

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

EIGHTY-FOURTH LEGISLATURE  
REGULAR SESSION, 2019  
FIFTY-NINTH DAY

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Charleston, West Virginia, Friday, March 8, 2019

The Senate met at 10:42 a.m.

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

Prayer was offered by the Honorable Rollan A. Roberts, a senator from the ninth district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Dave Sypolt, a senator from the fourteenth district.

Pending the reading of the Journal of Thursday, March 7, 2019,

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

At the request of Senator Plymale, and by unanimous consent, Senator Plymale addressed the Senate regarding recent comments made by Dr. E. Gordon Gee, President of West Virginia University, concerning Marshall University.

Thereafter, at the request of Senator Palumbo, unanimous consent being granted, the remarks by Senator Plymale were ordered printed in the Appendix to the Journal.

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

At the request of Senator Takubo, and by unanimous consent, the provisions of Rule 54 of the Rules of the Senate, relating to persons entitled to the privileges of the floor, were suspended in order to grant the family of the Honorable Michael T. Azinger, a senator from the third district, privileges of the floor for the day.

The Senate then proceeded to the third order of business.

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

**Eng. Senate Bill 153**, Providing greater flexibility for making infrastructure project grants.

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

**Eng. Com. Sub. for Senate Bill 154**, Using school facilities for funeral and memorial services for certain community members.

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

**Eng. Com. Sub. for Senate Bill 199**, Authorizing certain miscellaneous agencies and boards promulgate legislative rules.

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

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

On page four, section two, line thirty-one, after the word “authorized” by changing the period to a comma and inserting the following: with the following amendment:

On page 4, after subdivision 5.6.b. by inserting a new subsection 5.7. to read as follows:

“5.7. All applications for tax credits must be received by the Department of Agriculture no later than January 31 of the year following the year in which the donation was made.”;

On page five, section two, line forty-one, after the word “authorized” by changing the period to a comma and inserting the following: with the following amendment:

On page 8, by striking out paragraph “11.2.a.” in its entirety and renumbering the remaining paragraphs accordingly;

On page six, section five, line three, after the word “authorized” by changing the period to a comma and inserting the following: with the following amendments:

On page 16, by striking paragraph “18.1.hh.2” in its entirety and renumber the remaining paragraphs accordingly;

On page six, section six, line six, after the word “authorized” by changing the period to a comma and inserting the following: with the following amendments:

On page 5, subsection 4.2 after the words, “minimum of” by striking out “960” and inserting in lieu thereof “500”;

On page 5, subsection 4.2 after the words, “within a” by striking out “15” and inserting in lieu thereof “12”.

On page 5, subsection 4.3 after the words, “a pharmacy in a” by striking out “960” and inserting in lieu thereof “500”;

On page 6, subdivision 4.4.c after the word, “Within” by striking out “15” and inserting in lieu thereof “12”;

And,

On page 6, subdivision 4.4.e after the words “within the” by striking out “15” and inserting in lieu thereof “12”.

On page seven, section seven, line five, after the word “authorized” by changing the period to a comma and inserting the following: with the following amendments:

On page 3, subdivision 4.1.d. after the word “misdemeanor” by striking out the words “involving moral turpitude” and inserting in lieu thereof the following: “that bears a rational nexus to the occupation requiring licensure”;

And

On page 29, subdivision 8.2.c. after the word “misdemeanor” by striking out the words “involving moral turpitude” and inserting in lieu thereof the following: “that bears a rational nexus to the occupation requiring licensure”;

And on page 30, subdivision 9.2.f. after the word “misdemeanor” by striking out the words “involving moral turpitude” and inserting in lieu thereof the following: “that bears a rational nexus to the occupation requiring licensure.”;

And,

On page eight, section nine, line four, after the word “authorized” by changing the period to a comma and inserting the following: with the following amendments:

On page 4, subdivision 5.1, after the words “New series rules” by striking out the word “may” and inserting in lieu thereof the word “shall”.

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

Engrossed Committee Substitute for Senate Bill 199, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 199) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo,

Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 199) takes effect from passage.

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

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

**Eng. Com. Sub. for Senate Bill 238**, Increasing certain penalties for passing stopped school bus.

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

**Eng. Com. Sub. for Senate Bill 241**, Permitting county court clerks scan certain documents in electronic form.

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

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

On page one, section eleven, line eight, by striking out the words “scan and record” and inserting in lieu thereof the words “scan, record, and make available online when determined to be financially feasible by the county commission”;

And,

On page one, section eleven, line twelve, after the word “followed” by changing the period to a colon and inserting the following proviso: *Provided further*, That any documents in an electronic format are stored on a server off site, such as a cloud based server, to retain a backup copy of electronic documents.

On motion of Senator Takubo, the Senate refused to concur in the foregoing House amendments to the bill (Eng. Com. Sub. for S. B. 241) and requested the House of Delegates to recede therefrom.

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

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

**Eng. Com. Sub. for Com. Sub. for Senate Bill 317**, Authorizing three or more adjacent counties form multicounty trail network authority.

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

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

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

## **ARTICLE 17. MULTICOUNTY TRAIL NETWORK AUTHORITIES.**

### **§20-17-1. Legislative findings.**

The West Virginia Legislature finds that outdoor recreation is an increasingly vital part of the state's economy and that outdoor recreation participants spend billions of dollars annually in the state and support a significant number of local jobs.

The Legislature further finds that well-managed areas for trail-oriented recreation in the state will increase outdoor recreational tourism, increasing revenue to the state and creating more jobs for West Virginia citizens.

The Legislature further finds that, with the cooperation of private landowners, there is an opportunity to provide citizens and recreational tourists with greater access to trail-oriented recreation by incorporating private property into recreational trail systems and areas throughout West Virginia to provide significant economic and recreational benefits to communities in the state.

The Legislature further finds that, under an appropriate contractual and management scheme, well-managed trail systems may exist on private property without diminishing the landowner's interest, control, or profitability in the land and without increasing the landowner's exposure to liability.

The Legislature further finds that creating and empowering multicounty trail network authorities, that can work with the landowners, county officials, community leaders, state and federal government agencies, recreational user groups, and other interested parties to expand trail systems will greatly assist in improving and linking recreational trail systems.

The Legislature further finds that it is in the best interests of the state to encourage private landowners to make land available for public use, through multicounty trail network authorities, for recreational purposes by limiting landowner liability for injury to persons entering thereon, by limiting landowner liability for injury to the property of persons entering thereon, and by limiting landowner liability to persons who may be injured or otherwise damaged by the acts or omissions of persons entering thereon.

### **§20-17-2. Definitions.**

Unless the context clearly requires a different meaning, the terms used in this article have the following meanings:

(1) "Adjacent county" means a nonparticipating county that directly borders any participating county in a multicounty trail network authority;

(2) "Authority" means a multicounty trail network authority created pursuant to this article;

(3) "Board" means the board of a multicounty trail network authority;

(4) "Contiguous counties" means a group of counties in which each county shares the border of at least one other county in the group;

(5) "Fee" means the amount of money asked in return for an invitation to enter or go upon a recreational area of a trail network, including a one-time fee for a particular event, amusement, occurrence, adventure, incident, experience, or occasion as set by an authority, which may differ in amount for different categories of participants;

(6) "Land" or "property" includes, but is not limited to, roads, water, watercourses, private ways, buildings, premises, structures, and machinery or equipment, when attached to the realty;

(7) "Owner" or "owner of land" means a person vested with title to real estate and those with the ability to exercise control over real estate and includes, but is not limited to, a tenant, lessee, licensee, holder of a dominant estate, or other lawful occupant;

(8) "Participant" means any person using a recreational area of a trail network for recreational purposes;

(9) "Person" means any public or private corporation, institution, association, society, firm, organization, or company organized or existing under the laws of this or any other state or country; the State of West Virginia; any state governmental agency; any political subdivision of the state or of its counties or municipalities; a sanitary district; a public service district; a drainage district; a conservation district; a watershed improvement district; a partnership, trust, or estate; a person or individual; a group of persons or individuals acting individually or as a group; any other legal entity; or any authorized agent, lessee, receiver, or trustee of any of the foregoing;

(10) "Participating county" means one of the three or more counties forming a multicounty trail network authority;

(11) "Recreational area" means the recreational trails and appurtenant facilities, including trail head centers, parking areas, camping facilities, picnic areas, recreational areas, historic or cultural interpretive sites, and other facilities or attractions that are a part of a multicounty trail network authority system; and

(12) "Recreational purposes" means:

(A) Any outdoor activity undertaken, or practice or instruction in any such activity, for the purpose of exercise, relaxation, or pleasure, including, but not limited to any one or any combination of the following noncommercial recreational activities: Hunting, fishing, swimming, boating, kayaking, camping, picnicking, hiking, rock climbing, bouldering, bicycling, horseback riding, spelunking, nature study, water skiing, winter sports, and visiting, viewing, or enjoying historical, archaeological, scenic, or scientific sites, aircraft, or ultralight operations on private airstrips or farms, or otherwise using land for purposes of the user;

(B) Parking on or traversing land, outside of the state road system, for the purpose of engaging in a recreational activity described in paragraph (A) of this subdivision; or

(C) Maintaining or making improvements on land, including, but not limited to, artificial improvements for the purpose of making the land accessible or usable for a recreational activity described in paragraph (A) of this subdivision.

**§20-17-3. Multicounty trail network authorities authorized; addition of counties; merger of existing authorities.**

(a) For the purposes of this article, three or more contiguous counties may, upon approval of the county commission of each county desiring to participate, form a multicounty trail network authority. An authority established pursuant to this section is a public corporation and a joint development entity existing for the purpose of facilitating the development and operation of a system of recreational trails and areas throughout the participating counties. Such trails will be designated and made available for recreational purposes with significant portions of the trails system being located on private property throughout West Virginia, made available for use through lease, license, easement, or other appropriate legal form by a willing landowner.

(b) An adjacent county may join a multicounty trail network authority as a participating county upon approval of both the board of the authority and the county commission of the adjacent county wishing to become a participating county.

(c) Two or more existing authorities may merge and become a single authority encompassing the participating counties in each merging authority upon approval of the board of each authority. Upon merger of two or more authorities, the board of the newly created authority will be composed of all board members serving on the board of each merging authority at the time the merger takes place. Thereafter, the authority will fill any vacancies and appoint board members as required by §20-17-4 of this code. The board of the newly created authority shall adopt appropriate procedures and bylaws to ensure that the newly created authority complies with all requirements of this article.

**§20-17-4. Board; quorum; executive director; expenses; application of state Freedom of Information Act.**

(a) The board is the governing body of an authority and the board shall exercise all the powers given the authority in this article. The county commission of each participating county shall appoint two members to the board, as follows:

(1) Each participating county shall appoint one member who represents and is associated with a corporation or individual landowner whose land is being used or is expected to be used in the future as part of the authority's recreational area. This member shall be appointed to a four-year term.

(2) Each participating county shall appoint one member who is an experienced instructor, guide, or participant in recreational activities in the county or an individual who represents and is associated with travel, tourism, economic development, land surveying, or relevant engineering efforts within the county. The initial appointment for this member shall be for a two-year term, but all subsequent appointments shall be for a four-year term.

(3) Any appointed member whose term has expired shall serve until his or her successor has been duly appointed and qualified. Any person appointed to fill a vacancy shall serve only for the unexpired term. Any appointed member is eligible for reappointment. Members of the board are not entitled to compensation for services performed as members but are entitled to reimbursement for all reasonable and necessary expenses actually incurred in the performance of their duties.

(b) Upon joining an existing authority as a participating county pursuant to §20-17-3 of this code, the newly participating county shall appoint board members only for the length of the unexpired terms of the authority's board members serving at the time the county joins the authority. Thereafter, the county shall appoint board members according to the regular appointment procedure provided in subsection (a) of this section.

(c) The board shall meet quarterly, unless a special meeting is called by its chairman. During the first meeting of each fiscal year beginning in an odd-numbered year, or as soon as feasible thereafter, the board shall elect a chairman, secretary, and treasurer from among its own members to serve for two-year terms.

(d) A majority of the members of the board constitutes a quorum and a quorum shall be present for the board to conduct business.

(e) The board may prescribe, amend, and repeal bylaws and rules governing the use of the trail system, safety standards for participants, and the manner in which the business of the authority is conducted.

(f) The board shall review and approve an annual budget. The fiscal year for an authority begins on July 1 and ends on the 30th day of the following June.

(g) The board shall appoint an executive director to act as its chief executive officer, to serve at the will and pleasure of the board. The board, acting through its executive director, may employ any other personnel considered necessary and retain such temporary legal, engineering, financial, and other consultants or technicians as may be required for any special study or survey consistent with the provisions of this article. The executive director shall carry out plans to implement the provisions of this article and to exercise those powers enumerated in the bylaws. The executive director shall prepare an annual budget to be submitted to the board for its review and approval prior to the commencement of each fiscal year. The budget shall contain a detailed account of all planned and proposed revenue and expenditures for the authority for the upcoming fiscal year, including a detailed list of employees by title, salary, cost of projected benefits, and total compensation. Before August 15 of each year, the executive director shall provide to the board and the county commission for each participating county a detailed list of actual expenditures and revenue, by account and recipient name, for the previous fiscal year and a copy of the approved budget for the current fiscal year.

(h) All costs incidental to the administration of the authority, including office expenses, personal services expenses, and current expenses, shall be paid in accordance with guidelines issued by the board from funds accruing to the authority.

(i) All expenses incurred by an authority in carrying out the provisions of this article shall be payable solely from funds that have accrued to the authority pursuant to this article. An authority may not incur liability or an obligation above the amount of funds that have accrued to the authority pursuant to this article.

(j) A multicounty trail network authority and the board is a "public body" for purposes of the West Virginia Freedom of Information Act, as provided in §29B-1-1 *et seq.* of this code.

#### **§20-17-5. Financial review and oversight.**

(a) An authority shall contract for and obtain an annual financial audit to be conducted by a private accounting firm in compliance with generally accepted government auditing standards. When complete, the audit shall be transmitted to the board, the president of the county



commission of each participating county, and the Legislative Auditor. The cost of the audit shall be paid by the authority.

(b) If an authority receives any funds from the Legislature by appropriation or grant, the Legislative Auditor shall have the power and authority to examine the revenues, expenditures, and performance of the authority, and, for these purposes, shall have the power to inspect the properties, equipment, and facilities of the authority and to request, inspect, and obtain copies of any records of the authority. For each fiscal year in which the authority receives any funds from the Legislature by appropriation or grant, the executive director shall provide to the Legislative Auditor and Secretary of Revenue a detailed list of actual expenditures and revenue by account and recipient name for the previous fiscal year within 45 days of the close of that fiscal year.

#### **§20-17-6. Powers of an authority.**

An authority, as a public corporation and joint development entity, may exercise all powers necessary or appropriate to carry out the purposes of this article, including, but not limited to, the power:

(1) To acquire, own, hold, and dispose of property, real and personal, tangible and intangible;

(2) To lease property, whether as lessee or lessor, and to acquire or grant through easement, license, or other appropriate legal form, the right to develop and use property and open it to the public;

(3) To mortgage or otherwise grant security interests in its property;

(4) To procure insurance against any losses in connection with its property, licenses, easements, operations, assets, or contracts, including hold-harmless agreements, in such amounts and from such insurers as the authority considers desirable;

(5) To maintain such sinking funds and reserves as the board determines appropriate for the purposes of meeting future monetary obligations and needs of the authority;

(6) To sue and be sued, implead and be impleaded, and complain and defend in any court;

(7) To contract for the provision of legal services by private counsel and, notwithstanding the provisions of §5-3-1 *et seq.* of this code, the counsel may, in addition to the provisions of other legal services, represent the authority in court, negotiate contracts and other agreements on behalf of the authority, render advice to the authority on any matter relating to the authority, prepare contracts and other agreements, and provide such other legal services as may be requested by the authority;

(8) To adopt, use, and alter at will a corporate seal;

(9) To make, amend, repeal, and adopt bylaws for the management and regulation of the authority's affairs;

(10) To appoint officers, agents, and employees and to contract for and engage the services of consultants;

(11) To make contracts of every kind and nature and to execute all instruments necessary or convenient for carrying out the purposes of this article, including contracts with any other

governmental agency of this state or of the federal government or with any person, individual, partnership, or corporation;

(12) Without in any way limiting any other subdivision of this section, to accept grants and loans from, and enter into contracts and other transactions with, any federal agency;

(13) To maintain an office at such place or places within the state as it may designate;

(14) To borrow money, to issue notes, to provide for the payment of notes, to provide for the rights of the holders of notes, and to purchase, hold, and dispose of any of its notes;

(15) To issue notes payable solely from the revenue or other funds available to the authority, which may be issued in such principal amounts as necessary to provide funds for any purpose under this article, including:

(A) The payment, funding, or refunding of the principal of, interest on, or redemption premiums on notes issued by it, whether the notes or interest to be funded or refunded have or have not become due; and

(B) The establishment or increase of reserves to secure or to pay notes, or the interest on the notes, and all other costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers. Notes may be additionally secured by a pledge of any revenues, funds, assets, or moneys of the authority from any source;

(16) To issue renewal notes, except that no renewal notes may be issued to mature more than 10 years from the date of issuance of the notes renewed;

(17) To apply the proceeds from the sale of renewal notes to the purchase, redemption, or payment of the notes to be refunded;

(18) To accept gifts or grants of property, funds, security interests, money, materials, labor, supplies, or services from the federal government or from any governmental unit or any person, firm, or corporation, and to take appropriate measures in procuring, accepting, or disposing of gifts or grants;

(19) To the extent permitted under its contracts with the holders of notes of the authority, to consent to any modification of the rate of interest, time of payment of any installment of principal or interest, security or any other term of any note, contract or agreement of any kind to which the authority is a party;

(20) To construct, reconstruct, improve, maintain, repair, operate, and manage the recreational areas at the locations within the participating counties as may be determined by the authority;

(21) To enter into an agreement with the West Virginia Division of Natural Resources for natural resources police officers to provide law-enforcement services within the authority's recreational area and to reimburse the Division of Natural Resources for its costs therefor;

(22) To exercise all power and authority provided in this article necessary and convenient to plan, finance, construct, renovate, maintain, and operate or oversee the operation of the authority at such locations within the participating counties as may be determined by the authority;

(23) To exercise all of the powers which a corporation may lawfully exercise under the laws of this state;

(24) To develop, maintain, and operate or contract for the development, maintenance, and operation of the authority;

(25) To enter into contracts with landowners and other persons holding an interest in the land being used for its recreational facilities to hold those landowners and other persons harmless with respect to any claim in tort growing out of the use of the land for recreational purposes or growing out of the recreational activities operated or managed by the authority from any claim except a claim for damages proximately caused by the willful or malicious conduct of the landowner or any of his or her agents or employees;

(26) To assess and collect a reasonable fee from those persons who use the trails, parking facilities, visitor centers, or other facilities which are part of the recreational area and to retain and utilize that revenue for any purposes consistent with this article: *Provided*, That such fee does not constitute a "charge" or a "fee" within the meaning and for the purposes of §19-25-5 of this code: *Provided, however*, That the authority may not charge a fee for any user to enter or go upon any trail that is already open for use by the public without fee as of January 1, 2019;

(27) To enter into contracts or other appropriate legal arrangements with landowners under which land is made available for use as part of the recreational area;

(28) To directly operate and manage recreation activities and facilities within the recreational area;

(29) To promulgate and publish rules governing the use of the recreational area and the safety of participants, including rules designating particular trails or segments of trails within the recreational area for certain activities and limiting use of designated trails to such activities;

(30) To coordinate and conduct athletic races, competitions, or events within the recreational area, in cooperation with the county commissions of participating counties in which such events will take place; and

(31) To exercise such other and additional powers as may be necessary or appropriate to carry out the purposes of this article.

#### **§20-17-7. Requirements for trail users and prohibited acts; criminal penalties.**

(a) A person may not enter or remain upon a recreational area without a valid, nontransferable user permit issued by the appropriate authority and properly displayed, except properly identified landowners or leaseholders or their officers, employees, or agents while on the land that the person owns or leases for purposes related to the ownership or lease of the land.

(b) An authority may require recreational users to wear protective helmets or use safety equipment that the authority determines to be appropriate for the recreational activity in which the user is engaged.

(c) Each trail user operating a bicycle or mountain bicycle shall obey all traffic laws, traffic-control devices, and signs within the recreational area, including those which restrict trails to certain types of bicycles or mountain bicycles.

(d) Each trail user shall at all times remain within and on a designated and marked trail while within the recreational area.

(e) A person may not ignite or maintain any fire within the recreational area except in a designated camp site.

(f) A person may not operate a motor vehicle within the recreational area unless the person is authorized to operate a motor vehicle in the area to perform maintenance services or emergency response.

(g) A person who violates any provision of this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$100. Prosecution or conviction for the misdemeanor described in this subsection shall not prevent or disqualify any other civil or criminal remedies for the conduct prohibited by this section.

#### **§20-17-8. Limiting liability.**

(a) An owner of land used by an authority owes no duty of care to keep his or her land safe for entry or use by others for recreational purposes, or to give any warning of a dangerous or hazardous condition, use, structure, activity, or wild animal on such land to persons entering or going upon the land for such purposes. The provisions of this section apply regardless of whether the person entering or going upon the leased land is permitted to enter the land or is a trespasser.

(b) Unless otherwise agreed in writing, an owner of land who grants a lease, easement, or license of land to an authority for recreational purposes does not, by giving a lease, easement or license: (1) Extend any assurance to any person using the land that the land is safe for any purpose; (2) confer upon those persons the legal status of a party to whom a duty of care is owed; or (3) assume responsibility for or incur liability for any injury to person or property or death caused by an act or omission of a person who enters upon the leased land. The provisions of this section apply whether the person entering or going upon the leased land is permitted to enter the land or is a trespasser.

