There is hereby created in the State Treasury a special revenue fund designated and known as the West Virginia Hope Scholarship Program Expense Fund. The account shall consist of moneys received pursuant to this section; moneys, if any, transferred from special revenue funds administered by the Treasurer; or any governmental or private grants and any state general fund

appropriations, if any, for the Hope Scholarship Program. All interest and other returns derived from the deposit and investment of moneys in the Hope Scholarship Program Expense Fund shall be credited to the fund. Any balance, including accrued interest and other returns, remaining in the fund at the end of each fiscal year shall not revert to the General Revenue Fund but shall remain in the fund and be expended as provided by this section.

(2) All expenses incurred by the Treasurer or the board in developing and administering the Hope Scholarship Program shall be payable from the West Virginia Hope Scholarship Expense Fund.

§18-31-7. Qualifying expenses for Hope Scholarship accounts.

(a) Parents of a Hope Scholarship student shall agree to use the funds deposited in their student's Hope Scholarship account only for the following qualifying expenses to educate the student:

(1) Ongoing services provided by a public school district pursuant to §18-31-8(f) of this code, including without limitation, individual classes and extracurricular activities and programs;

(2) Tuition and fees at a participating school;

(3) Tutoring services provided by an individual or a tutoring facility: *Provided*, That such tutoring services are not provided by a member of the Hope Scholarship student's immediate family;

(4) Fees for nationally standardized assessments, advanced placement examinations, any examinations related to college or university admission, and tuition and/or fees for preparatory courses for the aforementioned exams;

(5) Tuition and fees for programs of study or the curriculum of courses that lead to an industry-recognized credential that satisfies a workforce need;

(6) Tuition and fees for nonpublic online learning programs;

(7) Tuition and fees for alternative education programs;

(8) Fees for after-school or summer education programs;

(9) Educational services and therapies, including, but not limited to, occupational, behavioral, physical, speech-language, and audiology therapies;

(10) Curriculum as defined in §18-31-2 of this code;

(11) Fees for transportation paid to a fee-for-service transportation provider for the student to travel to and from an education service provider; and

(12) Any other qualified expenses as approved by the board established pursuant to §18-31-3 of this code.

(b) Hope Scholarship funds may only be used for educational purposes in accordance with subsection (a) of this section. Nothing in this section requires that a Hope Scholarship student be enrolled, full- or part-time, in either a private school or nonpublic online school.

(c) Hope Scholarship funds may not be refunded, rebated, or shared with a parent or student in any manner. Any refund or rebate for goods or services purchased with Hope Scholarship funds shall be credited directly to a student's Hope Scholarship account.

(d) Nothing in this section prohibits the parents of a Hope Scholarship student from making payments for the costs of educational goods and services not covered by the funds in their student's Hope Scholarship account. However, personal deposits into a Hope Scholarship account are not permitted.

§18-31-8. Renewal of Hope Scholarship accounts; participation in public school system.

(a) A parent must renew an eligible recipient's Hope Scholarship on an annual basis. Notwithstanding any changes in eligibility, a Hope Scholarship student who has previously qualified for a Hope Scholarship account remains eligible to apply for renewal until one of the conditions set forth in §18-31-6(f) occurs: *Provided*, That the board shall verify with the Department of Education the following information by July 1 of every year:

(1) A list of all active Hope Scholarship Accounts;

(2) The resident school district of each Hope Scholarship student;

(3) For a Hope Scholarship student who chooses to attend a participating school, annual confirmation of his or her continued attendance at a nonpublic school that complies with all requirements that other nonpublic school students must comply with; and

(4) For a Hope Scholarship student who chooses an individualized instructional program:

(A) (i) He or she has annually taken a nationally normed standardized achievement test of academic achievement;

(ii) The mean of the child's test results in the subject areas of reading, language, mathematics, science and social studies for any single year is within or above the fourth stanine or, if below the fourth stanine, show improvement from the previous year's results; and

(iii) The child's test results are reported to the county superintendent; or

(B) (i) A certified teacher conducts a review of the student's academic work annually;

(ii) The certified teacher determines that the student is making academic progress commensurate with his or her age and ability; and

(iii) The certified teacher's determination is reported to the county superintendent.

(b) Each county superintendent shall submit the test results and determinations reported to him or her pursuant to subsection (a) of this section to the Department of Education each year on or before June 15.