(c) Nothing in this section limits in any way any liability which otherwise exists for deliberate, willful, or malicious infliction of injury to persons or property: *Provided*, That nothing herein limits in any way the obligation of a person entering upon or using the land of another for recreational purposes to exercise due care in his or her use of the land and in his or her activities thereon, so as to prevent the creation of hazards or the commission of waste by himself or herself.

#### **§20-17-9. Purchasing and bidding procedures; criminal penalties.**

(a) *Purchasing and bidding procedures; criminal penalties.* —

(1) Whenever an authority proposes to purchase or contract for commodities or services reasonably anticipated to equal or exceed \$25,000 in cost, the purchase or contract shall be based on competitive bidding. Where the purchase of particular commodities or services is reasonably anticipated to be less than \$25,000, the executive director may, on behalf of the authority, solicit bids or price quotes in any manner that the executive director deems appropriate and the authority shall obtain its commodities or services by the lowest bid. In lieu of seeking bids or quotes for commodities or services in this price range, the authority may purchase those commodities and services pursuant to state master contracts as provided in §5A-3-10e of this code.

(2) Where the cost for the purchase of commodities or services is reasonably anticipated to exceed \$25,000, the executive director shall solicit sealed bids for such commodities or services: *Provided*, That the executive director may permit bids by electronic transmission to be accepted in lieu of sealed bids. Bids shall be solicited by public notice. The notice shall be published as a Class II legal advertisement in all participating counties in compliance with the provisions of §59-3-1 *et seq.* of this code and by such other means as the executive director deems appropriate. The notice shall state the general character of the work and general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place for receiving bids. After all bids are received, the authority shall enter into a written contract with the lowest responsible bidder; however, the authority may reject any or all bids that fail to meet the specifications required by the authority or that exceed the authority's budget estimation for those commodities or services. If the executive director determines in writing that there is only one responsive and responsible bidder and that there has been sufficient public notice to attract competitive bids, he or she may negotiate the price for a noncompetitive award or the specifications for a noncompetitive award based solely on the original purpose of the solicitation.

(3) For any contract that exceeds \$25,000 in total cost, the authority shall require the vendors to post a bond, with form and surety to be approved by the authority, in an amount equal to at least 50 percent of the contract price conditioned upon faithful performance and completion of the contract.

(4) The bidding requirements specified in this section do not apply to any leases for real property upon which the authority makes improvements for public access to the recreational area, information distribution, and welcome centers. This exemption does not apply to leases for offices, vehicle and heavy equipment storage, or administrative facilities.

(5) Any person who violates a provision of this subsection is guilty of a misdemeanor and, upon conviction, shall be confined in jail not less than 10 days nor more than one year, or fined not less than \$10 nor more than \$1,000, or both fined and confined.

(b) *Conflicts of interest in contracts prohibited.* —

An authority or any of its board members, officers, employees, or agents may not enter into any contracts, agreements, or arrangements for purchases of services or commodities violating the requirements of §6B-2-5 or §61-10-15 of this code.

(c) *Civil remedies.* —

The county commission of a participating county in an authority may challenge the validity of any contract or purchase entered, solicited, or proposed by the authority in violation of this section by seeking declaratory or injunctive relief in the circuit court of the county of the challenging party. If the court finds by a preponderance of evidence that the provisions of those sections have been violated, the court may declare the contract or purchase to be void and may grant any injunctive relief necessary to correct the violations and protect the funds of the authority as a joint development entity.

**ARTICLE 17A. MOUNTAINEER TRAIL NETWORK RECREATION AUTHORITY.**

**§20-17A-1. Legislative findings; purpose.**

The Legislature further finds that, with the cooperation of private landowners, there is an opportunity to provide trail-oriented recreation facilities primarily on private property in the

mountainous terrain of the Potomac Highlands and north central West Virginia and that the facilities will provide significant economic and recreational benefits to the state and to the communities in the Potomac Highlands and north central West Virginia through increased tourism in the same manner as whitewater rafting, snow skiing, and utility terrain motor vehicle riding benefit the state and communities surrounding those activities.

The Legislature further finds that the creation and empowering of a joint development entity to work with the landowners, county officials and community leaders, state and federal government agencies, recreational user groups, and other interested parties to enable and facilitate the implementation of the facilities will greatly assist in the realization of these potential benefits.

The purpose of this article is to provide additional opportunities and regulatory authorization for recreational trail networks and to provide for increased access to recreational areas, including, but not limited to, creating a contiguous trail system that connects to the Chesapeake and Ohio Canal Tow Path.

#### **§20-17A-2. Creation of Mountaineer Trail Network Recreation Authority and establishment of recreation area.**

There is hereby created the “Mountaineer Trail Network Recreation Authority” consisting of representatives from the counties of Barbour, Grant, Harrison, Marion, Mineral, Monongalia, Preston, Randolph, Taylor, and Tucker organized pursuant to the provisions of §20-17-1 *et seq.* of this code. This authority is authorized to establish a Mountaineer Trail Network Recreation Area within the jurisdictions of those counties and the authority shall be subject to the powers, duties, immunities, and restrictions provided in §20-17-1 *et seq.* of this code. Visitors and participants in recreational activities within the trail network shall, in similar respects, be subject to the user requirements and prohibitions of §20-17-7 of this code.

#### **§20-17A-3. Recreational purposes.**

The allowed recreational purposes for the Mountaineer Trail Network Recreation Area include, but are not limited to, any one or any combination of the following noncommercial recreational activities: Hunting, fishing, swimming, boating, camping, picnicking, hiking, bicycling, mountain bicycling, running, cross-country running, nature study, winter sports and visiting, viewing or enjoying historical, archaeological, scenic, or scientific sites.

#### **§20-17A-4. Governing body and expenses.**

(a) The governing body of the authority shall be a board constituted according to the provisions of §20-17-4 of this code.

(b) All costs incidental to the administration of the authority, including office expenses, personal services expenses and current expenses, shall be paid in accordance with guidelines issued by the board from funds accruing to the authority.

(c) All expenses incurred in carrying out the provisions of this article shall be payable solely from funds provided under the authority of this article and under §20-17-1 *et seq.* of this code. No liability or obligation may be incurred by the authority under this article beyond the extent to which moneys have been provided under the authority of this article.

#### **§20-17A-5. Protection for private landowners.**

Owners of land used by the authority shall have the full benefit of the limitations of liability provided in §20-17-8 of this code.;

And,

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

**Eng. Com. Sub. for Com. Sub. for Senate Bill 317**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §20-17-1, §20-17-2, §20-17-3, §20-17-4, §20-17-5, §20-17-6, §20-17-7, §20-17-8 and §20-17-9; and to amend said code by adding thereto a new article, designated §20-17A-1, §20-17A-2, §20-17A-3, §20-17A-4, §20-17A-5, all relating generally to forming multicounty trail network authorities; creating a framework for establishment of multicounty trail network authorities and authorizing the formation of the Mountaineer Trail Network Recreation Authority; providing legislative findings; defining terms; providing that an authority is a public corporation and joint development entity; providing procedures for counties to join a trail network authority as a participating county and providing for the merger of two established authorities; providing for appointment of individuals to the board of an authority and for the filling of vacancies in the board; establishing the terms of appointment to a board; requiring quarterly meetings of a board; describing how a quorum is established; authorizing a board to promulgate bylaws and rules; providing that an authority is subject to Freedom of Information Act laws; describing the powers and duties of an authority; requiring a board to appoint an executive director; describing powers and duties of an executive director; authorizing employment of authority staff; requiring creation of an annual budget; providing for payment of an authority's expenses; allowing reimbursement of board member expenses; establishing financial audit requirements; requiring reporting and oversight of state funds; prohibiting certain actions by users of recreational area land and providing criminal penalties; limiting the liability of owners of land used by an authority; setting forth purchasing and bidding procedures for authority contracts and purchases; providing criminal penalties for violation of purchasing and bidding requirements; clarifying that certain provisions of the code prohibiting certain officers from having a pecuniary interest in contracts applies to board members, officers, personnel, and agents of an authority; providing civil remedies for participating counties challenging purchasing contracts violating certain requirements; establishing the Mountaineer Trail Network Recreation Authority and authorizing the creation of the Mountaineer Trail Network Recreation Area; identifying participating counties; providing legislative findings and purposes for this authority; listing the recreational purposes for the recreation area; specifying manner of governance and payment of expenses; and ensuring liability protections for cooperating land owners.

On motion of Senator Takubo, the Senate refused to concur in the foregoing House amendments to the bill (Eng. Com. Sub. for Com. Sub. for S. B. 317) and requested the House of Delegates to recede therefrom.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect October 1, 2019, of

**Eng. Com. Sub. for Senate Bill 318**, Transferring Medicaid Fraud Control Unit to Attorney General's office.

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

**Eng. Com. Sub. for Senate Bill 357**, Relating generally to Division of Administrative Services.

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

**Eng. Com. Sub. for Senate Bill 360**, Relating to third-party litigation financing.

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

**Eng. Com. Sub. for Senate Bill 400**, Allowing Board of Dentistry create specialty licenses.

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

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

On page eight, section eight, line twenty, after the word “setting;” by striking out the word “and”;

On page eight, section eight, line twenty-two, after the word “setting;” by inserting the following: and

(E) The Board may consider clinical examinations taken prior to July 1, 2019, or individual state clinical examinations as equivalent which demonstrates competency.;

And,

On page nine, section eight-a, lines two and three, by striking out the words “in a dental specialty” and inserting in lieu thereof the words “upon proper application and fee for each specialty and as provided pursuant to the provisions of this article”.

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

Engrossed Committee Substitute for Senate Bill 400, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 400) passed with its title.

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



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

**Eng. Com. Sub. for Senate Bill 404**, Relating generally to sediment control during commercial timber harvesting operations.

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

**Eng. Senate Bill 421**, Relating to annual legislative review of economic development tax credit.

A message from the Clerk of the House of Delegates announced that that body had refused to recede from its amendment, and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses, as to

**Eng. Com. Sub. for Senate Bill 481**, Relating to Judicial Vacancy Advisory Commission.

The message further announced the appointment of the following conferees on the part of the House of Delegates:

Delegates Kump, Steele, and N. Brown.

On motion of Senator Takubo, the Senate agreed to the appointment of a conference committee on the bill.

Whereupon, Senator Carmichael (Mr. President) appointed the following conferees on the part of the Senate:

Senators Weld, Rucker, and Romano.

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

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

**Eng. Com. Sub. for Senate Bill 487**, Relating to admissibility of health care staffing requirements in litigation.

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

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

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

## **ARTICLE 7B. MEDICAL PROFESSIONAL LIABILITY.**

### **§55-7B-7a. Admissibility and use of certain information.**

(a) In an action brought, there is a rebuttable presumption that the following information may not be introduced unless it applies specifically to the injured person or it involves substantially similar conduct that occurred within one year of the particular incident involved:

(1) A state or federal survey, audit, review, or other report of a health care provider or health care facility;

(2) Disciplinary actions against a health care provider's license, registration, or certification;

(3) An accreditation report of a health care provider or health care facility; and

(4) An assessment of a civil or criminal penalty.

(b) In any action brought alleging inappropriate staffing or inadequate supervision, if the health care facility or health care provider demonstrates compliance with the minimum staffing requirements under state and federal law, the health care facility or health care provider is entitled to a rebuttable conclusive presumption that appropriate staffing was provided, and a rebuttable presumption that adequate supervision of patients to prevent accidents was provided, and the jury shall be instructed accordingly.

(c) If staffing is less than the requirements dictated by state and federal law the applicable regulations, then there is a rebuttable presumption that there was inadequate supervision of patients and that inadequate staffing or inadequate supervision was a contributing cause of the patient's fall and injuries or death arising therefrom, and the jury shall be instructed accordingly.

(d) Information under this section may only be introduced in a proceeding if it is otherwise admissible under the West Virginia Rules of Evidence.;

And,

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

**Eng. Com. Sub. for Senate Bill 487**—A Bill to amend and reenact §55-7B-7a of the Code of West Virginia, 1931, as amended, relating to the admissibility of health care staffing requirements in medical professional liability litigation; providing that compliance with minimum staffing requirements under state and federal law creates a conclusive presumption that appropriate staffing was provided and a rebuttable presumption that adequate supervision of patients to prevent accidents was provided; requiring that if staffing is less than requirements dictated by state and federal law then there is a rebuttable presumption that there was inadequate supervision of patients and that inadequate staffing or inadequate supervision was a contributing cause of the patient's fall and resulting injuries or death; and, requiring the jury be instructed accordingly.

Senator Takubo moved that the Senate refuse to concur in the foregoing House amendments to the bill (Eng. Com. Sub. for S. B. 487) and request the House of Delegates to recede therefrom.

Following discussion,

The question being on the adoption of Senator Takubo's aforesated motion, the same was put and prevailed.

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

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

**Eng. Senate Bill 493**, Correcting terminology referring to racing vehicles illegally on street.

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

**Eng. Com. Sub. for Senate Bill 496**, Transferring authority to regulate milk from DHHR to Department of Agriculture.

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

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

On page fifteen, section seventeen, by striking out all of section seventeen and inserting in lieu thereof a new section, designated section seventeen, to read as follows:

**§19-11E-17. Transfer of milk regulation authority from Department of Health and Human Resources (DHHR) to Department of Agriculture (WVDA).**

(a) Effective July 1, 2019, authority for the regulation, including enforcement, of Grade "A" milk is hereby transferred to the commissioner from the Department of Health and Human Resources.

(b) Prior to July 1, 2019, the commissioner and the Department of Health and Human Resources shall enter into an agreement to provide for the orderly transition of regulatory operations from the Department of Health and Human Resources to the commissioner. Said agreement shall provide:

(1) For the transfer of records and equipment related to the milk regulation program to the commissioner;

(2) For the continued provision of services by staff of the Department of Health and Human Resources to the commissioner under the terms of the agreement;

(3) For transition, upon notice to Department of Health and Human Resources, of functions from the Department of Health and Human Resources to the commissioner; and

(4) For the completion of the transfer of all responsibilities from the Department of Health and Human Resources to the commissioner no later than December 31, 2019.

(c) During a period from July 1, 2019, to December 31, 2019, the Department of Health and Human Resources shall cooperate fully with the commissioner to ensure a smooth transition of authority, knowledge, and resources to guarantee that milk regulation in West Virginia suffers no gap or failure in regulation.

(d) All legislative rules issued by the Department of Health and Human Resources pursuant to its authority to regulate milk shall remain in effect until superseded by the commissioner's regulations.

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

Engrossed Committee Substitute for Senate Bill 496, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Hamilton, Mann, Maroney, Maynard, Plymale, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Carmichael (Mr. President)—22.

The nays were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Prezioso, Romano, Stollings, and Unger—12.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 496) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—27.

The nays were: Baldwin, Beach, Facemire, Ihlenfeld, Jeffries, Lindsay, and Romano—7.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 496) takes effect from passage.

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

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

**Eng. Com. Sub. for Senate Bill 511**, Creating alternating wine proprietorships.

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

**Eng. Com. Sub. for Senate Bill 537**, Creating workgroup to review hospice need standards.

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

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

On page one, section thirty-one, line four, after the word “Authority” by inserting the words, “or designee”;

On page two, section thirty-one, line thirty-seven, by striking out the words “June 30, 2020” and inserting in lieu thereof the words “September 30, 2019”;

On page three, section thirty-one, line thirty-eight, by striking out the words “March 31, 2021” and inserting in lieu thereof the words “December 31, 2019”;

On page three, section thirty-one, line forty-one, by striking out the words “December 31, 2020” and inserting in lieu thereof the words “December 1, 2019”;

On page three, section thirty-one, line forty-three, by striking out “90” and inserting in lieu thereof “30”;

On page three, section thirty-one, line forty-five, after the words “Governor.” by striking out the remainder of the subsection;

On page three, section thirty-one, lines forty-eight through fifty-one, by striking out all of subsection (e) and inserting in lieu thereof a new subsection, designated subsection (e), to read as follows:

(e) The need standards regulating hospice services and home health services shall be those that were in effect on January 1, 2018, and shall remain in effect until the Governor approves the new standards no sooner than December 31, 2019. ;

And,

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

**Eng. Com. Sub. for Senate Bill 537**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-29B-31, relating to establishing health care standards by the Health Care Authority; establishing a workgroup to review certain standards in this state; designating members of workgroup; providing for duties of workgroup; providing that the West Health Care Authority provide staff for the workgroup; providing for public hearings; providing for the submission of a final report; establishing a termination date of the workgroup; providing a time frame to review health care standards; freezing current standards for a period of time; and establishing a time frame to complete the review.

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

Engrossed Committee Substitute for Senate Bill 537, as amended by the House of Delegates, was then put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 537 pass?”

Senator Trump requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as his wife is a board member of Hospice of the Panhandle.

The Chair replied that any impact on Senator Trump would be as a member of a class of persons and that he would be required to vote.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 537) passed with its House of Delegates amended title.

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

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

**Eng. Senate Bill 566**, Relating to compensation for State Athletic Commission members.

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

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

On page one, section one, line ten, after the word "article." by striking out the remainder of the subsection and inserting in lieu thereof the following: Each member is entitled to receive compensation for attending official meetings or engaging in official duties not to exceed the amount paid to members of the Legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law. A board member may not receive compensation for travel days that are not on the same day as the official meeting or official duties.

On motion of Senator Takubo, the Senate refused to concur in the foregoing House amendment to the bill (Eng. S. B. 566) and requested the House of Delegates to recede therefrom.

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

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

**Eng. Senate Bill 596**, Adjusting voluntary contribution amounts on certain DMV forms.

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

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

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

## **ARTICLE 2. DIVISION OF MOTOR VEHICLES.**

### **§17A-2-12a. Commissioner of Motor Vehicles — commissioner shall prescribe forms providing for veteran contributions.**

(a) Notwithstanding §17A-2-12 of this code, the commissioner shall prescribe and provide suitable forms of application which provide the following applicants the ability to make a contribution of \$3, \$5, or \$10, or any amount of the applicant's choosing to the West Virginia Department of Veterans Assistance, the West Virginia Farm Bureau Foundation, the West Virginia

University Foundation, reserved for 4 H Youth Education Program, or the West Virginia Future Farmers of America Education Foundation:

(1) Applicants for original or renewal driver's licenses or identification cards; and

(2) Applicants for a renewal of a vehicle registration.

(b) A contribution under §17A-2-12a(a) of this code shall be added, as appropriate, to the regular fee for:

(1) An original or renewal driver's license or identification card; and

(2) A renewal of a vehicle registration.

(c) Contributions to the West Virginia Department of Veterans Assistance under §17A-2-12a(a) of this code shall be used exclusively for purposes set forth in §9A-1-1 *et seq.* of this code.

(d) (1) The division shall determine on a monthly basis the total amount collected for the West Virginia Department of Veterans Assistance under this section and report and transfer said amount to the State Treasurer. The State Treasurer shall transfer the amount collected under this section to the West Virginia Department of Veterans Assistance.

(2) The division shall determine on a biannual basis the total amount collected for the West Virginia Farm Bureau Foundation, the West Virginia University Foundation, reserved for 4 H Youth Education Program, and the West Virginia Future Farmers of America Education Foundation under this section and report and transfer said amount to the State Treasurer on July 1 and January 1 each fiscal year. The State Treasurer shall transfer the funds collected for the West Virginia Farm Bureau Foundation, the West Virginia University Foundation, reserved for 4 H Youth Education Program, and the West Virginia Future Farmers of America Education Foundation under this section in equal amounts to the West Virginia Farm Bureau Foundation, the West Virginia University Foundation, reserved for 4 H Youth Education Program, and the West Virginia Future Farmers of America Education Foundation.

(e) The West Virginia Department of Veterans Assistance shall reimburse the Motor Vehicle Fees Fund for the actual costs incurred by the division in the administration of this section. The division may deduct from all contributions under this section no more than two percent as an administrative fee to recover processing costs prior to transferring any money to the State Treasurer or to any foundation.;

And,

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

**Eng. Senate Bill 596**—A Bill to amend and reenact §17A-2-12a of the Code of West Virginia, 1931, as amended, relating to allowing persons to donate to the West Virginia Farm Bureau, the West Virginia 4 H Program, and the West Virginia Future Farmers of America Education Foundation, in addition to the Department of Veterans Assistance, when renewing a driver's license or vehicle registration, altering the amounts which may be donated under the section to all organizations, and allowing DMV to retain 2% of the donations for administrative costs.

On motion of Senator Takubo, the Senate refused to concur in the foregoing House amendments to the bill (Eng. S. B. 596) and requested the House of Delegates to recede therefrom.

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

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

**Eng. Com. Sub. for Senate Bill 597**, Conforming state law to federal law for registration of appraisal management companies.

A message from the Clerk of the House of Delegates announced the amendment by that body, passage as amended with its House of Delegates amended title, to take effect July 1, 2019, and requested the concurrence of the Senate in the House of Delegates amendments, as to

**Eng. Com. Sub. for Senate Bill 624**, Allowing county boards of education use alternative assessment provided in Every Student Succeeds Act.

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

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

On page five, section five, line one hundred five, after the word "Act." by striking out the remainder of the subdivision and inserting in lieu thereof the following:

The department shall negotiate reasonable per student costs for the delivery and administration of the alternative assessment that is equal to the per-student assessment cost as determined by the statewide assessment contract. The department shall be responsible for the costs of collecting and submitting the evidence needed to satisfy the requirements specified in 20 U.S.C. § 6311 (b)(2)(H) and 34 CFR 200.3. If the U.S. Department of Education determines that an alignment study is needed, the department shall ensure that a holistic alignment approach is used to evaluate the degree of alignment between the assessment and the state academic standards and the study shall include at least three test forms.;

And,

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

**Eng. Com. Sub. for Senate Bill 624**—A Bill to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating to allowing county boards of education to use alternative assessment pursuant to the locally selected assessment option provided for in the Every Student Succeeds Act; requiring per-student costs for delivery and administration of alternative assessment equal to per-student assessment costs in statewide assessment contract; making department responsible for costs of collecting and submitting evidence to satisfy requirements in federal law and regulation; providing for alignment study if needed that uses certain approach and includes various test forms; and making technical corrections.

On motion of Senator Rucker, the following amendments to the House of Delegates amendments to the bill (Eng. Com. Sub. for S. B. 624) were reported by the Clerk, considered simultaneously, and adopted:

On page one, section five, subsection (d), subdivision (3). by striking out the words "The department shall negotiate reasonable per student costs for the delivery and administration of the alternative assessment that is equal to the per-student assessment cost as determined by the statewide assessment contract. The department shall be responsible for the costs of collecting



and submitting the evidence needed to satisfy the requirements specified in 20 U.S.C. § 6311 (b)(2)(H) and 34 CFR 200.3. If the U.S. Department of Education determines that an alignment study is needed, the department shall ensure that a holistic alignment approach is used to evaluate the degree of alignment between the assessment and the state academic standards and the study shall include at least three test forms.” and inserting in lieu thereof the following: The state Department of Education shall pay no more than the general summative assessment per-student cost for a locally selected assessment used pursuant to the locally selected assessment option. If required by the U.S. Department of Education, the state department shall be responsible for contracting and paying no more than \$100,000 total, of the costs of any studies required as part of the peer review process to satisfy the requirements specified in 20 U.S.C. §6311 (b)(2)(H) and 34 CFR 200.3. If the U.S. Department of Education determines that an alignment study is needed for a locally selected assessment option, the state department shall ensure that an independent alignment study is used to evaluate the degree of alignment between the assessment and the state academic standards and the study shall include at least three test forms. If the locally selected assessment is approved by the U.S. Department of Education and meets federal and state law, the state department shall enter into a contract that allows for county boards of education to implement the locally selected assessment.;

And,

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

**Eng. Com. Sub. for Senate Bill 624**—A Bill to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating to allowing county boards of education to use an alternative assessment, such as the ACT assessment, pursuant to the locally selected assessment option provided for in the Every Student Succeeds Act; and setting forth requirements for the West Virginia Department of Education pertaining to the alternative assessment.

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

Engrossed Committee Substitute for Senate Bill 624, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Trump—1.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 624) passed with its Senate amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Trump—1.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 624) takes effect from passage.

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

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

**Eng. Senate Bill 625**, Clarifying and defining authority of State Athletic Commission.

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

**Eng. Senate Bill 633**, Authorizing Board of Physical Therapy conduct criminal background checks on applicants for licenses.

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

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

By striking out everything after the article heading and inserting in lieu thereof the following:

**§30-41-4. West Virginia Board of Physical Therapy criminal history record checks.**

(a) The West Virginia Board of Physical Therapy is authorized to require state and national criminal history record checks for the purpose of issuing licenses. The West Virginia Board of Physical Therapy shall require an applicant, including physical therapists and physical therapy assistants, as a condition of eligibility for initial license to submit to a state and national criminal history record check as set forth in this section.

(b) The applicant shall meet all requirements necessary to accomplish the state and national criminal history record check, including:

(1) Submitting fingerprints for the purposes set forth in this subsection; and

(2) Authorizing the board, the West Virginia State Police and the Federal Bureau of Investigation to use all records submitted and produced for the purpose of screening the applicant for a license.

(c) The results of the state and national criminal history record check may not be released to or by a private entity except:

(1) To the individual who is the subject of the criminal history record check;

(2) With the written authorization of the individual who is the subject of the criminal history record check; or

(3) Pursuant to a court order.

(d) The criminal history record check and related records are not public records for the purposes of Chapter 29B of this code.

(e) The applicant shall ensure that the criminal history record check is completed as soon as possible after the date of the original application for registration.

(f) The applicant shall pay the actual costs of the fingerprinting and criminal history record check.

(g) The board may not disqualify an applicant for initial licensure because of a prior criminal conviction that has not been reversed unless that conviction is for a crime that bears a rational nexus to the occupation requiring licensure.

(h) The board may not use crimes involving moral turpitude in making licensure determinations.

(i) If an applicant is disqualified for licensure because of a criminal conviction that has not been reversed, the board shall afford the applicant the opportunity to reapply for licensure after the expiration of five years from the date of conviction or date of release from the penalty that was imposed, whichever is later, if the individual has not been convicted of any other crime during that period of time: *Provided*, That convictions for violent or sexual offenses or offenses shall subject an individual to a longer period of disqualification, to be determined by the board.

(j) An individual with a criminal record who has not previously applied for licensure, certification or registration may petition the board at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license or other authorization to practice. This petition shall include sufficient details about the individual's criminal record to enable the board to identify the jurisdiction where the conviction occurred, the date of the conviction and the specific nature of the conviction. The board shall inform the individual of his or her standing within 60 days of receiving the petition from the applicant. The board may charge a fee established by rule to recoup its costs for each petition.

(k) The board shall propose rules or amendments to existing rules for legislative approval to comply with the provisions of this section. These rules or amendments to rules shall be proposed pursuant to the provisions of §29A-3-1 *et seq.* of this code within the applicable time limit to be considered by the Legislature during its regular session in the year 2020."

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

Engrossed Senate Bill 633, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 633) passed with its title.

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

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

**Eng. Senate Bill 655**, Relating to conservation districts generally.

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

**Eng. Com. Sub. for Senate Bill 657**, Providing consumer protection regarding self-propelled farm equipment.

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

**Eng. Senate Bill 658**, Relating to motor vehicle salesperson licenses.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

**Eng. Senate Bill 672**, Authorizing School Building Authority to promulgate legislative rules.

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect from passage, of

**Eng. Senate Bill 676**, Relating to off-road vehicle recreation.

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

**Senate Concurrent Resolution 23**, Jeffrey Alan Clovis Memorial Bridge.

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

**Com. Sub. for Senate Concurrent Resolution 25**, US Army PFC Andrew "Bo" Martin Harper Memorial Bridge.

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

**Eng. Com. Sub. for House Bill 2363**, Relating to the Upper Kanawha Valley Resiliency and Revitalization Program.

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

**Eng. Com. Sub. for House Bill 2550**, Creating a matching program for the Small Business Innovation and Research Program and the Small Business Technology Transfer Program.

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

**Eng. Com. Sub. for House Bill 2617**, Relating to the form for making offer of optional uninsured and underinsured coverage by insurers.

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

**Eng. House Bill 2647**, Self Storage Limited License Act.

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

**Eng. Com. Sub. for House Bill 2703**, Relating to refunds of excise taxes collected from dealers of petroleum products.

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

**Eng. House Bill 2954**, Defining certain terms used in insurance.

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

**Eng. Com. Sub. for House Bill 2975**, Relating to imposition of sexual acts on persons incarcerated.

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

**Eng. House Bill 2992**, Relating to governmental websites.

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

**Eng. House Bill 3135**, Expiring funds to the balance of the Department of Commerce, Development Office.

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

**Com. Sub. for House Concurrent Resolution 26**, George" Roush Memorial Bridge.

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

**Com. Sub. for House Concurrent Resolution 32**, Requesting the Secretary of the Department of Transportation to authorize raising highway speed limits, where appropriate, to 75 miles per hour on Interstate highways in West Virginia and to 70 miles per hour on West Virginia's Appalachian Corridor highways.

The Senate proceeded to the fourth order of business.

Senator Carmichael (Mr. President), from the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration

**Eng. Senate Bill 28**, Removing hotel occupancy tax limit collects for medical care and emergency services.

Having been amended, received as a House message, and referred to the Committee on Rules on February 1, 2019;

And reports the same back.

Respectfully submitted,

Mitch Carmichael,

*Chairman ex officio.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. S. B. 28) contained in the preceding report from the Committee on Rules was taken up for immediate consideration.

On motion of Senator Takubo, the following amendment to the House of Delegates amendments to the bill (*shown in the Senate Journal of Friday, February 1, 2019, pages 1 and 2*) was reported by the Clerk:

On page four, section fourteen, subsection (c), subdivision (11), after the word "infrastructure" by inserting the words "in an amount not to exceed \$200,000".

Following discussion,

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

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

Engrossed Senate Bill 28, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney,

Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 28) passed with its House of Delegates amended title.

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

Senator Maroney, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

**Senate Concurrent Resolution 58** (originating in the Committee on Health and Human Resources)—Requesting Joint Committee on Government and Finance study and analyze the cost and benefits of placing Automated External Defibrillators (AEDs) in West Virginia schools under the jurisdiction of a county board of education.

Whereas, According to the American Heart Association's latest figures, 7,037 children die from sudden cardiac arrest each year; and

Whereas, The average American child spends between 175 and 180 days in school each year and receives between 900 and 1,000 hours of instructional time per year, and, therefore, it is critically important for our public schools to have AEDs readily available; and

Whereas, The American College of Cardiology notes that the most important contributing factor for survival of sudden cardiac arrest is the time from collapse to defibrillation. Survival decreases 10 percent every minute until a shock is applied; and

Whereas, Studies indicate that students without any prior CPR or AED training can accurately use an AED as directed. Automated External Defibrillators are, by design, easy to use. By following an AED's simple, clear voice prompts, bystanders can perform the crucial steps that can save a life; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance study and analyze the cost and benefits of placing Automated External Defibrillators (AEDs) in West Virginia schools under the jurisdiction of a county board of education; and, be it

*Further Resolved*, That third-party donations may be used to effectuate the placement of AEDs in the schools; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance enlist the assistance of other state agencies and departments as necessary in conducting this study; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report its findings, conclusions, and recommendations to the regular session of the Legislature, 2020, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

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

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

Respectfully submitted,

Michael J. Maroney,

*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the resolution (S. C. R. 58) contained in the foregoing report from the Committee on Health and Human Resources was then referred to the Committee on Rules.

Senator Maroney, from the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration

**Senate Concurrent Resolution 59** (originating in the Committee on Health and Human Resources)—Requesting the Joint Committee on Government and Finance study the causes of increased incidents of black lung; determine the most appropriate way to compensate for black lung; implement policies to reduce the risk of developing black lung; and determine which testing should be used when diagnosing black lung.

Whereas, According to a study published in the American Journal of Public Health, the rate of black lung disease in coal miners is growing, particularly in miners who work in central Appalachia; and

Whereas, One in five coal miners who have worked in West Virginia, Kentucky, or Virginia for more than 25 years has coal workers' pneumoconiosis, according to the American Journal of Public Health study. Nationally, more than 10 percent of miners with the same amount of experience have the debilitating and irreversible disease, which is caused by exposure to coal dust; and

Whereas, The rate of black lung started declining in 1969, when Congress shifted its focus on limiting dust exposure. But, scientists have found an increase in the disease since 1997, especially in younger miners whose careers started after 1969; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government on Finance study the causes of increased incidents of black lung; determine the most appropriate way to compensate for black lung; implement policies to reduce the risk of developing black lung; and determine which testing should be used when diagnosing black lung; and, be it



*Further Resolved*, That the Joint Committee on Government and Finance enlist the assistance of other state agencies and departments as necessary in conducting the study; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report its findings, conclusions, and recommendations to the regular session of the Legislature, 2020, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

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

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

Respectfully submitted,

Michael J. Maroney,

*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the resolution (S. C. R. 59) contained in the foregoing report from the Committee on Health and Human Resources was then referred to the Committee on Rules.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

**Senate Concurrent Resolution 60** (originating in the Committee on Educations)—Requesting the Joint Committee on Government and Finance study the need for a new model of providing a thorough and efficient system of free schools in West Virginia.

Whereas, According to the National Center for Education Statistics, total student enrollment in West Virginia has dropped more than 22 percent from 351,837 during the 1986-1987 school year to 273,855 during the 2016-2017 school year; and

Whereas, Data from the West Virginia Department of Education shows that enrollments are continuing to decline, indicating a total headcount enrollment for this school year of 265,755; and

Whereas, Data from the West Virginia Department of Education indicates that county school district size can vary greatly, from a high of 25,668 students in Kanawha County to a low of 809 students in Gilmer County; and

Whereas, Data from the West Virginia Department of Education indicates that during the current school year, there are 11 county school districts with less than 1,400 in FTE enrollment; and

Whereas, With the statewide declines in student enrollment continuing to occur, more county school districts could fall within the “under 1,400 in student enrollment” category in the future; and

Whereas, The Legislature in the past has attempted to address the financial struggles of low-enrollment counties by creating a statutory formula for giving those counties with less than 1,400

in net enrollment credit for more students than are actually enrolled in the county for state aid funding purposes; and

Whereas, Merging smaller school districts could result in much more administrative efficiency than simply the sharing of services between the counties and could result in focusing more resources on the school and classroom levels; therefore, be it

*Resolved by the Legislature of West Virginia:*

Requesting the Joint Committee on Government and Finance study the need for a new model of providing a thorough and efficient system of free schools in West Virginia; and, be it

*Further Resolved*, That the study include changes that may require amendments to the state constitution. The study may include consideration of changes such as: Reducing the number of school districts to 17 with each school district having an equal number of residents and being similar to existing Senate districts; allowing district boundaries to be negotiated between adjoining school districts; reducing the number of school district board members to four; changing the State Superintendent to the Secretary of Schools; and changing the makeup of the West Virginia Board of Education; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2020, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

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

And reports the same back with the recommendation that it be adopted; but with the further recommendation that it first be referred to the Committee on Rules

Respectfully submitted,

Patricia Puertas Rucker,

*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the resolution (S. C. R. 60) contained in the foregoing report from the Committee on Education was then referred to the Committee on Rules.

Senator Rucker, from the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration

**Senate Concurrent Resolution 61** (originating in the Committee on Education)—Requesting the Joint Committee on Government and Finance study requiring county boards of education to provide, as determined necessary, adequate mental health evaluations and services, and counseling services, to students.

Whereas, House Bill No. 2397 was introduced during the 2019 regular session of the Legislature which, if enacted, would require county boards of education to provide adequate

mental health evaluations, services and counseling services for students, and would establish a minimum student-to-school psychologist ratio of 1,000-to-1; and

Whereas, House Bill No. 2397 did not establish a similar ratio for school counselors; and

Whereas, According to the American School Counselor Association, West Virginia's student-to-school counselor ratio during the 2015-2016 school year was 380-to-1, which is much better than the national ratio of 464-to-1, but still fails to meet the association's recommended student-to-school counselor ratio of 250-to-1; and

Whereas, According to the Centers for Disease Control and Prevention, the states with the highest rates of death due to drug overdose in 2017 were West Virginia (57.8 per 100,000), Ohio (46.3 per 100,000), Pennsylvania (44.3 per 100,000), the District of Columbia (44.0 per 100,000), and Kentucky (37.2 per 100,000); and

Whereas, West Virginia's need for more mental health and counseling services in public schools may be higher than in other states due to the need to address mental health problems that stem from the state's drug epidemic; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance is hereby requested to study requiring county boards of education to provide, as determined necessary, adequate mental health evaluations and services and counseling services to students; and, be it

*Further Resolved*, That this study may include recommendations on the appropriate minimum student-to-school psychologist and school counselor ratios, and methods of funding the recommended ratios; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2020, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

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

And reports the same back with the recommendation that it be adopted; but with the further recommendation that it first be referred to the Committee on Rules.

Respectfully submitted,

Patricia Puertas Rucker,

*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the resolution (S. C. R. 61) contained in the foregoing report from the Committee on Education was then referred to the Committee on Rules.

Senator Trump, from the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill 2540**, Prohibiting the waste of game animals, game birds or game fish.

And has amended same.

Now on second reading, having been read a first time and referred to the Committee on the Judiciary on March 5, 2019;

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

Respectfully submitted,

Charles S. Trump IV,

*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 2540) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration and read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk:

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

## **ARTICLE 2. WILDLIFE RESOURCES.**

### **§20-2-5i. Waste of game animals, game birds, or game fish; penalties.**

(a) It is unlawful for any person to cause through carelessness, neglect, or otherwise to let any edible portion of any big game or game fish to go to waste needlessly.

(b) For purposes of this section, "edible portion" means, with respect to:

(1) *Big game.* — One or more of the following: (A) the meat of the front quarters to the knee; (B) the meat of the hind-quarters to the hock; or (C) the meat along the backbone between the front quarters and hind quarters: *Provided*, That an edible portion of a wild turkey is the meat of the breast only.

(2) *Game fish.* — The fillet meat from the gill plate to the tail fin.

(3) Edible portion does not include bones, sinew, viscera, meat from the head or neck, meat that has been damaged or rendered inedible by method of taking, or meat that is reasonably lost as a result of boning or close trimming of bones.

(c) It is unlawful for any person to take any big game and detach or remove from the carcass the head, hide, antlers, tusks, paws, claws, gallbladder, teeth, beards, or spurs only and leave the carcass to waste.

(d) Any person who through no carelessness, neglect, or otherwise, is unable to locate the carcass of any lawfully taken big game prior to the spoilage or decay of any or all edible portions

may detach or remove from the carcass the head, hide, antlers, tusks, paws, claws, gall bladder, teeth, beards, or spurs: *Provided*, That the big game is registered and shall be counted toward the daily, seasonal, bag, and possession limit of the person in possession of, or responsible for taking the big game.

(e) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be subject to the following penalties, with respect to:

(1) *Big game violations.* —

(A) A fine of not less than \$500 nor more than \$2,500, or confinement in jail not less than 10 days nor more than 100 days, or both fined and confined;

(B) Suspension of hunting and fishing license for a period of five years; and

(C) All applicable forfeiture and replacement provisions in §20-2-5a of this code.

(2) *Game fish violations.* —

(A) A fine of not less than \$100 nor more than \$500, or confinement in jail not less than 10 days nor more than 100 days, or both fined and confined;

(B) Suspension of hunting and fishing license for a period of two years; and

(C) All applicable forfeiture and replacement provisions in §20-2-5a of this code.

Following discussion,

The question being on the adoption of the Judiciary committee amendment to the bill, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 2540), as amended, was then ordered to third reading.

The Senate proceeded to the sixth order of business.

At the request of Senator Sypolt, unanimous consent being granted, Senators Sypolt, Clements, Swope, Beach, Boley, Boso, Jeffries, Mann, Plymale, and Roberts offered the following resolution from the floor:

**Senate Concurrent Resolution 62**—Urging Congress to allow vehicles traveling on interstate highways in West Virginia to have the same maximum gross vehicle weight and axle configuration as currently permissible for vehicles traveling on U.S. routes in West Virginia.

Whereas, Federal law currently imposes a maximum gross vehicle weight of 80,000 pounds on interstate highways, without any tolerance, and with axle weight restrictions and the bridge formula often reducing such maximum weight; and

Whereas, West Virginia also has an 80,000-pound maximum gross vehicle weight limit, but permits a 10-percent tolerance, raising the permissible maximum weight to 88,000 pounds; and

Whereas, Vehicles transporting commodities through West Virginia often reach our state on interstate highways, but leave the interstate highways system and switch to West Virginia's local roads, taking advantage of the higher weight limit on such routes; and

Whereas, Such practice increases traffic on West Virginia's mountainous country roads, raises safety concerns, and limits economic avenues; and

Whereas, Interstates could safely support the same weight restrictions as those on U.S. routes in West Virginia given that the design standards used for both systems are identical and the weight increase would be minimal; and

Whereas, The West Virginia Department of Transportation, Division of Highways, is poised to address any questions Congress or the U.S. Department of Transportation, Federal Highway Administration, may have to demonstrate the feasibility of this request; and

Whereas, Providing an exception to the existing weight limits and restrictions in Title 23 of the United States Code, including the bridge formula, for vehicles operating on interstate highways in West Virginia will allow more vehicles to travel the safer interstate highways and expand economic access throughout West Virginia; and

Whereas, Congress has previously provided exceptions to the maximum gross vehicle weight on interstate highways for several states of the United States; therefore, be it

*Resolved by the Legislature of West Virginia:*

That Congress is urged to allow vehicles traveling on interstate highways in West Virginia to have the same maximum gross vehicle weight and axle configuration as currently permissible for vehicles traveling on U.S. routes in West Virginia; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the President and Secretary of the United States Senate, to the Speaker and Clerk of the United States House of Representatives, and to the members of West Virginia's congressional delegation.

At the request of Senator Sypolt, unanimous consent being granted, the resolution was taken up for immediate consideration and reference to a committee dispensed with.

The question being on the adoption of the resolution, and on this question, Senator Trump demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Blair—1.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. C. R. 62) adopted.

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

At the request of Senator Beach, unanimous consent being granted, the Senate returned to the second order of business and the introduction of guests.

The Senate proceeded to the seventh order of business.

**Senate Concurrent Resolution 51**, Requesting study relating to creation of long-term care medical review panels.

On unfinished business, coming up in regular order, was reported by the Clerk.

On motion of Senator Takubo, the resolution was referred to the Committee on Rules.

**Senate Resolution 69**, Congratulating George Washington High School Patriots boys' basketball team on winning 2018 Class AAA state championship.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Palumbo, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

**Senate Resolution 75**, Expressing support for President Donald J. Trump to sign Appalachian Sky Executive Order.

On unfinished business, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the resolution was taken up for immediate consideration, reference to a committee dispensed with, and adopted.

The Senate proceeded to the eighth order of business.

**Eng. Com. Sub. for House Bill 2004**, Providing for a program of instruction in workforce preparedness.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Com. Sub. for H. B. 2004) passed.