(c) If a parent fails to renew an eligible recipient's Hope Scholarship, the board shall notify the parent that the eligible recipient's account will be closed in 45 calendar days. If a parent chooses not to renew or does not respond within 30 calendar days of receipt of notice, the board shall close the account and any remaining moneys shall be returned to the state.

(d) If an eligible recipient decides to return to the Hope Scholarship Program after failing to renew, they must reapply.

(e) The board, in consultation with the Department of Education, may adopt rules and policies to provide the least disruptive process for Hope Scholarship students who desire to stop receiving Hope Scholarship payments and return full-time to a public school.

(f) The board, in consultation with the Department of Education, may adopt rules and policies for Hope Scholarship students who want to continue to receive services provided by a public school or district, including individual classes and extracurricular programs, in combination with an individualized instructional program. The board, in consultation with the Department of Education, shall ensure that any public school or school district providing such services receives the appropriate pro rata share of a student's Hope Scholarship funds based on the percentage of total instruction provided to the student by the public school or school district. County boards shall charge tuition to Hope Scholarship students who enroll for services in a public school within the county. Hope Scholarship students who enroll for services part-time in public school shall not be included in net enrollment for state aid funding purposes under §18-9A-2 of this code. Nothing in this subsection prohibits a Hope Scholarship student from using the funds deposited in his or her account on both services provided by a public school or district and other qualifying expenses as provided for in §18-31-7 of this code.

§18-31-9. Administration of Hope Scholarship accounts.

(a) In addition to the duties, obligations, and authority stated in this section and in other parts of this article, the board has the following duties, obligations, and authority with respect to the administration of Hope Scholarship accounts:

(1) To maintain an updated list of participating schools and shall ensure that the list is publicly available through various sources, including the internet;

(2) To provide parents with a written explanation of the allowable uses of Hope Scholarship funds, the responsibilities of parents, the duties of the board and the role of any private financial management firms or other private organizations that the board may contract with to administer the Hope Scholarship Program or any aspect of the program; and

(3) To ensure that parents of students with a disability receive notice that participation in the Hope Scholarship Program is a parental placement under 20 U.S.C. §1412 of the Individuals with Disabilities Education Act (IDEA) along with an explanation of the rights that parentally placed students possess under (IDEA) and any applicable state laws and regulations.

(b) The board may contract with private organizations to administer the Hope Scholarship Program. This includes, but is not limited to, private financial management firms to manage Hope Scholarship accounts.

(c) The board shall implement, or contract with a private organization to implement, a commercially viable, cost effective, and parent-friendly system for payment for services from Hope Scholarship accounts to participating schools or education service providers, including, but not limited to, the use of debit cards or other electronic or online fund transfers: *Provided*, That a Hope Scholarship account may not be reduced for debit card or electronic payment fees.

(d) The board shall also seek to implement a commercially viable, cost-effective, and parent-friendly system for publicly rating, reviewing, and sharing information about participating schools and education service providers, ideally as part of the same system that facilitates the electronic or online funds transfers so as to create a one-stop-shop for parents and Hope Scholarship students.

(e) If an education service provider requires partial payment of tuition or fees prior to the start of the academic year to reserve space for a Hope Scholarship student admitted to the education service provider, such partial payment may be paid prior to the start of the school year in which the Hope Scholarship is awarded, and deducted in an equitable manner from subsequent Hope Scholarship deposits to ensure adequate funds remain available throughout the school year; but if a Hope Scholarship student decides not to use the education service provider, the partial reservation payment must be returned to the board by such education service provider and credited to the student's Hope Scholarship account.

(f) The board may accept gifts and grants from any source to cover administrative costs, to inform the public about the Hope Scholarship Program, or to provide additional funding for Hope Scholarship Accounts.

(g) The board may propose legislative rules for legislative approval pursuant to §29A-3-1 et seq. of this code, including emergency rules, if necessary, to meet timelines set forth in this article, that are not inconsistent with this article and that are necessary for the administration of this article, including:

(1) Establishing or contracting for the establishment of a fraud reporting system;

(2) Policies that require a surety bond for education service providers receiving more than \$100,000 in Hope Scholarship funds;

(3) Procedures for refunding payments from education service providers back to Hope Scholarship accounts; and

(4) Procedures for entering into reciprocal agreements with other state education savings account agencies or entities, whether public or private, to recognize and allow education service providers approved in other states to receive payments from Hope Scholarship accounts under this article.