The following amendment to the title of the bill, from the Committee on Education, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 2004**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §18-2-7d and §18-2-42; to amend and reenact section §18B-3C-4 of said code; to amend said code by adding thereto a new article, designated §21-1E-1, §21-1E-2, §21-1E-3 and §21-1E-4; to amend and reenact section §29-3-9 of said code; and to amend said code by adding thereto a new article, designated §30-1E-1, §30-1E-2, §30-1E-3 and §30-1E-4, all relating to requiring a state board rule that adopts a program of

instruction in general workforce and career preparedness; providing career and technical education program information to students and parents; requiring transcript of certain post-secondary credits earned by public school students to be provided to them; ensuring that certain career technical education students are eligible to participate in the graduation ceremony in the same manner as all other students in the district; elevating priority on program integration to meet region and state labor market needs by community and technical college/career and technical education consortia; requiring the facilitating institution to annually submit the Carl D. Perkins local planning guide to the Council for Community and Technical College Education and State Board of Education; providing for joint State Board and Council for Community and Technical College Education guidelines on administration of the code section requiring the formation of community and technical college/career and technical education consortia; providing joint responsibility of State Superintendent and Chancellor for certain activities and reporting; requiring standards and procedures for recognizing career technical training acquired in public schools, apprenticeships and training programs toward occupational testing, certification and/or licensure; establishing purpose and intent; providing definitions; requiring rules providing standards and procedures be proposed by Commissioner of Labor, State Fire Commission, State Fire Marshal and the professions and occupations licensing boards and commissions.

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

**Eng. Com. Sub. for House Bill 2010**, Relating to foster care.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending extended discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2010 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: Lindsay—1.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2010) passed.

On motion of Senator Blair, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 2010**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-27; to amend and reenact §49-1-206 of said code; to amend and reenact §49-2-107, §49-2-113, and §49-2-708 of said code; to amend said code by adding thereto two new sections, designated §49-2-111A and §49-2-111B; and to amend and reenact §49-4-108, §49-4-406, §49-4-413, §49-4-604, §49-4-608, §49-4-711, §49-4-714 and §49-4-724 of said code, all relating to foster care; defining terms; transitioning the foster care population to a managed care organization; allowing the secretary to apply for waivers; setting out requirements for the managed care program; providing for an effective date; providing a sunset date; require the department to enter into certain types of contracts with child placing



agencies; creating a state foster care ombudsman; setting out experience requirements for an ombudsman; providing duties and authority of the ombudsman; setting out preclusions for employment of certain department employees; providing for managed care employees allocation to foster care in West Virginia; providing for performance based contracting with child placement agencies; setting out procurement and contract requirements; requiring a study of kinship care; requiring the department to review certain legislative rules; extending the time to file legislative rules; extending the time a foster care certification is authorized; requiring home safety assessment to take place annually; prohibiting the removal of a child from a residential child care program in certain circumstances; providing exceptions to permit the removal of a child from a residential child care program; establishing payment rates for services; permitting those rates be exceeded when certain conditions are met; prohibiting the termination of parental rights solely based upon participation in a medically assisted treatment program; prohibiting the placement of a foster child in an out of state facility; providing exceptions to the placement of a foster child in an out of state facility; setting out standard assessments of certain juveniles; and requiring reporting.

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

On motion of Senator Takubo, at 12:51 p.m., the Senate recessed for 45 minutes.

The Senate reconvened at 1:56 p.m. and, without objection, returned to the third order of business.

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

**Eng. Com. Sub. for Com. Sub. for Senate Bill 402**, Authorizing Division of Forestry investigate and enforce timber theft violations.

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

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

On page two, section fifty-two, line sixteen, by striking out "\$1,000" and inserting in lieu thereof "\$2,500";

On page two, section fifty-two, line seventeen, by striking out "1,000" and inserting in lieu thereof "\$2,500";

On page two, section fifty-two, line twenty, by striking out "\$1,000" and inserting in lieu thereof "\$2,500";

And;

On page two, section fifty-two, line twenty-one, after the word "violation" by inserting the words "within ten years".

On motion of Senator Takubo, the following amendment to the House of Delegates amendments to the bill (Eng. Com. Sub. for Com. Sub. for S. B. 402) was reported by the Clerk and adopted:

**Eng. Senate Bill 402**—A Bill to amend and reenact §19-1A-3b of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-3-52 of said code, all relating to authorizing the Division of Forestry to investigate and enforce timber theft and intentional damage to the timber of another; increasing the threshold between felony and misdemeanor from \$1,000 to \$2,500; requiring ten years elapse between offenses for sentence enhancement purposes and establishing criminal penalties.

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

Engrossed Committee Substitute for Committee Substitute for Senate Bill 402, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 402) passed with its Senate amended title.

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

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

**Eng. Com. Sub. for Senate Bill 405**, Increasing limit on additional expenses incurred in preparing notice list for redemption.

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

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

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

### **ARTICLE 3. SALE OF TAX LIENS AND NONENTERED, ESCHEATED AND WASTE AND UNAPPROPRIATED LANDS**

#### **§11A-3-23. Redemption from purchase; receipt; list of redemptions; lien; lien of person redeeming interest of another; record.**

(a) After the sale of any tax lien on any real estate pursuant to §11A-3-5 of this code, the owner of, or any other person who was entitled to pay the taxes on, any real estate for which a tax lien on the real estate was purchased by an individual may redeem at any time before a tax deed is issued for the real estate. In order to redeem, he or she shall pay to the State Auditor the following amounts:

(1) An amount equal to the taxes, interest and charges due on the date of the sale, with interest at the rate of one percent per month from the date of sale;

(2) All other taxes which have since been paid by the purchaser, his or her heirs or assigns, with interest at the rate of one percent per month from the date of payment;

(3) Any additional expenses incurred from January 1 of the year following the sheriff's sale to the date of redemption for the preparation of the list of those to be served with notice to redeem and any written documentation used for the preparation of the list, with interest at the rate of one percent per month from the date of payment for reasonable legal expenses incurred for the services of an attorney who has performed an examination of the title to the real estate and rendered written documentation used for the preparation of the list: *Provided*, That the The maximum amount the owner or other authorized person shall pay, excluding the interest, for the expenses incurred for the preparation of the list of those to be served required by §11A-3-19 of this code is \$300 \$500: *Provided however*, That the An attorney may only charge a fee for legal services actually performed and must certify that he or she conducted an examination to determine the list of those to be served required by §11A-3-19 of this code; and

(4) All additional statutory costs paid by the purchaser.

(b) Where the State Auditor has not received from the purchaser satisfactory proof of the expenses incurred in preparing the notice to redeem, and any written documentation used for the preparation of the list of those to be served with notice to redeem, including the certification required in subdivision (3), subsection (a) of this section, incident thereto, in the form of receipts or other evidence of legal expenses, incurred as provided in section nineteen of this article, the person redeeming shall pay the State Auditor the sum of \$300 \$500 plus interest at the rate of one percent per month from January 1 of the year following the sheriff's sale for disposition by the sheriff pursuant to the provisions of §11A-3-10, §11A-3-24, §11A-3-25, and §11A-3-32 of this code.

(c) The person redeeming shall be given a receipt for the payment and the written opinion or report used for the preparation of the list of those to be served with notice to redeem required by section nineteen of this article.

(d) Any person who, by reason of the fact that no provision is made for partial redemption of the tax lien on real estate purchased by an individual, is compelled in order to protect himself or herself to redeem the tax lien on all of the real estate when it belongs, in whole or in part, to some other person, shall have a lien on the interest of that other person for the amount paid to redeem the interest. He or she shall lose his or her right to the lien, however, unless within thirty days after payment he or she files with the clerk of the county commission his or her claim in writing against the owner of the interest, together with the receipt provided in this section. The clerk shall docket the claim on the judgment lien docket in his or her office and properly index the claim. The lien may be enforced as other judgment liens are enforced.

(e) Before a tax deed is issued, the county clerk may accept, on behalf of the State Auditor, the payment necessary to redeem any real estate encumbered with a tax lien and write a receipt. The amount of the payment necessary to redeem any real estate encumbered with a tax lien shall be provided by the State Auditor and the State Auditor shall update the required payments plus interest at least monthly.

(f) On or before the tenth day of each month, the county clerk shall deliver to the State Auditor the redemption money paid and the name and address of the person who redeemed the property on a form prescribed by the State Auditor.

**§11A-3-25. Distribution of surplus to purchaser.**

(a) Where the land has been redeemed in the manner set forth in §11A-3-23 of this code, and the State Auditor has delivered the redemption money to the sheriff pursuant to §11A-3-24 of this code, the sheriff shall, upon receipt of the sum necessary to redeem, promptly notify the purchaser or his or her heirs or assigns, by mail, of the fact of the redemption and pay to the purchaser or his or her heirs or assigns the following amounts:

(1) From the sale of tax lien surplus fund provided by §11A-3-10 of this code:

(A) The surplus of money paid in excess of the amount of the taxes, interest and charges paid by the purchaser to the sheriff at the sale; and

(B) The amount of taxes, interest and charges paid by the purchaser on the date of the sale, plus the interest at the rate of one percent per month from the date of sale to the date of redemption;

(2) All other taxes on the land which have since been paid by the purchaser or his or her heirs or assigns, with interest at the rate of one percent per month from the date of payment to the date of redemption;

(3) Any additional reasonable expenses that the purchaser may have incurred from January 1 of the year following the sheriff's sale to the date of redemption for the preparation of the list of those to be served with notice to redeem and any written documentation used for the preparation of the list, in accordance with §11A-3-19 of this code, with interest at the rate of one percent per month from the date of payment, but the amount which shall be paid, excluding the interest, for the expenses incurred for the preparation of the list of those to be served with notice to redeem required by §11A-3-19 of this code shall not exceed the amount actually incurred by the purchaser or \$300 ~~\$500~~, whichever is less: *Provided*, That the attorney may only charge a fee for legal services actually performed and must certify that he or she conducted an examination to determine the list of those to be served required by §11A-3-19 of this code; and

(4) All additional statutory costs paid by the purchaser.

(b) (1) The notice shall include:

(A) A copy of the redemption certificate issued by the State Auditor;

(B) An itemized statement of the redemption money to which the purchaser is entitled pursuant to the provisions of this section; and

(C) Where, at the time of the redemption, the State Auditor has not received from the purchaser satisfactory proof of the expenses incurred in preparing the list of those to be served with notice to redeem and any written documentation used for the preparation of the list in accordance with §11A-3-19 of this code, the State Auditor shall also include instructions to the purchaser as to how these expenses may be claimed.

(2) Subject to the limitations of this section, the purchaser is entitled to recover any expenses incurred in preparing the list of those to be served with notice to redeem and any written documentation used for the preparation of the list from January 1 of the year following the sheriff's sale to the date of the sale to the date of the redemption.

(c) Where, pursuant to §11A-3-23 of this code, the State Auditor has not received from the purchaser satisfactory proof of the expenses incurred in preparing the list of those to be served with notice to redeem, including written documentation used for preparation of the list, in the form of receipts or other evidence within thirty days from the date of notification by the State Auditor, the sheriff shall refund the amount to the person redeeming and the purchaser is barred from any claim. Where, pursuant to that section, the State Auditor has received from the person redeeming and therefore delivered to the sheriff the sum of \$300 ~~\$500~~ plus interest at the rate of one percent per month from January 1 of the year following the sheriff's sale to the date of the sale to the date of redemption, and the purchaser provides the sheriff within thirty days from the date of notification satisfactory proof of the expenses, and the amount of the expenses is less than the amount paid by the person redeeming, the sheriff shall refund the difference to the person redeeming.

**§11A-3-36. Operating fund for land department in Auditor's office.**

(a) The Auditor shall establish a special operating fund for the land department in his or her office. He or she shall pay into such fund all redemption fees, all publication or other charges collected by him or her, if such charges were paid by or were payable to him or her, the unclaimed surplus proceeds received by him or her from the sale of delinquent and other lands pursuant to this article, and all payments made to him or her under the provisions of §11A-3-64 and §11A-3-65 of this code, except such part thereof as represents state taxes and interest. All payments so excepted shall be credited by the Auditor to the general school fund or other proper state fund.

(b) The operating fund shall be used by the Auditor in cases of deficits in land sales to pay any balances due to deputy commissioners for services rendered, and any unpaid costs including those for publication which have accrued or will accrue under the provisions of this article, to pay fees due surveyors under the provisions of §11A-3-43, and to pay for the operation and maintenance of the land department in his or her office. The surplus over and above the amount of \$100,000, remaining in the fund at the end of any fiscal year, shall be paid by the Auditor into the general school fund. The surplus over and above the amount of 20 percent of gross revenue from operation of the fund from the prior year, remaining at the end of any fiscal year, shall be paid by the Auditor into the General School Fund.

**§11A-3-52. What purchaser must do before he can secure a deed.**

(a) Within forty-five days following the approval of the sale by the auditor pursuant to section fifty-one of this article, the purchaser, his heirs or assigns, in order to secure a deed for the real estate purchased, shall:

(1) Prepare a list of those to be served with notice to redeem and request the deputy commissioner to prepare and serve the notice as provided in sections fifty-four and fifty-five of this article;

(2) When the real property subject to the tax lien was classified as Class II property, provide the deputy commissioner with the actual mailing address of the property that is subject to the tax lien or liens purchased; and

(3) Deposit, or offer to deposit, with the deputy commissioner a sum sufficient to cover the costs of preparing and serving the notice.

(b) If the purchaser fails to fulfill the requirements set forth in paragraph (a) of this section, the purchaser shall lose all the benefits of his or her purchase.

(c) After the requirements of paragraph (a) of this section have been satisfied, the deputy commissioner may then sell the property in the same manner as he sells lands which have been offered for sale at public auction but which remain unsold after such auction, as provided in section forty-eight of this article.

(d) If the person requesting preparation and service of the notice is an assignee of the purchaser, he shall, at the time of the request, file with the deputy commissioner a written assignment to him of the purchaser's rights, executed, acknowledged and certified in the manner required to make a valid deed.

(e) The purchaser shall have unlimited access to inspect and secure the real property upon the payment of final costs and fees required by this section. At this point, the prior owner has no right of access to the real property for any purpose.

**§11A-3-56. Redemption from purchase; receipt; list of redemptions; lien; lien of person redeeming interest of another; record.**

(a) After the sale of any tax lien on any real estate pursuant to 11A-3-45 or §11A-3-48 of this code, the owner of, or any other person who was entitled to pay the taxes on, any real estate for which a tax lien thereon was purchased by an individual, may redeem at any time before a tax deed is issued therefor. In order to redeem, he or she must pay to the deputy commissioner the following amounts:

(1) An amount equal to the taxes, interest and charges due on the date of the sale, with interest thereon at the rate of one percent per month from the date of sale;

(2) all All other taxes thereon, which have since been paid by the purchaser, his or her heirs or assigns, with interest at the rate of one percent per month from the date of payment;

(3) such Such additional expenses as may have been incurred in preparing the list of those to be served with notice to redeem, and for any licensed attorney's title examination incident thereto, with interest at the rate of one percent per month from the date of payment, but the amount he or she shall be required to pay, excluding said interest, for such expenses incurred for the preparation of the list of those to be served with notice to redeem required by §11A-3-52 of this code, and for any licensed attorney's title examination incident thereto, shall not exceed \$200 \$500. An attorney may only charge a fee for legal services actually performed and must certify that he or she conducted an examination to determine the list of those to be served required by §11A-3-52 of this code;

(4) all All additional statutory costs paid by the purchaser; and

(5) the The deputy commissioner's fee and commission as provided by §11A-3-66 of this code. Where the deputy commissioner has not received from the purchaser satisfactory proof of the expenses incurred in preparing the notice to redeem, and any examination of title or of any licensed attorney's title examination incident thereto, in the form of receipts or other evidence thereof, the person redeeming shall pay the deputy commissioner the sum of \$200 \$500 plus interest thereon at the rate of one percent per month from the date of the sale for disposition pursuant to the provisions of §11A-3-57, §11A-3-58, and §11A-3-64 of this code. Upon payment to the deputy commissioner of those and any other unpaid statutory charges required by this article, and of any unpaid expenses incurred by the sheriff, the Auditor and the deputy commissioner in the exercise of their duties pursuant to this article, the deputy commissioner shall prepare an original and five copies of the receipt for the payment and shall note on said receipts that the property has been redeemed. The original of such receipt shall be given to the person

redeeming. The deputy commissioner shall retain a copy of the receipt and forward one copy each to the sheriff, assessor, the Auditor and the clerk of the county commission. The clerk shall endorse on the receipt the fact and time of such filing and note the fact of redemption on his or her record of delinquent lands.

(b) Any person who, by reason of the fact that no provision is made for partial redemption of the tax lien on real estate purchased by an individual, is compelled in order to protect himself or herself to redeem the tax lien on all of such real estate when it belongs, in whole or in part, to some other person, shall have a lien on the interest of such other person for the amount paid to redeem such interest. He or she shall lose his or her right to the lien, however, unless within thirty days after payment he or she shall file with the clerk of the county commission his or her claim in writing against the owner of such interest, together with the receipt provided for in this section. The clerk shall docket the claim on the judgment lien docket in his or her office and properly index the same. Such lien may be enforced as other judgment liens are enforced.

**§11A-3-57. Notice of redemption to purchaser; moneys received by sheriff.**

(a) Upon payment of the sum necessary to redeem, the deputy commissioner shall promptly deliver to the sheriff the redemption money paid and the name and address of the purchaser, his or her heirs or assigns.

(b) Of the redemption money received by the sheriff pursuant to this section, the sheriff shall hold as surplus to be disposed of pursuant to §11A-3-64 of this code an amount thereof equal to the amount of taxes, interest and charges due on the date of the sale, plus the interest at the rate of one percent per month thereon from the date of sale to the date of redemption.

**§11A-3-58. Distribution to purchaser.**

(a) Where the land has been redeemed in the manner set forth in §11A-3-56 of this code, and the deputy commissioner has delivered the redemption money to the sheriff pursuant to §11A-3-57 of this code, the sheriff shall, upon delivery of the sum necessary to redeem, promptly notify the purchaser, his or her heirs or assigns, by mail, of the redemption and pay to the purchaser, his or her heirs or assigns, the following amounts:

(1) The amount paid to the deputy commissioner at the sale;

(2) all other taxes thereon, which have since been paid by the purchaser, his or her heirs or assigns, with interest at the rate of one percent per month from the date of payment;

(3) such additional expenses as may have been incurred in preparing the list of those to be served with notice to redeem, and for any licensed attorney's title examination incident thereto, with interest at the rate of one percent per month from the date of payment, but the amount which shall be paid, excluding said interest, for such expenses incurred for the preparation of the list of those to be served with notice to redeem required by §11A-3-52 of this code, and for any licensed attorney's title examination incident thereto, shall not exceed \$200 ~~\$500~~; and

(4) all additional statutory costs paid by the purchaser.

(b) (1) The notice shall include:

(A) A copy of the redemption certificate issued by the deputy commissioner;

(B) An itemized statement of the redemption money to which the purchaser is entitled pursuant to the provisions of this section; and

(C) Where, at the time of the redemption, the deputy commissioner has not received from the purchaser satisfactory proof of the expenses incurred in preparing the list of those to be served with notice to redeem and any or for any licensed attorney's title examination incident thereto, the deputy commissioner shall also include instructions to the purchaser as to how these expenses may be claimed.

(2) Subject to the limitations of this section, the purchaser is entitled to recover any expenses incurred in preparing the list of those to be served with notice to redeem and for any licensed attorney's title examination incident thereto from the date of the sale to the date of the redemption.

(c) Where, pursuant §11A-3-56 of this code, the deputy commissioner has not received from the purchaser satisfactory proof of the expenses incurred in preparing the notice to redeem, in the form of receipts or other evidence of legal expenses, and any or for any licensed attorney's title examination and rendered written documentation used for the preparation of the list incident thereto, in the form of receipts or other evidence thereof, and therefore received from the purchaser as required by said section and delivered to the sheriff the sum of \$200 \$500 plus interest thereon at the rate of one percent per month from the date of the sale to the date of redemption, and the sheriff has not received from the purchaser such satisfactory proof of such expenses within thirty days from the date of notification, the sheriff shall refund such amount to the person redeeming and the purchaser is barred from any claim thereto. Where, pursuant to §11A-3-56 of this code, the deputy commissioner has received from the purchaser and therefore delivered to the sheriff said sum of \$200 \$500 plus interest thereon at the rate of one percent per month from the date of the sale to the date of redemption, and the purchaser provides the sheriff within thirty days from the date of notification such satisfactory proof of such expenses, and the amount of such expenses is less than the amount paid by the person redeeming, the sheriff shall refund the difference to the person redeeming.

On motion of Senator Boso, the following amendment to the House of Delegates amendment to the bill (Eng. Com. Sub. for S. B. 405) was reported by the Clerk and adopted:

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

### **ARTICLE 3. SALE OF TAX LIENS AND NONENTERED, ESCHEATED AND WASTE AND UNAPPROPRIATED LANDS**

#### **§11A-3-23. Redemption from purchase; receipt; list of redemptions; lien; lien of person redeeming interest of another; record.**

(a) After the sale of any tax lien on any real estate pursuant to §11A-3-5 of this code, the owner of, or any other person who was entitled to pay the taxes on, any real estate for which a tax lien on the real estate was purchased by an individual may redeem at any time before a tax deed is issued for the real estate. In order to redeem, he or she shall pay to the State Auditor the following amounts:

(1) An amount equal to the taxes, interest and charges due on the date of the sale, with interest at the rate of one percent per month from the date of sale;

(2) All other taxes which have since been paid by the purchaser, his or her heirs or assigns, with interest at the rate of one percent per month from the date of payment;



(3) Any additional expenses incurred from January 1 of the year following the sheriff's sale to the date of redemption for the preparation of the list of those to be served with notice to redeem and any written documentation used for the preparation of the list, with interest at the rate of one percent per month from the date of payment for reasonable legal expenses incurred for the services of an attorney who has performed an examination of the title to the real estate and rendered written documentation used for the preparation of the list: ~~Provided, That the~~ The maximum amount the owner or other authorized person shall pay, excluding the interest, for the expenses incurred for the preparation of the list of those to be served required by §11A-3-19 of this code is ~~\$300~~ \$500: ~~Provided however, That the~~ An attorney may only charge a fee for legal services actually performed and must certify that he or she conducted an examination to determine the list of those to be served required by §11A-3-19 of this code; and

(4) All additional statutory costs paid by the purchaser.