(h) The rules or policies adopted by the board should avoid excessive bureaucracy and overly prescriptive mandates and instead shall focus on encouraging participation in the program and encouraging education service providers to provide parents and Hope Scholarship students with a broad array of educational options.

§18-31-10. Auditing of Hope Scholarship Program; suspension of accounts and providers.

(a) The board may propose legislative rules for legislative approval pursuant to §29A-3-1 et seq. of this code for the auditing of individual Hope Scholarship accounts and shall conduct or contract for the random auditing of individual Hope Scholarship accounts as needed to ensure compliance with the requirements of this article and rules promulgated pursuant to this article.

(b) As part of the auditing process, the board may remove a parent or eligible recipient from the Hope Scholarship program and close a Hope Scholarship account for failure to comply with the terms of the parental agreement required by §18-31-5 of this code, failure to comply with the applicable laws, failure of the student to remain eligible, or intentional and fraudulent misuse of Hope Scholarship funds: *Provided*, That the board shall create procedures to ensure that a fair process exists to determine the removal of a parent or eligible recipient from the Hope Scholarship program and a parent or Hope Scholarship student may appeal the decision to make the student ineligible for funds to the board.

(c) The board may conduct or contract for the audit of education service providers accepting payments from Hope Scholarship accounts if it determines that the education service provider has:

(1) Intentionally and substantially misrepresented information or failed to refund any overpayments in a timely manner; or

(2) Routinely failed to provide students with promised educational goods or services.

(d) If the board determines that an education service provider has intentionally and substantially misused Hope Scholarship funds, the board may bar the education service provider from continuing to receive payments. The board shall create procedures to ensure that a fair process exists to determine whether an education service provider may be barred from receiving payment from Hope Scholarship accounts and an education service provider may appeal a decision to bar it from receiving payments to the board. If the board bars an education service provider from receiving payments from Hope Scholarship accounts, it shall notify parents and students of its decision as quickly as possible.

(e) If the board obtains evidence of potential fraudulent use of Hope Scholarship funds, it may refer suspected cases to the State Auditor for purposes of investigation, collection and potential criminal investigation.

§ 18-31-11. Requirements for and rights of education service providers.

(a) To be eligible to accept payments from a Hope Scholarship account, an education service provider shall:

(1) Submit notice to the board that they wish to participate in the Hope Scholarship Program;

(2) Provide participating parents with a receipt for all qualifying educational expenses for the Hope Scholarship student;

(3) Agree not to refund, rebate, or share Hope Scholarship funds with parents or students in any manner, except that funds may be remitted or refunded to a Hope Scholarship account in accordance with §18-31-7(c) of this code;

(4) Certify that it will not discriminate on any basis prohibited by 42 U.S.C. 1981;

(5) Agree to submit any employee who will have contact with Hope Scholarship students to a criminal background check; and

(6) In the case of a participating school, provide notice of enrollment annually to the county superintendent of any student for which a student's tuition is being paid through the Hope Scholarship Program.

(b) This article does not limit the independence or autonomy of an education service provider or make the actions of an education service provider the actions of the state government.

(c) Education service providers shall be given maximum freedom to provide for the educational needs of Hope Scholarship students without governmental control.

(d) A participating school or education service provider is not required to alter its creed, practices, admission policy, hiring policy or curriculum in order to accept eligible recipients whose parents pay tuition or fees from a Hope Scholarship account pursuant to this article.

(e) This article does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of education service providers beyond those necessary to enforce the requirements of the program.

§18-31-12. Responsibilities of resident school districts.

The resident school district or school district in which a Hope Scholarship student was last enrolled, as applicable, shall provide an education service provider that has enrolled the student with a complete copy of the student's school records, while complying with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. §1232 g).

§18-31-13. Legal proceedings; severability.

(a) No liability arises on the part of the board or the state or of any county school district based on the award or use of a Hope Scholarship awarded pursuant to this article.

(b) It is the intention of the Legislature in the enactment of this article that if any part of this article is challenged in court as violating either the state or federal constitution, the parents of eligible Hope Scholarship students should be deemed to have standing to be parties to such litigation, and should be permitted by the court to intervene if they are not already parties to such litigation.

(c) If any provision of this article or the application of any such provision of this article to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder of this article or the application of its provisions to persons or circumstances other than those to which it is held invalid is not affected thereby."

Delegate Ellington moved to amend the amendment on page ten, section two, line sixteen, following the words "for at least 45", by inserting the word "calendar".

And,

On page sixteen, section six, line twelve, following the words "section: *Provided, That*", by striking out the words "the amount of Hope Scholarship funds made available to an eligible student per school year may not exceed \$3,000: *Provided, however, That*".

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

The yeas and nays having been ordered, they were taken (**Roll No. 80**), and there were—yeas 56, nays 43, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Anderson, Barach, Barnhart, Barrett, Bates, Boggs, Booth, Brown, D. Kelly, Dean, Diserio, Doyle, Evans, Ferrell, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hanshaw, Hornbuckle, J. Kelly, J. Pack, Lovejoy, McGeehan, Miller, Paynter, Pethtel, Pushkin, Queen, Riley, Rohrbach, Rowan, Rowe, Skaff, Storch, Thompson, Toney, Walker, Westfall, Williams, Young and Zukoff.

Absent and Not Voting: Cooper.

So, a majority of the members present having voted in the affirmative, the amendment to the amendment was adopted.

Delegates Zukoff and Boggs moved to amend the bill on page 9, section 25, line 14, by striking out the reference (b) and replacing it with "(c)".

And,

On page 9, Section 25, line 14, following the period, by inserting a new subsection (b) to read as follows:

“(b) Notwithstanding any other provision of this article to the contrary, for each fiscal year, in addition to all other amounts required by this article, the Department of Education shall include in its budget request, and the Governor shall include in each budget bill submitted to the Legislature, an appropriation to the Department of Education for an amount that reflects the prior year net loss to each county of school funding from county’s share in excess of 2% as a result of funding being shifted from the county to the Hope Scholarship Fund, the greater of the amount of: (1) the net public school enrollment adjusted for state aid purposes, or (2) the total number of eligible Hope Scholarship applications received by the Hope Scholarship Board, if available, multiplied by the prior year’s statewide average net state aid allotted per pupil. The amount appropriated shall be transferred by the Department of Education to each county to reimburse the county for any loss of revenue in excess of 2% as calculated herein.”

And,

By re-lettering subsequent subsections accordingly.

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

The yeas and nays having been ordered, they were taken (**Roll No. 81**), and there were—yeas 29, nays 70, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Barach, Barrett, Bates, Boggs, Brown, Dean, Diserio, Doyle, Evans, Ferrell, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Paynter, Pethtel, Pushkin, Reynolds, Rowe, Skaff, Thompson, Toney, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Cooper.

So, a majority of the members present not having voted in the affirmative, the amendment to the amendment was rejected.

Delegates Hornbuckle and Boggs moved to amend the bill on page 10, section 2, line 14, by striking out the word “and”, and on line 27 of section 2, page 11, following the semi-colon, by inserting the following:

“and

(C) The household adjusted gross income for the household of the recipient does not exceed \$75,000 for persons filing a single return or \$150,000 for persons filing a joint return.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 82**), and there were—yeas 24, nays 75, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Barach, Bates, Boggs, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Pethtel, Pushkin, Rowe, Skaff, Thompson, Toney, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Cooper.

So, a majority of the members present not having voted in the affirmative, the amendment to the amendment was rejected.

Delegates Boggs and Rowe moved to amend the bill on page 24, section 10, line 4, following the period, by inserting the following:

“The board shall annually audit no fewer than 5% of the Hope Scholarship accounts to assure that the funds are used appropriately as provided pursuant to this article and any rules promulgated thereunder. The board may require receipts for payments made with scholarship funds for categories of expenses as provided by rule.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 83**), and there were—yeas 24, nays 74, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Barach, Boggs, Brown, Dean, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Paynter, Pethtel, Pushkin, Rowe, Skaff, Thompson, Toney, Walker, Williams and Zukoff.

Absent and Not Voting: Cooper and Young.

So, a majority of the members present not having voted in the affirmative, the amendment to the amendment was rejected.

Delegate Rowe moved to amend the bill on page 16, section 5, line 23, following the words “of this code”, by inserting “and shall at least annually, for each recipient, submit a list of qualified expenses not paid directly by the board on a form as provided by the board”.

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

The yeas and nays having been ordered, they were taken (**Roll No. 84**), and there were—yeas 24, nays 75, absent and not voting 1, with the yeas and absent and not voting being as follows:

Yeas: Anderson, Barach, Bates, Boggs, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Cooper.