(b) Where the State Auditor has not received from the purchaser satisfactory proof of the expenses incurred in preparing the notice to redeem, and any written documentation used for the preparation of the list of those to be served with notice to redeem, including the certification required in subdivision (3), subsection (a) of this section, incident thereto, in the form of receipts or other evidence of legal expenses, incurred as provided in section nineteen of this article, the person redeeming shall pay the State Auditor the sum of ~~\$300~~ \$500 plus interest at the rate of one percent per month from January 1 of the year following the sheriff's sale for disposition by the sheriff pursuant to the provisions of §11A-3-10, §11A-3-24, §11A-3-25, and §11A-3-32 of this code.

(c) The person redeeming shall be given a receipt for the payment and the written opinion or report used for the preparation of the list of those to be served with notice to redeem required by section nineteen of this article.

(d) Any person who, by reason of the fact that no provision is made for partial redemption of the tax lien on real estate purchased by an individual, is compelled in order to protect himself or herself to redeem the tax lien on all of the real estate when it belongs, in whole or in part, to some other person, shall have a lien on the interest of that other person for the amount paid to redeem the interest. He or she shall lose his or her right to the lien, however, unless within thirty days after payment he or she files with the clerk of the county commission his or her claim in writing against the owner of the interest, together with the receipt provided in this section. The clerk shall docket the claim on the judgment lien docket in his or her office and properly index the claim. The lien may be enforced as other judgment liens are enforced.

(e) Before a tax deed is issued, the county clerk may accept, on behalf of the State Auditor, the payment necessary to redeem any real estate encumbered with a tax lien and write a receipt. The amount of the payment necessary to redeem any real estate encumbered with a tax lien shall be provided by the State Auditor and the State Auditor shall update the required payments plus interest at least monthly.

(f) On or before the tenth day of each month, the county clerk shall deliver to the State Auditor the redemption money paid and the name and address of the person who redeemed the property on a form prescribed by the State Auditor.

#### **§11A-3-25. Distribution of surplus to purchaser.**

(a) Where the land has been redeemed in the manner set forth in §11A-3-23 of this code, and the State Auditor has delivered the redemption money to the sheriff pursuant to §11A-3-24 of this code, the sheriff shall, upon receipt of the sum necessary to redeem, promptly notify the purchaser

or his or her heirs or assigns, by mail, of the fact of the redemption and pay to the purchaser or his or her heirs or assigns the following amounts:

(1) From the sale of tax lien surplus fund provided by §11A-3-10 of this code:

(A) The surplus of money paid in excess of the amount of the taxes, interest and charges paid by the purchaser to the sheriff at the sale; and

(B) The amount of taxes, interest and charges paid by the purchaser on the date of the sale, plus the interest at the rate of one percent per month from the date of sale to the date of redemption;

(2) All other taxes on the land which have since been paid by the purchaser or his or her heirs or assigns, with interest at the rate of one percent per month from the date of payment to the date of redemption;

(3) Any additional reasonable expenses that the purchaser may have incurred from January 1 of the year following the sheriff's sale to the date of redemption for the preparation of the list of those to be served with notice to redeem and any written documentation used for the preparation of the list, in accordance with §11A-3-19 of this code, with interest at the rate of one percent per month from the date of payment, but the amount which shall be paid, excluding the interest, for the expenses incurred for the preparation of the list of those to be served with notice to redeem required by §11A-3-19 of this code shall not exceed the amount actually incurred by the purchaser or ~~\$300~~ \$500, whichever is less: *Provided*, That the attorney may only charge a fee for legal services actually performed and must certify that he or she conducted an examination to determine the list of those to be served required by §11A-3-19 of this code; and

(4) All additional statutory costs paid by the purchaser.

(b) (1) The notice shall include:

(A) A copy of the redemption certificate issued by the State Auditor;

(B) An itemized statement of the redemption money to which the purchaser is entitled pursuant to the provisions of this section; and

(C) Where, at the time of the redemption, the State Auditor has not received from the purchaser satisfactory proof of the expenses incurred in preparing the list of those to be served with notice to redeem and any written documentation used for the preparation of the list in accordance with §11A-3-19 of this code, the State Auditor shall also include instructions to the purchaser as to how these expenses may be claimed.

(2) Subject to the limitations of this section, the purchaser is entitled to recover any expenses incurred in preparing the list of those to be served with notice to redeem and any written documentation used for the preparation of the list from January 1 of the year following the sheriff's sale to the date of the sale to the date of the redemption.

(c) Where, pursuant to §11A-3-23 of this code, the State Auditor has not received from the purchaser satisfactory proof of the expenses incurred in preparing the list of those to be served with notice to redeem, including written documentation used for preparation of the list, in the form of receipts or other evidence within thirty days from the date of notification by the State Auditor, the sheriff shall refund the amount to the person redeeming and the purchaser is barred from any claim. Where, pursuant to that section, the State Auditor has received from the person redeeming

and therefore delivered to the sheriff the sum of ~~\$300~~ \$500 plus interest at the rate of one percent per month from January 1 of the year following the sheriff's sale to the date of the sale to the date of redemption, and the purchaser provides the sheriff within thirty days from the date of notification satisfactory proof of the expenses, and the amount of the expenses is less than the amount paid by the person redeeming, the sheriff shall refund the difference to the person redeeming.

**§11A-3-36. Operating fund for land department in Auditor's office.**

(a) The Auditor shall establish a special operating fund for the land department in his or her office. He or she shall pay into such fund all redemption fees, all publication or other charges collected by him or her, if such charges were paid by or were payable to him or her, the unclaimed surplus proceeds received by him or her from the sale of delinquent and other lands pursuant to this article, and all payments made to him or her under the provisions of §11A-3-64 and §11A-3-65 of this code, except such part thereof as represents state taxes and interest. All payments so excepted shall be credited by the Auditor to the general school fund or other proper state fund.

(b) The operating fund shall be used by the Auditor in cases of deficits in land sales to pay any balances due to deputy commissioners for services rendered, and any unpaid costs including those for publication which have accrued or will accrue under the provisions of this article, to pay fees due surveyors under the provisions of §11A-3-43, and to pay for the operation and maintenance of the land department in his or her office. ~~The surplus over and above the amount of \$100,000, remaining in the fund at the end of any fiscal year, shall be paid by the Auditor into the general school fund. The surplus over and above the amount of 20 percent of gross revenue from operation of the fund from the prior year, remaining at the end of any fiscal year, shall be paid by the Auditor into the General School Fund.~~

**§11A-3-56. Redemption from purchase; receipt; list of redemptions; lien; lien of person redeeming interest of another; record.**

(a) After the sale of any tax lien on any real estate pursuant to 11A-3-45 or §11A-3-48 of this code, the owner of, or any other person who was entitled to pay the taxes on, any real estate for which a tax lien thereon was purchased by an individual, may redeem at any time before a tax deed is issued therefor. In order to redeem, he or she must pay to the deputy commissioner the following amounts:

(1) An amount equal to the taxes, interest and charges due on the date of the sale, with interest thereon at the rate of one percent per month from the date of sale;

(2) ~~all~~ All other taxes thereon, which have since been paid by the purchaser, his or her heirs or assigns, with interest at the rate of one percent per month from the date of payment;

(3) ~~such~~ Such additional expenses as may have been incurred in preparing the list of those to be served with notice to redeem, and for any licensed attorney's title examination incident thereto, with interest at the rate of one percent per month from the date of payment, but the amount he or she shall be required to pay, excluding said interest, for such expenses incurred for the preparation of the list of those to be served with notice to redeem required by §11A-3-52 of this code, and for any licensed attorney's title examination incident thereto, shall not exceed \$200 \$500. An attorney may only charge a fee for legal services actually performed and must certify that he or she conducted an examination to determine the list of those to be served required by §11A-3-52 of this code;

(4) ~~all~~ All additional statutory costs paid by the purchaser; and

(5) ~~the~~ The deputy commissioner's fee and commission as provided by §11A-3-66 of this code. Where the deputy commissioner has not received from the purchaser satisfactory proof of the expenses incurred in preparing the notice to redeem, ~~and any examination of title or of any licensed attorney's title examination~~ incident thereto, in the form of receipts or other evidence thereof, the person redeeming shall pay the deputy commissioner the sum of ~~\$200~~ \$500 plus interest thereon at the rate of one percent per month from the date of the sale for disposition pursuant to the provisions of §11A-3-57, §11A-3-58, and §11A-3-64 of this code. Upon payment to the deputy commissioner of those and any other unpaid statutory charges required by this article, and of any unpaid expenses incurred by the sheriff, the Auditor and the deputy commissioner in the exercise of their duties pursuant to this article, the deputy commissioner shall prepare an original and five copies of the receipt for the payment and shall note on said receipts that the property has been redeemed. The original of such receipt shall be given to the person redeeming. The deputy commissioner shall retain a copy of the receipt and forward one copy each to the sheriff, assessor, the Auditor and the clerk of the county commission. The clerk shall endorse on the receipt the fact and time of such filing and note the fact of redemption on his or her record of delinquent lands.

(b) Any person who, by reason of the fact that no provision is made for partial redemption of the tax lien on real estate purchased by an individual, is compelled in order to protect himself or herself to redeem the tax lien on all of such real estate when it belongs, in whole or in part, to some other person, shall have a lien on the interest of such other person for the amount paid to redeem such interest. He or she shall lose his or her right to the lien, however, unless within thirty days after payment he or she shall file with the clerk of the county commission his or her claim in writing against the owner of such interest, together with the receipt provided for in this section. The clerk shall docket the claim on the judgment lien docket in his or her office and properly index the same. Such lien may be enforced as other judgment liens are enforced.

#### **§11A-3-57. Notice of redemption to purchaser; moneys received by sheriff.**

(a) Upon payment of the sum necessary to redeem, the deputy commissioner shall promptly deliver to the sheriff the redemption money paid and the name and address of the purchaser, his or her heirs or assigns.

(b) Of the redemption money received by the sheriff pursuant to this section, the sheriff shall hold as surplus to be disposed of pursuant to §11A-3-64 of this code an amount thereof equal to the amount of taxes, interest and charges due on the date of the sale, plus the interest at the rate of one percent per month thereon from the date of sale to the date of redemption.

#### **§11A-3-58. Distribution to purchaser.**

(a) Where the land has been redeemed in the manner set forth in §11A-3-56 of this code, and the deputy commissioner has delivered the redemption money to the sheriff pursuant to §11A-3-57 of this code, the sheriff shall, upon delivery of the sum necessary to redeem, promptly notify the purchaser, his or her heirs or assigns, by mail, of the redemption and pay to the purchaser, his or her heirs or assigns, the following amounts:

(1) The amount paid to the deputy commissioner at the sale;

(2) all other taxes thereon, which have since been paid by the purchaser, his or her heirs or assigns, with interest at the rate of one percent per month from the date of payment;

(3) such additional expenses as may have been incurred in preparing the list of those to be served with notice to redeem, and for any licensed attorney's title examination incident thereto,

with interest at the rate of one percent per month from the date of payment, but the amount which shall be paid, excluding said interest, for such expenses incurred for the preparation of the list of those to be served with notice to redeem required by §11A-3-52 of this code, and for any licensed attorney's title examination incident thereto, shall not exceed ~~\$200~~ \$500; and

(4) all additional statutory costs paid by the purchaser.

(b) (1) The notice shall include:

(A) A copy of the redemption certificate issued by the deputy commissioner;

(B) An itemized statement of the redemption money to which the purchaser is entitled pursuant to the provisions of this section; and

(C) Where, at the time of the redemption, the deputy commissioner has not received from the purchaser satisfactory proof of the expenses incurred in preparing the list of those to be served with notice to redeem ~~and any or for any licensed attorney's title examination incident thereto~~, the deputy commissioner shall also include instructions to the purchaser as to how these expenses may be claimed.

(2) Subject to the limitations of this section, the purchaser is entitled to recover any expenses incurred in preparing the list of those to be served with notice to redeem and for any licensed attorney's title examination incident thereto from the date of the sale to the date of the redemption.

(c) Where, pursuant §11A-3-56 of this code, the deputy commissioner has not received from the purchaser satisfactory proof of the expenses incurred in preparing the notice to redeem, in the form of receipts or other evidence of legal expenses, and any or for any licensed attorney's title examination and rendered written documentation used for the preparation of the list incident thereto, in the form of receipts or other evidence thereof, and therefore received from the purchaser as required by said section and delivered to the sheriff the sum of ~~\$200~~ \$500 plus interest thereon at the rate of one percent per month from the date of the sale to the date of redemption, and the sheriff has not received from the purchaser such satisfactory proof of such expenses within thirty days from the date of notification, the sheriff shall refund such amount to the person redeeming and the purchaser is barred from any claim thereto. Where, pursuant to §11A-3-56 of this code, the deputy commissioner has received from the purchaser and therefore delivered to the sheriff said sum of ~~\$200~~ \$500 plus interest thereon at the rate of one percent per month from the date of the sale to the date of redemption, and the purchaser provides the sheriff within thirty days from the date of notification such satisfactory proof of such expenses, and the amount of such expenses is less than the amount paid by the person redeeming, the sheriff shall refund the difference to the person redeeming.

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

Engrossed Committee Substitute for Senate Bill 405, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 405) passed with its title.

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

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

**Eng. Com. Sub. for Senate Bill 529**, Clarifying provisions of Nonintoxicating Beer Act.

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

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

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

#### **ARTICLE 16. NONINTOXICATING BEER.**

##### **§11-16-3. Definitions.**

For the purpose of this article, except where the context clearly requires differently:

(1) “Brand” means a nonintoxicating beer product manufactured, brewed, mixed, concocted, blended, bottled or otherwise produced, or imported, or transshipped by a brewer or manufacturer, the labels of which have been registered and approved by the commissioner, that is being offered for sale or sold in West Virginia by a distributor who has been appointed in a valid franchise agreement or a valid amendment thereto.

(2) “Brewer” or “manufacturer” means any person manufacturing, otherwise producing, importing, or transshipping nonintoxicating beer or nonintoxicating craft beer for sale at wholesale to any licensed distributor. Brewer or manufacturer may be used interchangeably throughout this article. A brewer may obtain only one brewer’s license for its nonintoxicating beer or nonintoxicating craft beer.

(3) “Brewpub” means a place of manufacture of nonintoxicating beer or nonintoxicating craft beer owned by a resident brewer, subject to federal and state regulations and guidelines, a portion of which premises are is designated for retail sales of nonintoxicating beer or nonintoxicating craft beer by the resident brewer owning the brewpub.

(4) “Class A retail license” means a retail license permitting the retail sale of liquor at a freestanding liquor retail outlet licensed pursuant to chapter 60 of this code.

(5) “Class B retail license” means a retail license permitting the retail sale of liquor at a mixed retail liquor outlet licensed pursuant to chapter 60 of this code.

(6) “Commissioner” means the West Virginia Alcohol Beverage Control Administration Commissioner.

(7) "Distributor" means and includes any person jobbing or distributing nonintoxicating beer or nonintoxicating craft beer to retailers at wholesale and whose warehouse and chief place of business shall be within this state. For purposes of a distributor only, the term "person" means and includes an individual, firm, trust, partnership, limited partnership, limited liability company, association or corporation. Any trust licensed as a distributor or any trust that is an owner of a distributor licensee, and the trustee or other persons in active control of the activities of the trust relating to the distributor license, is liable for acts of the trust or its beneficiaries relating to the distributor license that are unlawful acts or violations of §11-11-1 *et seq.* of this code notwithstanding the liability of trustees in §44D-10-1 *et seq.* of this code.

(8) "Franchise agreement" means the written agreement between a brewer and a distributor that is identical as to terms and conditions between the brewer and all its distributors, which agreement has been approved by the commissioner. The franchise agreement binds the parties so that a distributor, appointed by a brewer, may distribute all of the brewer's nonintoxicating beer products, brands or family of brands imported and offered for sale in West Virginia, including, but not limited to, existing brands, line extensions, and new brands all in the brewer's assigned territory for the distributor. All brands and line extensions being imported or offered for sale in West Virginia must be listed by the brewer in the franchise agreement or a written amendment to the franchise agreement. A franchise agreement may be amended by mutual written agreement of the parties as approved by the commissioner with identical terms and conditions for a brewer and all of its distributors. Any approved amendment to the franchise agreement becomes a part of the franchise agreement. A brewer and a distributor may mutually agree in writing to cancel a franchise agreement. A distributor terminated by a brewer as provided in this article and the promulgated rules no longer has a valid franchise agreement. If a brewer has reached an agreement to cancel a distributor or has terminated a distributor, then a brewer may appoint a successor distributor who accedes to all the rights of the cancelled or terminated distributor.

(9) "Franchise distributor network" means the distributors who have entered into a binding written franchise agreement, identical as to terms and conditions, to distribute nonintoxicating beer products, brands, and line extensions in an assigned territory for a brewer. A brewer may only have one franchise distributor network: *Provided*, That a brewer that has acquired the manufacturing, bottling, or other production rights for the sale of nonintoxicating beer at wholesale from a selling brewer as specified in §11-16-21(a)(2) of this code shall continue to maintain and be bound by the selling brewer's separate franchise distributor's network for any of its existing brands, line extensions, and new brands.

(10) "Freestanding liquor retail outlet" means a retail outlet that sells only liquor, wine, beer, nonintoxicating beer, and other alcohol-related products, as defined pursuant to §60-3A-4 of this code.

(11) "Growler" means a container or jug that is made of glass, ceramic, metal, or other material approved by the commissioner, that may be no larger than only 32 or 64 128 fluid ounces in size and must be capable of being securely sealed. The growler is utilized by an authorized licensee for purposes of off-premise sales only of nonintoxicating beer or nonintoxicating craft beer for personal consumption not on a licensed premise and not for resale. Notwithstanding any other provision of this code to the contrary, a securely sealed growler is not an open container under federal, state, and local law. A growler with a broken seal is an open container under federal, state, and local law unless it is located in an area of the motor vehicle physically separated from the passenger compartment. The secure sealing of a growler requires the use of a tamper-resistant seal, security tape, or other material, as approved by the commissioner, placed on or over the growler's opening, which seal, security tape or other material is clearly marked with the date of the secure sealing by the authorized licensee who is selling the growler.

(12) "Line extension" means any nonintoxicating beer product that is an extension of brand or family of brands that is labeled, branded, advertised, marketed, promoted, or offered for sale with the intent or purpose of being manufactured, imported, associated, contracted, affiliated, or otherwise related to a brewer's existing brand through the use of a brewer, its subsidiaries, parent entities, contracted entities, affiliated entities, or other related entities. In determining whether a nonintoxicating beer product is a line extension, the commissioner may consider, but is not limited to, the following factors: Name or partial name; trade name or partial trade name; logos; copyrights; trademarks or trade design; product codes; advertising promotion; or pricing.

(13) "Nonintoxicating beer" means all natural cereal malt beverages or products of the brewing industry commonly referred to as beer, lager beer, ale and all other mixtures and preparations produced by the brewing industry, including malt coolers and nonintoxicating craft beers with no caffeine infusion or any additives masking or altering the alcohol effect containing at least one half of one percent alcohol by volume, but not more than nine and six-tenths 11.9 percent of alcohol by weight, or 12 15 percent alcohol by volume, whichever is greater. The word "liquor" as used in chapter 60 of this code does not include or embrace nonintoxicating beer nor any of the beverages, products, mixtures, or preparations included within this definition.

(14) "Nonintoxicating beer floor plan extension" means a temporary one-day extension of an existing Class A licensee's floor plan to a contiguous, adjoining and bounded area, such as a parking lot or outdoor area, which shall for the temporary period encompass the licensee's licensed premises; further such license shall be endorsed or approved by the county or municipality where the license is located; such license shall be in good standing with the commissioner, and further such temporary event shall cease on or before midnight of the approved temporary one-day event.

(15) "Nonintoxicating beer sampling event" means an event approved by the commissioner for a Class A retail licensee to hold a nonintoxicating beer sampling authorized pursuant to §11-16-11a of this code.

(15) (16) "Nonintoxicating beer sampling day" means any days and hours of the week where Class A retail licensees may sell nonintoxicating beer pursuant to §11-16-11a and §11-16-18(a)(1) of this code, and is approved, in writing, by the commissioner to conduct a nonintoxicating beer sampling event.

(16) (17) "Nonintoxicating craft beer" means any beverage obtained by the natural fermentation of barley, malt, hops, or any other similar product or substitute and containing not less than one half of one percent by volume and not more than 12 15 percent alcohol by volume or nine and six-tenths 11.9 percent alcohol by weight with no caffeine infusion or any additives masking or altering the alcohol effect.

(17) (18) "Original container" means the container used by a resident brewer or brewer at the place of manufacturing, bottling, or otherwise producing nonintoxicating beer or nonintoxicating craft beer for sale at wholesale.

(18) (19) "Person" means and includes an individual, firm, partnership, limited partnership, limited liability company, association, or corporation.

(19) (20) "Private club" means a license issued pursuant to §60-7-1 *et seq.* of this code.

(20) (21) "Resident brewer" means any brewer or manufacturer of nonintoxicating beer or nonintoxicating craft beer whose principal place of business and manufacture is located in the State of West Virginia and which does not brew or manufacture more than 25,000 barrels of



nonintoxicating beer or nonintoxicating craft beer annually, and does not self-distribute more than 10,000 barrels thereof in the State of West Virginia annually.

(21) ~~(22)~~ “Retailer” means any person selling, serving, or otherwise dispensing nonintoxicating beer and all products regulated by this article, including, but not limited to, malt coolers at his or her established and licensed place of business.

(22) ~~(23)~~ “Tax Commissioner” means the Tax Commissioner of the State of West Virginia or the commissioner’s designee.

**§11-16-5. State license required; alcoholic content of beer manufactured for sale without state.**

No person shall manufacture, tender, sell, possess for sale, transport, or distribute nonintoxicating beer except in accordance with the provisions of this article, and after first obtaining a state license therefor, as provided in this article. Nothing contained in this article shall prohibit any brewer located within the state from manufacturing or transporting for sale without the state beer of an alcoholic strength greater than that of nonintoxicating beer

**§11-16-6a. Brewer and resident brewer license to manufacture, sell, and provide complimentary samples.**

(a) *Legislative findings.* — The Legislature hereby finds that it is in the public interest to regulate, control, and support the brewing, manufacturing, distribution, sale, consumption, transportation, and storage of nonintoxicating beer and nonintoxicating craft beer and its industry in this state in order to protect the public health, welfare, and safety of the citizens of this state, and promote hospitality and tourism. Therefore, this section authorizes a licensed brewer or resident brewer with its principal place of business and manufacture located in this state to have certain abilities in order to promote the sale of nonintoxicating beer and nonintoxicating craft beer manufactured in this state for the benefit of the citizens of this state, the state’s growing brewing industry, and the state’s hospitality and tourism industry, all of which are vital components for the state’s economy.

(b) *Sales of nonintoxicating beer.* — A licensed brewer or resident brewer with its principal place of business and manufacture located in the State of West Virginia may offer only nonintoxicating beer or nonintoxicating craft beer manufactured by the licensed brewer or resident brewer for retail sale to customers from the brewer’s or resident brewer’s licensed premises for consumption off of the licensed premises only in the form of kegs, bottles, cans, or growlers for personal consumption and not for resale. A licensed brewer or resident brewer may not sell, give or furnish nonintoxicating beer for consumption on the premises of the principal place of business and manufacture located in the State of West Virginia, except for the limited purpose of complimentary samples as permitted in subsection (c) of this section.

(c) *Complimentary samples.* — A licensed brewer or resident brewer with its principal place of business and manufacture located in the State of West Virginia may only offer complimentary samples of nonintoxicating beer or nonintoxicating craft beer brewed at the brewer’s or resident brewer’s principal place of business and manufacture located in the State of West Virginia. The complimentary samples may be no greater than two ounces per sample per patron, and a sampling shall not exceed 10 complimentary two-ounce samples per patron per day. A licensed brewer or resident brewer providing complimentary samples shall provide complimentary food items to the patron consuming the complimentary samples; and prior to any sampling, verify, using proper identification, that the patron sampling is 21 years of age or over and that the patron is not visibly intoxicated.

(d) *Retail sales.* — Every licensed brewer or resident brewer under this section shall comply with all the provisions of this article as applicable to nonintoxicating beer retailers when conducting sales of nonintoxicating beer or nonintoxicating craft beer and shall be subject to all applicable requirements and penalties in this article.

(e) *Payment of taxes and fees.* — A licensed brewer or resident brewer under this section shall pay all taxes and fees required of licensed nonintoxicating beer retailers, in addition to any other taxes and fees required, and meet applicable licensing provisions as required by this chapter and by rule of the commissioner.

(f) *Advertising.* — A licensed brewer or resident brewer under this section may advertise a particular brand or brands of nonintoxicating beer or nonintoxicating craft beer produced by the licensed brewer or resident brewer and the price of the nonintoxicating beer or nonintoxicating craft beer subject to state and federal requirements or restrictions. The advertisement may not encourage intemperance.

(g) *Growler requirements.* — A licensed brewer or resident brewer under this section must fill a growler and patrons are not permitted to access the secure area or fill a growler. A licensed brewer or resident brewer under this section must sanitize, fill, securely seal, and label any growler prior to its sale. A licensed brewer or resident brewer under this section may only offer for retail sale up to two 64-ounce, or four 32-ounce, growlers no larger than 128 fluid ounces of nonintoxicating beer or nonintoxicating craft beer manufactured by the licensed brewer or resident brewer per customer per day for personal consumption off of the licensed premises and not for resale. A licensed brewer or resident brewer under this section may refill a growler subject to the requirements of this section. A licensed brewer or resident brewer shall visually inspect any growler before filling or refilling it. A licensed brewer or resident brewer may not fill or refill any growler that appears to be cracked, broken, unsafe or otherwise unfit to serve as a sealed beverage container.

(h) *Growler labeling.* — A licensed brewer or resident brewer under this section selling growlers shall affix a conspicuous label on all sold and securely sealed growlers listing the name of the licensee selling the growler, the brand of the nonintoxicating beer or nonintoxicating craft beer in the growler, the alcohol content by volume of the nonintoxicating beer or nonintoxicating craft beer in the growler and the date the growler was filled or refilled, and, further, all labeling on the growler shall be consistent with all federal labeling and warning requirements.

(i) *Growler sanitation.* — A licensed brewer or resident brewer authorized under this section shall clean and sanitize all growlers he or she fills or refills in accordance with all state and county health requirements prior to its sealing. In addition, the licensed brewer or resident brewer shall sanitize, in accordance with all state and county health requirements, all taps, tap lines, pipe lines, barrel tubes and any other related equipment used to fill or refill growlers. Failure to comply with this subsection may result in penalties under §11-16-23 of this code.

(j) *Fee.* — There is no additional fee for a licensed brewer or resident brewer authorized under this section to sell growlers.

(k) *Limitations on licensees.* — To be authorized under this section, a licensed brewer or resident brewer may not produce more than 25,000 barrels per calendar year at the brewer's or resident brewer's principal place of business and manufacture located in the State of West Virginia. No more than one brewer or resident brewer license may be issued to a single person or entity and no person may hold both a brewer and a resident brewer license. A licensed brewer or resident brewer under this section may only conduct tours, give complimentary samples and sell growlers during the hours of operation set forth in §11-16-18(a)(1) of this code. A licensed

brewer or resident brewer authorized under this section shall be subject to the applicable penalties under §11-16-23 of this code for violations of this section.

(l) *Rules.* — The commissioner, in consultation with the Bureau for Public Health concerning sanitation, is authorized to propose rules for legislative approval, pursuant to §29A-3-1 *et seq.* of this code, to implement this section.

**§11-16-6b. Brewpub, Class A retail dealer, Class B retail dealer, private club, Class A retail licensee, and Class B retail licensee's authority to sell growlers.**

(a) *Legislative findings.* — The Legislature hereby finds that it is in the public interest to regulate, control and support the brewing, manufacturing, distribution, sale, consumption, transportation, and storage of nonintoxicating beer and nonintoxicating craft beer and its industry in this state in order to protect the public health, welfare, and safety of the citizens of this state and promote hospitality and tourism. Therefore, this section authorizes a licensed brewpub, Class A retail dealer, Class B retail dealer, private club, Class A retail licensee, or Class B retail licensee to have certain abilities in order to promote the sale of nonintoxicating beer and nonintoxicating craft beer manufactured in this state for the benefit of the citizens of this state, the state's growing brewing industry, and the state's hospitality and tourism industry, all of which are vital components for the state's economy.

(b) *Sales of nonintoxicating beer.* — A licensed brewpub, Class A retail dealer, Class B retail dealer, private club, Class A retail licensee, or Class B retail licensee who pays the fee in subsection (i) of this section and meets the requirements of this section may offer nonintoxicating beer or nonintoxicating craft beer for retail sale to patrons from their licensed premises in a growler for personal consumption only off of the licensed premises and not for resale. Prior to the sale, the licensee shall verify, using proper identification, that any patron purchasing nonintoxicating beer or nonintoxicating craft beer is 21 years of age or over and that the patron is not visibly intoxicated. A licensee authorized under this section may not sell, give or furnish alcoholic liquors, including wine, for consumption off of its licensed premises, unless it is a private club licensed to sell sealed wine for consumption off of the licensed premises and meets the requirements set out in §60-8-3(j) and §60-8-3(l) of this code, for the sale of wine, not liquor.

(c) *Retail sales.* — Every licensee authorized under this section shall comply with all the provisions of this article as applicable to nonintoxicating beer retailers when conducting sales of nonintoxicating beer or nonintoxicating craft beer and shall be subject to all applicable requirements and penalties in this article.

(d) *Payment of taxes and fees.* — A licensee authorized under this section shall pay all taxes and fees required of licensed nonintoxicating beer retailers, in addition to any other taxes and fees required, and meet applicable licensing provisions as required by this chapter and by rule of the commissioner.

(e) *Advertising.* — A licensee authorized under this section may advertise a particular brand or brands of nonintoxicating beer or nonintoxicating craft beer and the price of the nonintoxicating beer or nonintoxicating craft beer subject to state and federal requirements or restrictions. The advertisement may not encourage intemperance.

(f) *Growler requirements.* — A licensee authorized under this section must fill a growler and patrons are not permitted to access the secure area or fill a growler. A licensee authorized under this section must sanitize, fill, securely seal, and label any growler prior to its sale. A licensee authorized under this section may only offer for retail sale up to two 64-ounce, or four 32-ounce, growlers no larger than 128 fluid ounces of nonintoxicating beer or nonintoxicating craft beer per

customer per day for personal consumption off of the licensed premises and not for resale. A licensee under this section may refill a growler subject to the requirements of this section. A licensee shall visually inspect any growler before filling or refilling it. A licensee may not fill or refill any growler that appears to be cracked, broken, unsafe, or otherwise unfit to serve as a sealed beverage container.

(g) *Growler labeling.* — A licensee authorized under this section selling growlers shall affix a conspicuous label on all sold and securely sealed growlers listing the name of the licensee selling the growler, the brand of the nonintoxicating beer or nonintoxicating craft beer in the growler, the alcohol content by volume of the nonintoxicating beer or nonintoxicating craft beer in the growler, and the date the growler was filled or refilled, and, further, all labeling on the growler shall be consistent with all federal labeling and warning requirements.

(h) *Growler sanitation.* — A licensed brewer or resident brewer authorized under this section shall clean and sanitize all growlers he or she fills or refills in accordance with all state and county health requirements prior to its sealing. In addition, the licensed brewer or resident brewer shall sanitize, in accordance with all state and county health requirements, all taps, tap lines, pipe lines, barrel tubes, and any other related equipment used to fill or refill growlers. Failure to comply with this subsection may result in penalties under §11-16-23 of this code.

(i) *Fee Fees.* — Commencing July 1, 2015, and by every July 1 thereafter, there is an annual \$100 nonrefundable fee for a licensee, except for a licensed brewpub, to sell growlers as provided by this section. The licensee must be in good standing with the state at the time of paying the fee.

(j) *Complimentary samples.* — A licensee authorized under this section may provide complimentary samples which may be no greater than one ounce per sample and a sampling shall not exceed three different nonintoxicating beer or nonintoxicating craft beer complimentary one-ounce samples per patron per day. A licensee authorized under this section providing complimentary samples shall prior to any sampling verify, using proper identification, that the patron sampling is 21 years of age or over and that the patron is not visibly intoxicated. All nonintoxicating beer and nonintoxicating craft beer utilized for sampling purposes must be purchased from the licensee's inventory.

(k) *Limitations on licensees.* — A licensee under this section may only sell growlers during the hours of operation set forth in §11-16-18(a)(1) of this code. Any licensee licensed under this section must maintain a secure area for the sale of nonintoxicating beer or nonintoxicating craft beer in a growler. The secure area must only be accessible by the licensee. Any licensee licensed under this section shall be subject to the applicable penalties under §11-16-23 of this code for violations of this section.

(k) (l) *Nonapplicability of certain statutes.* — Notwithstanding any other provision of this code to the contrary, licensees under this section are permitted to break the seal of the original container for the limited purpose of filling a growler or providing complimentary samples as provided in this section. Any unauthorized sale of nonintoxicating beer or nonintoxicating craft beer or any consumption not permitted on the licensee's licensed premises is subject to penalties under this article.

(l) (m) *Rules.* — The commissioner is authorized to propose rules for legislative approval, pursuant to §29A-3-1 *et seq.* of this code, to implement this section.

**§11-16-6c Class B retail dealer which is a grocery store, mobile application, or web-based sales privilege permit; fee.**

(a) A Class B retail dealer who is licensed to sell nonintoxicating beer or nonintoxicating craft beer and who operates a grocery store containing over \$100,000 of fresh produce and saleable food and food products fit for human consumption in a combination of displayed and stored inventory may apply for a Class B license privilege granting the licensee the ability to complete the sale of such nonintoxicating beer or nonintoxicating craft beer in the original sealed container for off-premises consumption to a person purchasing the nonintoxicating beer or nonintoxicating craft beer from a vehicle:

(1) If the vehicle is parked in a licensed parking area which is contiguous to the Class B licensee's licensed premises; or

(2) If the vehicle is parked in a licensed parking area which is within 500 feet of the Class B licensee.

(b) The parking area referenced in subsection (a) of this section shall be designated by signage solely for the use of persons who have previously ordered items including, but not limited to, nonintoxicating beer or nonintoxicating craft beer using a mobile application or web-based software program.

(c) No nonintoxicating beer or nonintoxicating craft beer may be loaded into a vehicle under this section unless the Class B licensee or such licensee's staff have verified that both the person placing the order, and, if different from the person placing the order, the person picking up the order are 21 years of age or older and not noticeably intoxicated; and

(d) To operate under this section, a Class B retail dealer licensee must be in good standing with the commissioner, apply, qualify, pay the Class B license privilege fee and obtain the permit for the Class B licensee privilege for nonintoxicating beer or nonintoxicating craft beer sales at a designated parking area. The Class B license privilege permit nonrefundable and non-prorated annual fee is \$250. For purposes of criminal enforcement of the provisions of this article, persons placing orders and picking up orders are deemed to be purchasers.

(e) The licensee shall be subject to all requirements, penalties and sanctions of this article.

#### **§11-16-8. Form of application for license; fee and bond; refusal of license.**

(a) A license may be issued by the commissioner to any person who submits an application, accompanied by a license fee and, where required, a bond, and states under oath:

(1) The name and residence of the applicant, the duration of such residency, that the applicant has been a resident of the state for a period of two years preceding the date of the application and that the applicant is 21 years of age. If the applicant is a firm, association, partnership, limited partnership, limited liability company, or corporation, the application shall include the residence of the members or officers for a period of two years preceding the date of such application. If a person, firm, partnership, limited partnership, limited liability company, association, corporation, or trust applies for a license as a distributor, such person, or in the case of a firm, partnership, limited partnership, limited liability company, association or trust, the members, officers, trustees or other persons in active control of the activities of the limited liability company, association or trust relating to the license, shall state under oath that each has been a bona fide resident of the state for four years preceding the date of such application. If the applicant is a trust or has a trust as an owner, the trustees or other persons in active control of the activities of the trust relating to the license shall provide a certification of trust as described in §44D-10-1013 of this code. This certification of trust shall include the excerpts described in §44D-10-1013(e), of this code and shall further state, under oath, the names, addresses, Social Security numbers and birth dates of

the beneficiaries of the trust and certify that the trustee and beneficiaries are 21 years of age or older. If a beneficiary is not 21 years of age, the certification of trust must state that such beneficiary's interest in the trust is represented by a trustee, parent, or legal guardian who is 21 years of age and who will direct all actions on behalf of such beneficiary related to the trust with respect to the distributor until the beneficiary is 21 years of age. Any beneficiary who is not 21 years of age or older shall have his or her trustee, parent, or legal guardian include in the certification of trust and state under oath his or her name, address, Social Security number and birth date;

(2) The place of birth of applicant, that he or she is a citizen of the United States and of good moral character and, if a naturalized citizen, when and where naturalized. If the applicant is a corporation organized or authorized to do business under the laws of the state, the application must state when and where incorporated, the name and address of each officer, and that each officer is a citizen of the United States and a person of good moral character. If the applicant is a firm, association, limited liability company, partnership, limited partnership, trust or has a trust as an owner, the application shall provide the place of birth of each member of the firm, association, limited liability company, partnership or limited partnership and of the trustees, beneficiaries or other persons in active control of the activities of the trust relating to the license and that each member or trustee, beneficiary or other persons in active control of the activities of the trust relating to the license is a citizen of the United States, and if a naturalized citizen, when and where naturalized, each of whom must qualify and sign the application. The requirements as to residence do not apply to the officers of a corporation applying for a retailer's license but the officers, agent, or employee who manages and is in charge of the licensed premises shall possess all of the qualifications required of an individual applicant for a retailer's license including the requirement as to residence;

(3) The particular place for which the license is desired and a detailed description thereof;

(4) The name of the owner of the building and, if the owner is not the applicant, that the applicant is the actual and bona fide lessee of the premises;

(5) That the place or building in which is proposed to do business conforms to all applicable laws of health, fire and zoning regulations and is a safe and proper place or building not within 300 feet of a school or church measured from front door to front door, along the street or streets. This requirement does not apply to a Class B license or to a place occupied by a beer licensee so long as it is continuously so occupied. The prohibition against locating a proposed business in a place or building within 300 feet of a school does not apply to a college or university that has notified the commissioner, in writing, that it has no objection to the location of a proposed business in a place or building within 300 feet of the college or university;

(6) That the applicant is not incarcerated and has not during the five years preceding the date of said application been convicted of a felony;

(7) That the applicant is the only person in any manner pecuniarily interested in the business so asked to be licensed and that no other person is in any manner pecuniarily interested during the continuance of the license; and

(8) That the applicant has not during five years preceding the date of the application had a nonintoxicating beer license revoked.

(b) In the case of an applicant that is a trust or has a trust as an owner, a distributor license may be issued only upon submission by the trustees or other persons in active control of the activities of the trust relating to the distributor license of a true and correct copy of the written trust

instrument to the commissioner for his or her review. Notwithstanding any provision of law to the contrary, the copy of the written trust instrument submitted to the commissioner pursuant to this section is confidential and is not a public record and is not available for release pursuant to the West Virginia Freedom of Information Act codified in 29B-1-1 *et seq.* of this code.

(c) The provisions and requirements of subsection (a) of this section are mandatory prerequisites for the issuance and, if any applicant fails to qualify, the license shall be refused. In addition to the information furnished in any application, the commissioner may make such additional and independent investigation of each applicant and of the place to be occupied as necessary or advisable and, for this reason, all applications, with license fee and bond, must be filed thirty days prior to the beginning of any fiscal year. If the application is for an unexpired portion of a fiscal year, the issuance of license may be withheld for such reasonable time as necessary for investigation submitted with all true and correct information. For the purpose of conducting such independent investigation, the commissioner may withhold the granting or refusal to grant such license for a 30-day period or until the applicant has completed the conditions set forth in this section. If it shall appear that such applicant meets the requirements in the code and the rules, including, but not limited to, being a suitable person of good reputation and morals; having made no false statements or material misrepresentations; involving no hidden ownership; and having no persons with an undisclosed pecuniary interest contained in such application; and if there are no other omissions or failures by the applicant to complete the application, as determined by the commissioner, the commissioner shall issue a license authorizing the applicant to sell nonintoxicating beer or nonintoxicating craft beer.

(d) The commissioner may refuse a license to any applicant under the provisions of this article if the commissioner is of the opinion:

(1) That the applicant is not a suitable person to be licensed;

(2) That the place to be occupied by the applicant is not a suitable place or is within 300 feet of any school or church measured from front door to front door along the street or streets. This requirement does not apply to a Class B licensee or to a place now occupied by a beer licensee so long as it is continuously so occupied. The prohibition against locating any such place within 300 feet of a school does not apply to a college or university that has notified the commissioner, in writing, that it has no objection to the location of any such place within 300 feet; or

(3) That the license should not be issued for reason of conduct declared to be unlawful by this article.

**§11-16-9. Amount of license tax; Class A and Class B retail dealers; purchase and sale of nonintoxicating beer permitted; distributors; brewers; brewpubs.**

(a) All retail dealers, distributors, brewpubs, brewers and resident brewers of nonintoxicating beer and of nonintoxicating craft beer shall pay an annual fee to maintain an active license as required by this article. The license period begins on July 1 of each year and ends on June 30 of the following year. If the license is granted for a shorter period, then the license fee shall be computed semiannually in proportion to the remainder of the fiscal year: Provided, That if a licensee fails to complete a renewal application and make payment of its annual license fee in renewing its license on or before June 30 of any subsequent year, after initial application, then an additional \$150 reactivation fee shall be charged and paid by the licensee; the fee may not be prorated or refunded, prior to the processing of any renewal application and applicable full year annual license fee; and furthermore a licensee who continues to operate upon the expiration of its license is subject to all fines, penalties and sanctions available in §11-16-23 of this code, all as determined by the commissioner.

(b) The annual license fees are as follows:

(1) Retail dealers shall be divided into two classes: Class A and Class B.

(A) For a Class A retail dealer, the license fee is \$150 for each place of business; the license fee for social, fraternal or private clubs not operating for profit, and having been in continuous operation for two years or more immediately preceding the date of application, is \$150: *Provided*, That railroads operating in this state may dispense nonintoxicating beer upon payment of an annual license tax of \$10 for each dining, club or buffet car in which the beer is dispensed.

Class A licenses issued for railroad dining, club or buffet cars authorize the licensee to sell nonintoxicating beer at retail for consumption only on the licensed premises where sold. All other Class A licenses authorize the licensee to sell nonintoxicating beer at retail for consumption on or off the licensed premises.