So, a majority of the members present not having voted in the affirmative, the amendment to the amendment was rejected.

Delegates Doyle, Thompson, Rowe, Walker and Pushkin moved to amend the bill on page 26, section 11, line 10, following the number “1981”, by inserting a comma and the words “or on the basis of race, sex, sexual orientation, religion or disability”.

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

The yeas and nays having been ordered, they were taken (**Roll No. 85**), and there were—yeas 22, nays 76, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Barach, Bates, Boggs, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Cooper and Higginbotham.

So, a majority of the members present not having voted in the affirmative, the amendment to the amendment was rejected.

The Committee on Finance amendment, as amended, was then adopted.

Having been engrossed a second time, the bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 86**), and there were—yeas 57, nays 42, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Anderson, Barach, Barnhart, Barrett, Bates, Boggs, Booth, Brown, D. Kelly, Dean, Diserio, Doyle, Evans, Ferrell, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, J. Kelly, J. Pack, Lovejoy, McGeehan, Miller, Paynter, Pethtel, Pushkin, Reynolds, Rohrbach, Rowan, Rowe, Skaff, Storch, Thompson, Toney, Walker, Westfall, Williams, Young, Zukoff and Hanshaw (Mr. Speaker).

Absent and Not Voting: Cooper.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2013) passed.

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

Com. Sub. for H. B. 2013 - “A Bill to amend and reenact §18-8-1 and §18-8-1a of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §18-9A-25; and to amend said code by adding thereto a new article, designated §18-31-1, §18-31-2, §18-31-3, §18-31-4, §18-31-5, §18-31-6, §18-31-7, §18-31-8, §18-31-9, §18-31-10, §18-31-11, §18-31-12 and §18-31-13, all relating to establishing the Hope Scholarship Program; creating exemptions from compulsory school attendance requirements under certain conditions; providing a parent of a prospective kindergarten student the option of applying to the program on his or her child’s behalf; providing funding for the program and the parameters thereof; providing a title for the act and the program; providing definitions; creating the West Virginia Hope Scholarship Board and providing for membership qualifications therein; establishing powers of the board; establishing the application process for the award of Hope Scholarships; creating the West Virginia Hope Scholarship Program Fund and the West Virginia Hope Scholarship Program Expense Fund and the funding mechanisms and parameters therefore; establishing qualifying expenses for Hope Scholarship Accounts; creating

a renewal process for accounts; providing for a Hope Scholarship student's participation in the public school system; providing for administration of accounts; providing for the auditing of the program, suspension of accounts and providers under certain circumstances, and creating a right of appeal; establishing requirements for and rights of education service providers; establishing responsibilities of resident school districts; and providing for legal proceedings and severability.”

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

Second Reading

Com. Sub. for S. B. 270, Providing for collection of tax by hotel marketplace facilitators; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 358, Removing prohibition on ATMs located in area where racetrack video lottery machines are located; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Capito, and by unanimous consent, the bill was advanced to third reading with amendment pending and the right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for H. B. 2257, Relating to extended supervision for certain drug offenders; on second reading, coming up in regular order, was read a second time.

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Speaker Pro Tempore Howell in the Chair

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On motion of Delegate Garcia, the bill was amended on page 2, section 30, line 14, following the word “later”, by striking out the period, inserting a colon and the following proviso:

“Provided, That no period of additional supervised release may begin until the person so convicted has an opportunity for a hearing requesting modification, termination, or revocation of the supervised release, which hearing may not be held sooner than 60 days prior to the expiration of any period of probation, incarceration, or parole supervision imposed or required, whichever expires later.”

On motion of Delegate Pushkin, the bill was amended on page 1, section 30, lines 4 and 5, by striking out the words “or a conviction under §60A-4-414(b)(c), or (d) of this code,”.

Delegate Pushkin moved to amend the bill on page 1, section 30, lines 3 and 4, by striking out the words “or for the possession with intent to deliver the controlled substances of heroin, methamphetamine, or fentanyl,”.

The question being the adoption of the amendment offered by Delegate Pushkin, the same was put and did not prevail.

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

Com. Sub. for H. B. 2507, Remove the limitations on advertising and promotional activities by limited video lottery retailers; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2621, Mandating certification for certain members of fire departments, require certain types of training, allow specialized personnel who are not firefighters to be members of a department, and require the postings of fire department evaluations; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 2675, Relating to costs and interest in eminent domain condemnation proceedings; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 2741, Relating to expansion of the alcohol test and lock program to offenders with a drug related offense; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

Com. Sub. for S. B. 280, Relating to e-commerce modernization; on first reading, coming up in regular order, was read a first time and ordered to second reading.

S. B. 372, Providing greater discretion to WV Board of Medicine to approve graduate clinical training; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 2221, Relating to the establishment of an insurance innovation process; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 2335, Increasing the minimum criminal penalty for a driver who, in an impaired state, causes the death of a minor; on first reading, coming up in regular order, was read a first time and ordered to second reading.

H. B. 2382, Authorizing the Department of Environmental Protection to promulgate a legislative rule relating to ambient air quality standards; on first reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Summers, and by unanimous consent, the bill (H. B. 2382) was recommitted to the Committee on the Judiciary.

H. B. 2701, Relating to authorizing the Division of Rehabilitation Services to approve acceptable training programs required for low vision individuals to obtain a Class G drivers license; on first reading, coming up in regular order, was read a first time and ordered to second reading.

H. B. 2709, Providing that the aggregate liability of a surety on a consumer protection bond under the West Virginia Fintech Regulatory Sandbox Program does not exceed the principal sum of the bond; on first reading, coming up in regular order, was read a first time and ordered to second reading.

H. B. 2764, Allow the Division of Financial Institutions to enter into reciprocity agreements with other jurisdictions that operate similar programs to the West Virginia Fintech Sandbox Program; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for H. B. 2765, Relating to allowing emergency management and operations' vehicles operated by airports to use red flashing warning lights; on first reading, coming up in regular order, was read a first time and ordered to second reading.

H. B. 2905, Relating to repealing the prohibition against the use of certain words; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Leaves of Absence

At the request of Delegate Summers, and by unanimous consent, leave of absence for the day was granted Delegate Cooper.

Miscellaneous Business

The House of Delegates met at 5:00 p.m. on Wednesday, March 3, 2021 for **Remarks by Members**, in accordance with House Rule 65. The Honorable Caleb Hanna, Assistant Majority Whip, called the House to order and presided while several members proceeded to make remarks. At 5:15 p.m., Remarks by Members was adjourned.

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

H. B. 2278: Delegate Rowe;

H. B. 2295: Delegate Bates;

H. B. 2592: Delegate Smith;

H. B. 2667: Delegate Reynolds;

H. B. 2708: Delegate Toney;

H. B. 2719: Delegate Espinosa;

H. B. 2721: Delegate Espinosa;

H. B. 2742: Delegate Espinosa;

H. B. 2795: Delegate Barach;

H. B. 2831: Delegates Barrett, Ellington, Espinosa, Hornbuckle, Householder, L. Pack, Rowe, Summers, Tully and Young;

H. B. 2830: Delegate Rowan;

H. B. 2852: Delegates Griffith and Thompson;

H. B. 2904: Delegates Doyle, Fleischauer, Walker and Williams;

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

H. B. 2376: Delegate Nestor;

H. B. 2592: Delegates Higginbotham and Thompson;

H. B. 2857: Delegate Hanna;

And,

H. B. 2859: Delegate Horst.

At 1:24 p.m., the House of Delegates adjourned until 11:00 a.m., Friday, March 5, 2021.

**HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470**

SPECIAL CALENDAR

Friday, March 5, 2021

24th Day

11:00 A. M.

THIRD READING

- Com. Sub. for S. B. 270 - Providing for collection of tax by hotel marketplace facilitators (STEELE) (REGULAR)
- S. B. 358 - Removing prohibition on ATMs located in area where racetrack video lottery machines are located (REGULAR) [AMENDMENT PENDING] [RIGHT TO AMEND]
- Com. Sub. for H. B. 2257 - Relating to extended supervision for certain drug offenders (CAPITO) (REGULAR)
- Com. Sub. for H. B. 2507 - Remove the limitations on advertising and promotional activities by limited video lottery retailers (CAPITO) (REGULAR)
- Com. Sub. for H. B. 2621 - Mandating certification for certain members of fire departments, require certain types of training, allow specialized personnel who are not firefighters to be members of a department, and require the postings of fire department evaluations (STEELE) (REGULAR)
- Com. Sub. for H. B. 2675 - Relating to costs and interest in eminent domain condemnation proceedings (CAPITO) (REGULAR)
- H. B. 2741 - Relating to expansion of the alcohol test and lock program to offenders with a drug related offense (CAPITO) (REGULAR)