(B) For a Class B retail dealer, the license fee, authorizing the sale of both chilled and unchilled beer, is \$150 for each place of business. A Class B license authorizes the licensee to sell nonintoxicating beer at retail in bottles, cans or other sealed containers only, and only for consumption off the licensed premises. A Class B retailer may sell to a patron, for personal use and not for resale, quantities of draught beer in original containers that are no larger in size than one-half barrel for off-premises consumption.

A Class B license may be issued only to the proprietor or owner of a grocery store. For the purpose of this article, the term "grocery store" means any retail establishment commonly known as a grocery store or delicatessen, and caterer or party supply store, where food or food products are sold for consumption off the premises, and includes a separate and segregated portion of any other retail store which is dedicated solely to the sale of food, food products and supplies for the table for consumption off the premises. Caterers or party supply stores are required to purchase the appropriate licenses from the Alcohol Beverage Control Administration.

(2) For a distributor, the license fee is \$1,000 for each place of business.

(3) For a brewer or a resident brewer with its principal place of business or manufacture located in this state and who produces:

(A) Twelve thousand five hundred barrels or less of nonintoxicating beer or nonintoxicating craft beer, the license fee is \$500 for each place of manufacture;

(B) Twelve thousand five hundred one barrels and up to 25,000 barrels of nonintoxicating beer or nonintoxicating craft beer, the license fee is \$1,000 for each place of manufacture;

(C) More than 25,001 barrels of nonintoxicating beer or nonintoxicating craft beer, the license fee is \$1,500 for each place of manufacture.

(4) For a brewer whose principal place of business or manufacture is not located in this state, the license fee is \$1,500. The brewer is exempt from the requirements set out in subsections (c), (d) and (e) of this section: *Provided*, That a brewer whose principal place of business or manufacture is not located in this state that produces less than 25,000 barrels of nonintoxicating beer or nonintoxicating craft beer may choose to apply, in writing, to the commissioner to be subject to the variable license fees of subdivision (3), subsection (b) of this section and the requirements set out in subsections (c), (d) and (e) of this section subject to investigation and approval by the commissioner as to brewer requirements.



(5) For a brewpub, the license fee is \$500 for each place of manufacture.

(c) As part of the application or renewal application and in order to determine a brewer or resident brewer's license fee pursuant to this section, a brewer or resident brewer shall provide the commissioner, on a form provided by the commissioner, with an estimate of the number of nonintoxicating beer or nonintoxicating craft beer barrels and gallons it will produce during the year based upon the production capacity of the brewer's or resident brewer's manufacturing facilities, and the prior year's production and sales volume of nonintoxicating beer or nonintoxicating craft beer.

(d) On or before July 15 of each year, every brewer or resident brewer who is granted a license shall file a final report, on a form provided by the commissioner, that is dated as of June 30 of each year, stating the actual volume of nonintoxicating beer or nonintoxicating craft beer in barrels and gallons produced at its principal place of business and manufacture during the prior year.

(e) If the actual total production of nonintoxicating beer or nonintoxicating craft beer by the brewer or resident brewer exceeded the brewer's or resident brewer's estimate that was filed with the application or renewal for a brewer's or resident brewer's license for that period, then the brewer or resident brewer shall include a remittance for the balance of the license fee pursuant to this section that would be required for the final, higher level of production.

(f) Any brewer or resident brewer failing to file the reports required in subsections (c) and (d) of this section, and who is not exempt from the reporting requirements, shall, at the discretion of the commissioner, be subject to the penalties set forth in §11-16-23 of this code.

(g) Notwithstanding subsections (a) and (b) of this section, the license fee per event for a nonintoxicating beer floor plan extension is \$100, and the fee may not be prorated or refunded, and must be accompanied with a license application, certification that the event meets certain requirements in the code and rules, and such other information as the commissioner may reasonably require, at least 15 days prior to the event, all as determined by the commissioner.

**§11-16-10. Brewer's license for foreign corporation; application; bond; contents of application; limitations; licensed representatives for brewers, resident brewers, and distributors; annual license fee; renewal; suspension; license fee for sales representatives; transportation permits; container label registration; and Beer License Operations Fund created; and implementation operations of fee.**

(a) A brewer's license shall be issued by the commissioner to a foreign corporation which submits an application therefor accompanied by the license fee hereinafter prescribed, the bond required by section nine of this article a certified copy of the certificate of authority issued by the Secretary of State authorizing such foreign corporation to transact business in the state, and a certified copy of its most recent corporation charter. Such application shall be verified and shall state:

- (1) The name of the corporation and the state under the laws of which it is incorporated;
- (2) The date of incorporation;
- (3) The address of the principal office of the corporation;
- (4) The names and respective addresses of the directors and officers of the corporation;
- (5) The date that such foreign corporation qualified to transact business in this state; and

(6) Such other information as the commissioner, by rule or regulation, may require.

(b) So long as the foreign corporation remains qualified to transact business in this state so that the Secretary of State can accept service of notice and process for such foreign corporation, then, notwithstanding any other provision of this article to the contrary, none of the officers and directors of such foreign corporation need be residents of this state.

(c) The license fee for a brewer's license for a foreign corporation selling any nonintoxicating beer product within this state, whether or not its principal place of business be located in this state, shall be \$1,500 per annum. The license period shall begin on July 1 of each year and end on June 30 of the following year, and if granted for a lesser period, the same shall be prorated semiannually in proportion to the remainder of the fiscal year.

(d) As of July 1, 2019, there is an annual nonrefundable and non-prorated operational fee for all brewers, resident brewers, Class A retail dealers, Class B retail dealers, and distributors of \$100 which shall be paid on or before July 1, 2019 and every July 1 thereafter. All fees collected by the commissioner pursuant to this subsection shall be deposited in a special revenue account in the State Treasury, hereby created, to be known as the Beer License Operations Fund. Moneys in the fund may only be expended by the commissioner for the administration of this article, and as appropriated by law.

(e) All sales representatives for engaged in the selling, marketing, merchandising, or the conducting of any other sales on behalf of any brewer, or manufacturer resident brewer or distributor of nonintoxicating beer shall be issued a permit license by the commissioner. The permit for each sales representative of or employed by a licensed brewer or manufacturer shall be \$50. A licensee is subject to the provisions of §11-16-23 of this code for violations of this article and the rules promulgated thereunder. It is a violation of the code and rules to operate without such license and is punishable by the penalties available under this article. The commissioner shall prescribe forms to complete such licensure.

(f) Any brewer, resident brewer, distributor or any person transporting nonintoxicating beer or nonintoxicating craft beer for resale, and not for personal use, in or through this state on behalf of such licensees or persons, or by contract or other means, who is operating in this state may only transport nonintoxicating beer or nonintoxicating craft beer available for resale, and not personal use, in or through this state. All vehicles transporting nonintoxicating beer or nonintoxicating craft beer shall be issued a nonintoxicating beer transportation permit. Transporting nonintoxicating beer or nonintoxicating craft beer for resale, and not for personal use, in or through this state without a nonintoxicating beer transportation permit is in violation of law and the penalties prescribed under §11-16-18 and §11-16-23 of this code are applicable for any violation. The commissioner shall prescribe forms to complete such permitting.

(g) Any brewer or resident brewer offering nonintoxicating beer or nonintoxicating craft beer for sale under this article shall register, prior to offering such beer for sale in the state, with the commissioner each nonintoxicating beer or nonintoxicating craft beer container label. No nonintoxicating beer or nonintoxicating craft beer brand may be sold under this article unless all of such nonintoxicating beer or nonintoxicating craft beer brand's container labels for the product intended for sale in the state have been registered and reviewed by the commissioner. Prior to registration of any nonintoxicating beer or nonintoxicating craft beer container labels, this review shall include, but not be limited to, a review of the alcohol content, corporate or product information, marketing and advertising so that the nonintoxicating beer or nonintoxicating craft beer container label is not intended to be marketed to persons less than 21 years of age. The commissioner shall remove all nonrenewed nonintoxicating beer or nonintoxicating craft beer container labels, and any licensee who sells nonintoxicating beer or nonintoxicating craft beer

with nonrenewed container labels shall be subject to the penalties under §11-16-23 of this code. Failure to register, obtain a review, and a certification for a nonintoxicating beer or nonintoxicating craft beer container label and failure to register such labels will subject the brewer or resident brewer to penalties under said section. The commissioner shall prescribe forms to complete such registration.

(e)(h) The licenses and permits issued under the provisions of this section shall be renewed annually upon application for renewal on a form prescribed by the commissioner and payment of the annual license fee.

(f)(i) If at any time such a foreign corporation is no longer qualified to transact business in this state, the Secretary of State shall notify the commissioner of such fact and the commissioner shall thereupon suspend the brewer's license issued to such foreign corporation until such time as such foreign corporation has again qualified to transact business in this state and has otherwise complied with the provisions of this section.

(g)(j) Notwithstanding any other provision of this article to the contrary, any corporation issued a brewer's license under the provisions of this article shall not engage in the business of a distributor or retailer as defined in this article.

**§11-16-11b. Special license for one-day charitable events; application; license subject to provisions of article; exception.**

(1) The commissioner may issue a special one-day license to be designated a Class S1 license for the retail sale of nonintoxicating beer and nonintoxicating craft beer to a duly-organized nonprofit corporation, limited liability entity, or an association having received federal tax exempt status allowing the sale and serving of nonintoxicating beer or nonintoxicating craft beer when raising money for artistic, athletic, charitable, educational, or religious purposes. The commissioner may not charge a fee to the applicant that meets requirements for licensure. The special license shall be issued for a term no longer than one day. No more than six licenses may be issued to any single licensee during any calendar year. The license application shall contain a copy of the documents showing approved federal tax-exempt status and other information required by the commissioner and shall be submitted to the commissioner at least 15 days prior to the event. Nonintoxicating beer served and sold during the event shall be purchased from a licensed distributor, or resident brewer, acting in the limited capacity of a distributor for its own products, that services the location where the festival, fair, or other event is occurring. All distributors and resident brewers in the area must be notified in writing by mail, facsimile or electronic mail of the event in advance and be presented with the opportunity to participate in the event. Licensed representatives of distributors, brewers, or resident brewers may attend the one-day event and discuss their products, but may not engage in the serving or selling of the nonintoxicating beer or nonintoxicating craft beer. A licensee licensed by this section may use bona fide employees or volunteers of the charitable entity to sell and serve nonintoxicating beer and nonintoxicating craft beer.

(2) A license issued under the provisions of this section and the licensee holding the license are subject to all other provisions of this article and the rules and orders of the commissioner relating to the special license: *Provided*, That the commissioner may by rule or order allow certain waivers or exceptions with respect to those provisions, rules, or orders as the circumstances of each event requires, including, without limitation, the right to revoke or suspend any license issued pursuant to this section prior to any notice or hearing notwithstanding the provisions of §11-16-24 of this code: *Provided, however*, That under no circumstances may the provisions §11-16-18(a)(1), §11-16-18(a)(2), or §11-16-18(a)(3) of this code, be waived or an exception granted with respect to those provisions.

**§11-16-12. When bond not required; bond of brewer, distributor and a Class A retail dealer; action on bond of retail dealer upon revocation of license; duty of prosecuting attorney.**

(a) In addition to furnishing the information required by this article, each brewer or distributor applying for a license under this article shall furnish, as prerequisite to a license, a bond with some solvent surety company as surety, to be approved by the commissioner, payable to the state of West Virginia, conditioned for the payment of any and all additional taxes accruing during the period of such license, and conditioned further for the faithful observance of the provisions of this article, the rules, regulations and orders promulgated pursuant thereto and of any other laws of the state of West Virginia generally relating to the sale, transportation, storage and distribution of nonintoxicating beer, which said bonds shall be forfeited to the state upon the revocation of the license of any such brewer or distributor. The amount of such bond in the case of a resident brewer or brewpub shall be not less than \$5,000 nor more than \$10,000 and in the case of a distributor, not less than \$2,000 nor more than \$5,000 for each place of business licensed and conducted within the state, the amount of such bond, between the minimum and maximum amounts, to be determined in the discretion of the commissioner. There shall be no bond for a brewer, resident brewer, distributor, Class S brewpub license, as the license privilege itself secures the payment of taxes and is subject to suspension and revocation for failure to pay said taxes. In the case of brewers shipping nonintoxicating beer into the state, any brewer must also furnish a bond in a penalty of not less than \$5,000 nor more than \$25,000 conditioned as hereinabove in this subsection provided and any bond furnished pursuant hereto shall be forfeited to the state in the full amount of said bond upon revocation of license of any such brewer or distributor. Such money received by the state shall be credited to the State Fund, General Revenue

(b) Each Class A retail dealer, in addition to furnishing the information required by this article, shall furnish, as prerequisite to obtaining a license, a bond with some solvent surety company as surety, to be approved by the commissioner, payable to the State of West Virginia, in the amount not less than \$500 nor more than \$1,000 within the discretion of the commissioner. All such bonds shall be conditioned for the faithful observance of the provisions of this article, the rules, regulations and orders promulgated pursuant thereto and of any other laws of the State of West Virginia generally relating to the distribution, sale and dispensing of nonintoxicating beer and shall be forfeited to the state in the full amount of said bond upon the revocation of the license of any such retail dealer. Such money received by the state shall be credited to the State Fund, General Revenue.

(c) Upon the revocation of the license of any Class A retail dealer by the commissioner or by any court of competent jurisdiction, the commissioner or the clerk of said court shall notify the prosecuting attorney of the county wherein such retail dealer's place of business is located, or the prosecuting attorney of the county wherein the licensee resides, of such revocation, and, upon receipt of said notice, it shall be the duty of such prosecuting attorney forthwith to institute appropriate proceedings for the collection of the full amount of said bond. Upon request of such prosecuting attorney, the commissioner shall deliver the bond to him. Willful refusal without just cause therefor by the prosecuting attorney to perform said duty hereby imposed shall subject him or her to removal from office by the circuit court of the county for which said prosecuting attorney was elected upon proper proceedings and proof in the manner provided by law.

**§11-16-17a. Commissioner to investigate, review, and approve or deny franchise agreements, labels, brands, and line extensions.**

(a) The commissioner shall investigate and review:

(1) All franchise agreements and any amendments to a franchise agreement to verify compliance with this article and the promulgated rules.

(2) The registration of all container labels for brands manufactured, imported or sold in West Virginia, as further specified in §11-16-10(g) of this code.

(3) The registration of all brands and line extensions with the commissioner that are the subject of a franchise agreement or an amendment to a franchise agreement.

(4) The appointment of all brands or line extensions to a distributor in a brewer's established franchise distributor network and to that distributor's assigned territory from the brewer.

(5) The appointment of all brands or line extensions acquired by a brewer as either an acquiring brewer, successor brewer and also any successor entities of a brewer, as specified in §11-16-21(a)(3) of this code, to the distributor in the selling brewer's established franchise distributor network and to that distributor's assigned territory.

(b) The commissioner's investigation and review under subsection (a) of this section may include, but is not limited to: the brewer, its subsidiaries, parent entities, contracted entities, affiliated entities, associated entities or any other related entities, the brewer's corporate structure, the nature of the relatedness of various entities, ownership, trade names or partial trade names, logos, copyrights, trademarks or trade design, product codes, marketing and advertising, promotion or pricing.

(c) The commissioner may approve or deny any item listed in subsection (a) of this section as determined by the commissioner in accordance with this article, the promulgated rules as the facts and circumstances dictate.

(d) Any brewer adversely affected by a denial as specified in subdivision (3) or (4), subsection (a) of this section, may request, in writing, a final written determination from the commissioner.

(e) Upon receipt of final determination as provided in subsection (d) of this section, a brewer may request an administrative hearing by filing a written petition and as otherwise required per §11-16-24 of this code and the rules promulgated by the commissioner. Upon filing a written petition, the brewer shall file a \$1,000 hearing deposit, via certified check or money order, to cover the costs of the hearing. Such certified check or money order shall be made payable to the commissioner. In any such hearing held by the request of a brewer, the burden of proof is on the brewer and the standard of review for the administrative hearing is by a preponderance of the evidence.

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

Engrossed Committee Substitute for Senate Bill 529, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 529) passed with its title.

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

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

**Eng. Senate Bill 635**, Relating generally to coal mining activities.

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

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

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

#### **CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.**

#### **ARTICLE 2A. OFFICE OF COALFIELD COMMUNITY DEVELOPMENT.**

#### **§5B-2A-5. Powers and duties.**

The office has and may exercise the following duties, powers, and responsibilities:

~~(1) To establish a procedure for developing a community impact statement as provided in section six of this article and to administer the procedure so established;~~

~~(2)~~ (1) To establish a procedure for determining the assets that could be developed in and maintained by the community to foster its long-term viability as provided in §5B-2A-8 of this code and to administer the procedure so established;

~~(3)~~ (2) To establish a procedure for determining the land and infrastructure needs in the general area of the surface mining operations as provided in §5B-2A-9 of this code and to administer the procedure so established;

(4) (3) To establish a procedure to develop action reports and annual updates as provided in §5B-2A-10 of this code and to administer the procedure so established;

~~(5)~~ (4) To determine the need for meetings to be held among the various interested parties in the communities impacted by surface mining operations and, when appropriate, to facilitate the meetings;

~~(6)~~ (5) To establish a procedure to assist property owners in the sale of their property as provided in §5B-2A-11 of this code and to administer the procedure so established;

~~(7)~~ (6) In conjunction with the department, to maintain and operate a system to receive and address questions, concerns, and complaints relating to surface mining; and

~~(8)~~ (7) On its own initiative or at the request of a community in close proximity to a mining operation, or a mining operation, offer assistance to facilitate the development of economic or

community assets. Such assistance shall include the preparation of a master land use plan pursuant to the provisions of §5B-2A-9 of this code.

**§5B-2A-6. Community impact statement review.**

~~(a)(1) The office shall, no less frequently than quarterly, either consult with representatives of the department's Office of Mining and Reclamation or review the department's permit application database(s) to determine whether newly proposed surface mines or significant modifications to existing surface mining operations may present opportunities for mine operators to cooperate with local landowners and local governmental officials to mine and reclaim properties so as to develop community assets or secure developable land and infrastructure pursuant to this article. The operator shall develop a community impact statement, as described in this section, which shall be submitted to the office within sixty days of the filing of a surface mining application pursuant to the provisions of article three, chapter twenty-two of this code. Failure to submit a community impact statement to the office shall be considered a violation under the provisions of section seventeen of said article; and~~

~~(2) The operator shall provide copies of the community impact statement to the department's Office of Mining Reclamation and Office of Explosives and Blasting and to the county commissions, county clerks' offices and local, county or regional development or redevelopment authorities of the areas to be affected by the surface mining operations.~~

~~(b) The community impact statement, where practicable, shall not be a highly technical or legalistic document, but shall be written in a clear and concise manner understandable to all citizens. The community impact statement shall include the following:~~

~~(1) The amount and location of land to be mined or used in the actual mining operations;~~

~~(2) The expected duration of the mining operations in each area of the community;~~

~~(3) The extent of anticipated mining-related property acquisitions, to the extent that such acquisitions are known or knowable;~~

~~(4) The intentions of the surface and mineral owners relative to the acquired property, to the extent that such intentions are known or knowable;~~

~~(5) A statement of the post-mining land use for all land within the permit boundary;~~

~~(6) The intended blasting plan and the expected time and duration it will affect each community;~~

~~(7) Information concerning the extent and nature of valley fills and the watersheds to be affected;~~

~~(8) Economic information, such as the number of jobs created and annual coal production resulting from the surface mining operation, the anticipated life of the mining operation and such other information as may be deemed appropriate; and~~

~~(9) An acknowledgment of the recommendations of any approved master land use plan that pertains to the land proposed to be mined, including an acknowledgment of the infrastructure components needed to accomplish the designated post-mine land use required by the plan.~~

~~(c) Where the operator makes any significant revision to the permit application under section eighteen, article three, chapter twenty-two of this code, which revision substantially affects any of the information provided in subsection (b) of this section, the operator shall revise the affected provisions of its community impact statement and shall submit such revisions as set forth in subsection (a) of this section.~~

~~(d) Within thirty days of receipt of a community impact statement pursuant to subdivision (2), subsection (a) of this section or a revised community impact statement pursuant to subsection (c) of this section, the local, county or regional development or redevelopment authorities of the areas to be affected by the surface mining operations shall provide a written acknowledgment of the receipt of this community impact statement or revised community impact statement to the department's Division of Mining Reclamation, to the county commission or county commissions and to the office.~~

~~(e) (b) The provisions of this section shall apply as follows: to all surface mining permit applications granted after July 1, 2018.~~

~~(1) To all surface mining permits granted after June 11, 1999; and~~

~~(2) At the first renewal date of all previously issued permits: *Provided*, That the permittee shall be afforded ninety days from said date to comply with the provisions of this section.~~

#### **§5B-2A-8. Determining and developing needed community assets.**

(a) The office shall determine the community assets that may be developed by the community, county, or region to foster its viability when surface mining operations are completed.

(b) Community assets to be identified pursuant to subsection (a) of this section may include the following:

- (1) Water and wastewater services;
- (2) Developable land for housing, commercial development, or other community purposes;
- (3) Recreation facilities and opportunities; and
- (4) Education facilities and opportunities.

~~(c) The operator shall be required to prepare and submit to the office the information set forth in this subsection as follows:~~

~~(1) A map of the area for which a permit under article three, chapter twenty-two of this code is being sought or has been obtained;~~

~~(2) The names of the surface and mineral owners of the property to be mined pursuant to the permit; and~~

~~(3) A statement of the post-mining land use for all land which may be affected by the mining operations.~~

(d) (c) In determining the nature and extent of the needed community assets, the office shall consider at least the following:



- (1) An evaluation of the future of the community once mining operations are completed;
- (2) The prospects for the long-term viability of any asset developed under this section;
- (3) The desirability of foregoing some or all of the asset development required by this section in lieu of the requirements of §5B-2A-9 of this code; and
- (4) The extent to which the community, local, state, or the federal government may participate in the development of assets the community needs to assure its viability.