SECOND READING

- Com. Sub. for S. B. 280 - Relating to e-commerce modernization (STEELE) (REGULAR)

- S. B. 372 - Providing greater discretion to WV Board of Medicine to approve graduate clinical training (J. PACK) (REGULAR) [HEALTH AND HUMAN RESOURCES COMMITTEE AMENDMENT PENDING]
- Com. Sub. for H. B. 2221 - Relating to the establishment of an insurance innovation process (CAPITO) (REGULAR)
- Com. Sub. for H. B. 2335 - Increasing the minimum criminal penalty for a driver who, in an impaired state, causes the death of a minor (CAPITO) (REGULAR)
- H. B. 2701 - Relating to authorizing the Division of Rehabilitation Services to approve acceptable training programs required for low vision individuals to obtain a Class G drivers license (STEELE) (REGULAR)
- H. B. 2709 - Providing that the aggregate liability of a surety on a consumer protection bond under the West Virginia Fintech Regulatory Sandbox Program does not exceed the principal sum of the bond (CAPITO) (REGULAR)
- H. B. 2764 - Allow the Division of Financial Institutions to enter into reciprocity agreements with other jurisdictions that operate similar programs to the West Virginia Fintech Sandbox Program (CAPITO) (REGULAR)
- Com. Sub. for H. B. 2765 - Relating to allowing emergency management and operations' vehicles operated by airports to use red flashing warning lights (CAPITO) (REGULAR)
- H. B. 2905 - Relating to repealing the prohibition against the use of certain words (J. PACK) (REGULAR)

FIRST READING

- H. B. 2906 - Relating to the School Building Authority's allocation of money (ELLINGTON) (REGULAR)

HOUSE CALENDAR

Friday, March 5, 2021

24th Day

11:00 A. M.

THIRD READING

Com. Sub. for H. B. 2363 - Relating to "Best Interests of the Child Protection Act of 2021" (CAPITO) (REGULAR)

SECOND READING

Com. Sub. for S. B. 272 - Relating to WV Employment Law Worker Classification Act

Com. Sub. for S. B. 277 - Creating COVID-19 Jobs Protection Act (CAPITO) (EFFECTIVE FROM PASSAGE)

Com. Sub. for H. B. 2004 - Permit a licensed health care professional from another state to practice in this state through telehealth when registered with the appropriate West Virginia board (J. PACK) (EFFECTIVE FROM PASSAGE)

Com. Sub. for H. B. 2015 - Requiring rules of local boards of health to be approved by the county commission except in cases of a public health emergency (J. PACK) (EFFECTIVE FROM PASSAGE)

H. B. 2536 - Relating to expressions of legislative intent regarding equivalent instruction time (ELLINGTON) (REGULAR)

Com. Sub. for H. B. 2628 - Relating to the removal of the prohibition on having ATMs in the area where racetrack video lottery machines are located (CAPITO) (REGULAR)

FIRST READING

Com. Sub. for S. B. 216 - Authorizing Department of Commerce to promulgate legislative rules (CAPITO) (EFFECTIVE FROM PASSAGE) [JUDICIARY COMMITTEE AMENDMENT PENDING]

H. B. 2582 - Relating to creating a third set of conditions for the professional teaching certificate (ELLINGTON) (REGULAR)

H. B. 2590 - Relating to the West Virginia Employment Law Worker Classification Act (CAPITO) (REGULAR)

Com. Sub. for H. B. 2620 - Relating to a departmental study of the child protective services and foster care workforce (J. PACK) (REGULAR)

**WEST VIRGINIA
HOUSE OF DELEGATES**

FRIDAY, MARCH 5, 2021

HOUSE CONVENES AT 11:00 A.M.

**COMMITTEE ON FINANCE
9:00 A.M. – HOUSE CHAMBER**

**COMMITTEE ON THE JUDICIARY
9:00 A.M. – ROOM 215 E**

**COMMITTEE ON RULES
10:45 A.M. – ROOM 418 M**

**PUBLIC HEARING
COMMITTEE ON GOVERNMENT ORGANIZATION
3:00 P.M. – ROOM 215 E**

**H. C. R. 9, URGING CONGRESS TO CALL A CONVENTION OF STATES TO LIMIT
TERMS OF OFFICE OF THE US HOUSE OF REPRESENTATIVES.**

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470