**§5B-2A-9. Securing developable land and infrastructure.**

(a) The office shall determine the land and infrastructure needs in the general area of the surface mining operations- for which it makes the determination authorized in §5B-2A-6 of this code.

(b) For the purposes of this section, the term “general area” shall mean the county or counties in which the mining operations are being conducted or any adjacent county.

(c) To assist the office, the operator, upon request by the office, shall be required to prepare and submit to the office the information set forth in this subsection as follows:

(1) A map of the area for which a permit under §22-3-1 *et seq.* of this code is being sought or has been obtained;

(2) The names of the surface and mineral owners of the property to be mined pursuant to the permit; and

(3) A statement of the post-mining land use for all land which may be affected by the mining operations.

(d) In making a determination of the land and infrastructure needs in the general area of the mining operations, the office shall consider at least the following:

(1) The availability of developable land in the general area;

(2) The needs of the general area for developable land;

(3) The availability of infrastructure, including, but not limited to, access roads, water service, wastewater service, and other utilities;

(4) The amount of land to be mined and the amount of valley to be filled;

(5) The amount, nature, and cost to develop and maintain the community assets identified in §5B-2A-8 of this code; and

(6) The availability of federal, state, and local grants and low-interest loans to finance all or a portion of the acquisition and construction of the identified land and infrastructure needs of the general area.

(e) In making a determination of the land and infrastructure needs in the general area of the surface mining operations, the office shall give significant weight to developable land on or near existing or planned multilane highways.

(f) The office may secure developable land and infrastructure for a Development Office or county through the preparation of a master land use plan for inclusion into a reclamation plan prepared pursuant to the provisions of §22-3-10 of this code. No provision of this section may be construed to modify requirements of §22-3-1 *et seq.* of this code.

(1) The county commission or other governing body for each county in which there are surface mining operations that are subject to this article shall determine land and infrastructure needs within their jurisdictions through the development of a master land use plan which incorporates post-mining land use needs, including, but not limited to, renewable and alternative energy uses, residential uses, highway uses, industrial uses, commercial uses, agricultural uses, public facility uses, or recreational facility uses. A county commission or other governing body of a county may designate a local, county, or regional development or redevelopment authority to assist in the preparation of a master land use plan. A county commission or other governing body of a county may adopt a master land use plan developed after July 1, 2009, only after a reasonable public comment period.

(2) Upon the request of a county or designated development or redevelopment authority, the office shall assist the county or development or redevelopment authority with the development of a master land use plan.

(3)(A) The Department of Environmental Protection and the Office of Coalfield Community Development shall review master land use plans existing as of July 1, 2009. If the office determines that a master land use plan complies with the requirements of this article and the rules promulgated pursuant to this article, the office shall approve the plan on or before July 1, 2010.

(B) Master land use plans developed after July 1, 2009, shall be submitted to the department and the office for review. The office shall determine whether to approve a master land use plan submitted pursuant to this subdivision within three months of submission. The office shall approve the plan if it complies with the requirements of this article and the rules promulgated pursuant to this article.

(C) The office shall review a master land use plan approved under this section every three years. No later than six months before the review of a master land use plan, the county or designated development or redevelopment authority shall submit an updated master land use plan to the department and the office for review. The county may submit its updated master land use plan only after a reasonable public comment period. The office shall approve the master land use plan if the updated plan complies with the requirements of this article and the rules promulgated pursuant to this article.

(D) If the office does not approve a master land use plan, the county or designated development or redevelopment authority shall submit a supplemental master land use plan to the office for approval.

(4) The required infrastructure component standards needed to accomplish the designated post-mining land uses identified in a master land use plan shall be developed by the county or its designated development or redevelopment authority. These standards must be in place before the respective county or development or redevelopment authority can accept ownership of property donated pursuant to a master land use plan. Acceptance of ownership of such property by a county or development or redevelopment authority may not occur unless it is determined that: ~~(i) The property use is compatible with adjacent land uses; (ii) the use satisfies the relevant county or development or redevelopment authority's anticipated need and market use; (iii) the property has in place necessary infrastructure components needed to achieve the anticipated use; (iv) the use is supported by all other appropriate public agencies; (v) the property is eligible~~

~~for bond release in accordance with section twenty-three, article three, chapter twenty-two of this code; and (vi) the use is feasible. Required infrastructure component standards require approval of the relevant county commission, commissions or other county governing body before such standards are accepted. County commission or other county governing body approval may be rendered only after a reasonable public comment period;~~

(A) The property use is compatible with adjacent land uses;

(B) The use satisfies the relevant county or development or redevelopment authority's anticipated need and market use;

(C) The property has in place necessary infrastructure components needed to achieve the anticipated use;

(D) The use is supported by all other appropriate public agencies;

(E) The property is eligible for bond release in accordance with §22-3-23 of this code; and

(F) The use is feasible.

Required infrastructure component standards require approval of the relevant county commission, commissions, or other county governing body before such standards are accepted. County commission or other county governing body approval may be rendered only after a reasonable public comment period.

(5) The provisions of this subsection shall not take effect until legislative rules are promulgated pursuant to ~~paragraph (C), subdivision (1), subsection (c), section twenty-three, article three, chapter twenty-two~~ of this code governing bond releases which assure sound future maintenance by the local or regional economic development, redevelopment, or planning agencies.

## CHAPTER 22. ENVIRONMENTAL RESOURCES.

### ARTICLE 3. SURFACE AND COAL MINING RECLAMATION ACT.

#### **§22-3-14. General environmental protection performance standards for the surface effects of underground mining; application of other provisions of article to surface effects of underground mining.**

(a) The director shall promulgate separate rules directed toward the surface effects of underground coal mining operations, embodying the requirements in subsection (b) of this section: *Provided*, That in adopting such rules, the director shall consider the distinct difference between surface coal mines and underground coal mines in West Virginia. Such rules may not conflict with or supersede any provision of the federal or state coal mine health and safety laws or any rule issued pursuant thereto.

(b) Each permit issued by the director pursuant to this article and relating to underground coal mining shall require the operation at a minimum to:

(1) Adopt measures consistent with known technology in order to prevent subsidence causing material damage to the extent technologically and economically feasible, maximize mine stability and maintain the value and reasonably foreseeable use of overlying surface lands, except in those instances where the mining technology used requires planned subsidence in a predictable and

controlled manner: *Provided*, That this subsection does not prohibit the standard method of room and pillar mining;

(2) Seal all portals, entryways, drifts, shafts, or other openings that connect the earth's surface to the underground mine workings when no longer needed for the conduct of the mining operations in accordance with the requirements of all applicable federal and state law and rules promulgated pursuant thereto;

(3) Fill or seal exploratory holes no longer necessary for mining and maximize to the extent technologically and economically feasible, if environmentally acceptable, return of mine and processing waste, tailings, and any other waste incident to the mining operation to the mine workings or excavations;

(4) With respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine workings or excavations, stabilize all waste piles created by the operator from current operations through construction in compacted layers, including the use of incombustible and impervious materials, if necessary, and assure that any leachate therefrom will not degrade surface or groundwaters below water quality standards established pursuant to applicable federal and state law and that the final contour of the waste accumulation will be compatible with natural surroundings and that the site is stabilized and revegetated according to the provisions of this section;

(5) Design, locate, construct, operate, maintain, enlarge, modify, and remove or abandon, in accordance with the standards and criteria developed pursuant to §22-3-13 of this article code, all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, and solid wastes and used either temporarily or permanently as dams or embankments;

(6) Establish on regraded areas and all other disturbed areas a diverse and permanent vegetative cover capable of self-regeneration and plant succession and at least equal in extent of cover to the natural vegetation of the area within the time period prescribed in §22-3-13(b)(20) of this article code;

(7) Protect off-site areas from damages which may result from such mining operations;

(8) Eliminate fire hazards and otherwise eliminate conditions which constitute a hazard to health and safety of the public;

(9) Minimize the disturbance of the prevailing hydrologic balance at the mine site and in associated off-site areas and to the quantity and the quality of water in surface and groundwater systems both during and after mining operations and during reclamation by: (A) Avoiding acid or other toxic mine drainage by such measures as, but not limited to: (i) Preventing or removing water from contact with toxic producing deposits; (ii) treating drainage to reduce toxic content which adversely affects downstream water before being released to water courses; and (iii) casing, sealing, or otherwise managing boreholes, shafts, and wells to keep acid or other toxic drainage from entering ground and surface waters; and (B) conducting mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area, but in no event shall the contributions be in excess of requirements set by applicable state or federal law, and avoiding channel deepening or enlargement in operations requiring the discharge of water from mines: *Provided*, That in recognition of the distinct differences between surface and underground mining the monitoring of water from underground coal mine workings shall be in accordance with the provisions of the Clean Water Act of 1977;

(10) With respect to other surface impacts of underground mining not specified in this subsection, including the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities, operate in accordance with the standards established under §22-3-13 of this code for such effects which result from surface-mining operations: *Provided*, That the director shall make such modifications in the requirements imposed by this subdivision as are necessary to accommodate the distinct difference between surface and underground mining in West Virginia;

(11) To the extent possible using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, aquatic life, wildlife, and related environmental values, and achieve enhancement of such resources where practicable; and

(12) Unless otherwise permitted by the director and in consideration of the relevant safety and environmental factors, locate openings for all new drift mines working in acid producing or iron producing coal seams in a manner as to prevent a gravity discharge of water from the mine.

(c) In order to protect the stability of the land, the director shall suspend underground mining under urbanized areas, cities, towns, and communities and adjacent to industrial or commercial buildings, major impoundments, or permanent streams if he or she finds imminent danger to inhabitants of the urbanized areas, cities, towns, or communities.

(d) The provisions of this article relating to permits, bonds, insurance, inspections, reclamation and enforcement, public review, and administrative and judicial review are also applicable to surface operations and surface impacts incident to an underground mine with such modifications by rule to the permit application requirements, permit approval, or denial procedures and bond requirements as are necessary to accommodate the distinct difference between surface mines and underground mines in West Virginia.

(e) The secretary shall promulgate for review and consideration by the West Virginia Legislature during the regular session of the Legislature, 2020, revisions to legislative rules (38 CSR 2) pertaining to surface owner protection from material damage due to subsidence under this article. The secretary shall specifically consider adoption of the federal standards codified at 30 C.F.R. § 817.121.

## **ARTICLE 11. WATER POLLUTION CONTROL ACT.**

### **§22-11-10. Water Quality Management Fund established; permit application fees; annual permit fees; dedication of proceeds; rules.**

(a) The special revenue fund designated the Water Quality Management Fund established in the State Treasury on July 1, 1989, is hereby continued.

(b) The permit application fees and annual permit fees established and collected pursuant to this section; any interest or surcharge assessed and collected by the secretary; interest accruing on investments and deposits of the fund; and any other moneys designated by the secretary shall be deposited into the Water Quality Management Fund. The secretary shall expend the proceeds of the Water Quality Management Fund for the review of initial permit applications, renewal permit applications, and permit issuance activities.

(c) The secretary shall propose for promulgation, legislative rules in accordance with the provisions of §29A-1-1 *et seq.* of this code, to establish a schedule of application fees for all

applications except for surface coal mining operations as defined in §22-3-13 of this code. The appropriate fee shall be submitted by the applicant to the department with the application filed pursuant to this article for any state water pollution control permit or national pollutant discharge elimination system permit. The schedule of application fees shall be designed to establish reasonable categories of permit application fees based upon the complexity of the permit application review process required by the department pursuant to the provisions of this article and the rules promulgated under this article: *Provided*, That no initial application fee may exceed \$15,000 for any facility nor may any permit renewal application fee exceed \$5,000. The department may not process any permit application pursuant to this article until the required permit application fee has been received.

(d) The secretary shall propose for promulgation legislative rules in accordance with the provisions of §29A-1-1 *et seq.* of this code, to establish a schedule of permit fees to be assessed annually upon each person holding a state water pollution control permit or national pollutant discharge elimination system permit issued pursuant to this article except for permits held by surface coal mining operations as defined in §22-3-1 *et seq.* of this ~~chapter~~ code. Each person holding a permit shall pay the prescribed annual permit fee to the department pursuant to the rules promulgated under this section: *Provided*, That no person holding a permit for a home aerator of ~~six hundred~~ 600 gallons and under shall be required to pay an annual permit fee. The schedule of annual permit fees shall be designed to establish reasonable categories of annual permit fees based upon the relative potential of categories or permits to degrade the waters of the state: *Provided, however*, That no annual permit fee may exceed \$5,000. The secretary may declare any permit issued pursuant to this article void when the annual permit fee is more than ~~ninety~~ 90 days past due pursuant to the rules promulgated under this section. Voiding of the permit will only become effective upon the date the secretary mails, by certified mail, written notice to the permittee's last known address notifying the permittee that the permit has been voided.

(e) The secretary shall file a quarterly report with the Joint Committee on Government and Finance setting forth the fees established and collected pursuant to this section.

(f) On July 1, 2002, and each year thereafter, a \$1,000 fee shall be assessed for permit applications and renewals submitted pursuant to this article for surface coal mining operations, as defined in §22-3-1 *et seq.* of this code. On July 1, 2002, and each year thereafter, a \$500 fee shall be assessed for application for permit modifications submitted pursuant to this article for surface coal mining operations, as defined in §22-3-1 *et seq.* of this code. Beginning July 1, 2002 and every year thereafter, an annual permit fee shall be assessed on the issuance anniversary dates of all permits issued pursuant to this article for surface coal mining operations as defined in §22-3-1 *et seq.* of this code. The annual permit fee shall be collected as follows: ~~Five hundred dollars~~ \$500 for the fiscal year beginning on July 1, 2002, and \$1,000 for each fiscal year thereafter. For all other categories of permitting actions pursuant to this article related to surface coal mining operations, the secretary shall propose for promulgation legislative rules in accordance with the provisions of §29A-1-1 et seq. of this code to establish a schedule of permitting fees.

## **ARTICLE 30. THE ABOVEGROUND STORAGE TANK ACT.**

### **§22-30-3. Definitions.**

For purposes of this article:

(1) "Aboveground storage tank" or "tank" or "AST" means a device made to contain an accumulation of more than ~~one thousand three hundred twenty~~ 1,320 gallons of fluids that are liquid at standard temperature and pressure, which is constructed primarily of nonearthen

materials, including concrete, steel, plastic, or fiberglass reinforced plastic, which provide structural support, more than ~~ninety percent~~ 90 percent of the capacity of which is above the surface of the ground, and includes all ancillary pipes and dispensing systems up to the first point of isolation. The term includes stationary devices which are permanently affixed, and mobile devices which remain in one location on a continuous basis for ~~three hundred sixty-five~~ 365 or more days. A device meeting this definition containing hazardous waste subject to regulation under 40 C. F. R. Parts 264 and 265, exclusive of tanks subject to regulation under 40 C. F. R. § 265.201 is included in this definition but is not a regulated tank. Notwithstanding any other provision of this code to the contrary, the following categories of devices are not subject to the provisions of this article:

(A) Shipping containers that are subject to state or federal laws or regulations governing the transportation of hazardous materials, including, but not limited to, railroad freight cars subject to federal regulation under the Federal Railroad Safety Act, 49 U. S. C. §§20101-2015, as amended, including, but not limited to, federal regulations promulgated thereunder at 49 C. F. R. ~~Parts §§172, 173, or 174;~~

(B) Barges or boats subject to federal regulation under the United States Coast Guard, United States Department of Homeland Security, including, but not limited to, federal regulations promulgated at 33 C. F. R. 1, *et seq.* or subject to other federal law governing the transportation of hazardous materials;

(C) Swimming pools;

(D) Process vessels;

(E) Devices containing drinking water for human or animal consumption, surface water or groundwater, demineralized water, noncontact cooling water, or water stored for fire or emergency purposes;

(F) Devices containing food or food-grade materials used for human or animal consumption and regulated under the Federal Food, Drug and Cosmetic Act (21 U. S. C. §301-392);

(G) Except when located in a zone of critical concern, a device located on a farm, the contents of which are used exclusively for farm purposes and not for commercial distribution;

(H) Devices holding wastewater that is being actively treated or processed (e.g., clarifier, chlorine contact chamber, batch reactor, etc.);

(I) Empty tanks held in inventory or offered for sale;

(J) Pipeline facilities, including gathering lines, regulated under the Natural Gas Pipeline Safety Act of 1968 or the Hazardous Liquid Pipeline Safety Act of 1979, or an intrastate pipeline facility regulated by the West Virginia Public Service Commission or otherwise regulated under any state law comparable to the provisions of either the Natural Gas Pipeline Safety Act of 1968 or the Hazardous Liquid Pipeline Safety Act of 1979;

(K) Liquid traps, atmospheric and pressure vessels, or associated gathering lines related to oil or gas production and gathering operations;

(L) Electrical equipment such as transformers, circuit breakers, and voltage regulator transformers;

(M) Devices having a capacity of ~~two hundred ten~~ 210 barrels or less, containing brine water or other fluids produced in connection with hydrocarbon production activities, that are not located in a zone of critical concern; and

(N) Devices having a capacity of 10,000 gallons or less, containing sodium chloride or calcium chloride water for roadway snow and ice pretreatment, that are not located in a zone of critical concern: *Provided*, That all such devices exempted under subdivisions (M) and (N) of this subdivision must still meet the registration requirements contained in §22-30-4 of this code, the notice requirements contained in §22-30-10 of this code, and the signage requirements contained in §22-30-11 of this code.

(2) "Department" means the West Virginia Department of Environmental Protection.

(3) "First point of isolation" means the valve, pump, dispenser, or other device or equipment on or nearest to the tank where the flow of fluids into or out of the tank may be shut off manually or where it automatically shuts off in the event of a pipe or tank failure.

(4) "Nonoperational storage tank" means an empty aboveground storage tank in which fluids will not be deposited or from which fluids will not be dispensed on or after the effective date of this article.

(5) "Operator" means any person in control of, or having responsibility for, the daily operation of an aboveground storage tank.

(6) "Owner" means a person who holds title to, controls, or owns an interest in an aboveground storage tank, including the owner immediately preceding the discontinuation of its use. "Owner" does not mean a person who holds an interest in a tank for financial security unless the holder has taken possession of and operated the tank.

(7) "Person", "persons", or "people" means any individual, trust, firm, owner, operator, corporation, or other legal entity, including the United States government, an interstate commission or other body, the state or any agency, board, bureau, office, department, or political subdivision of the state, but does not include the Department of Environmental Protection.

(8) "Process vessel" means a tank that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process or in which a biological, chemical, or physical change in the material occurs. This does not include tanks used for storage of materials prior to their introduction into the production process or for the storage of finished products or by-products of the production process.

(9) "Public groundwater supply source" means a primary source of water supply for a public water system which is directly drawn from a well, underground stream, underground reservoir, underground mine, or other primary sources of water supplies which are found underneath the surface of the state.

(10) "Public surface water supply source" means a primary source of water supply for a public water system which is directly drawn from rivers, streams, lakes, ponds, impoundments, or other primary sources of water supplies which are found on the surface of the state.

(11) "Public surface water influenced groundwater supply source" means a source of water supply for a public water system which is directly drawn from an underground well, underground river or stream, underground reservoir, or underground mine, and the quantity and quality of the



water in that underground supply source is heavily influenced, directly or indirectly, by the quantity and quality of surface water in the immediate area.

(12) "Public water system" means:

(A) Any water supply or system which regularly supplies or offers to supply water for human consumption through pipes or other constructed conveyances, if serving at least an average of ~~twenty-five~~ 25 individuals per day for at least ~~sixty~~ 60 days per year, or which has at least ~~fifteen~~ 15 service connections, and shall include:

(i) Any collection, treatment, storage, and distribution facilities under the control of the owner or operator of the system and used primarily in connection with the system; and

(ii) Any collection or pretreatment storage facilities not under such control which are used primarily in connection with the system.

(B) A public water system does not include a bathhouse located on coal company property solely for the use of its employees or a system which meets all of the following conditions:

(i) Consists only of distribution and storage facilities (and does not have any collection and treatment facilities);

(ii) Obtains all of its water from, but is not owned or operated by, a public water system which otherwise meets the definition;

(iii) Does not sell water to any person; and

(iv) Is not a carrier conveying passengers in interstate commerce.

(13) "Regulated level 1 aboveground storage tank" or "level 1 regulated tank" means:

(A) An AST located within a zone of critical concern, source water protection area, public surface water influenced groundwater supply source area, or any AST system designated by the secretary as a level 1 regulated tank; or

(B) An AST that contains substances defined in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) as a "hazardous substance" (42 U. S. C. § 9601(14)); or is on EPA's Consolidated List of Chemicals Subject to the Emergency Planning and Community Right to Know Act (EPCRA), CERCLA, and §112(r) of the Clean Air Act (CAA) (known as the List of Lists) as provided by 40 C. F. R. §§ 355, 372, 302, and 68) in a concentration of one percent or greater, regardless of the AST's location, except ASTs containing petroleum are not level 1 regulated tanks based solely upon containing constituents recorded on the CERCLA lists; or

(C) An AST with a capacity of 50,000 gallons or more, regardless of its contents or location.

(14) "Regulated level 2 aboveground storage tank" or "level 2 regulated tank" means an AST that is located within a zone of peripheral concern that is not a level 1 regulated tank.

(15) "Regulated aboveground storage tank" or "regulated tank" means an AST that meets the definition of a level 1 or level 2 regulated tank.

(16) "Release" means any spilling, leaking, emitting, discharging, escaping, or leaching of fluids from an aboveground storage tank into the waters of the state or escaping from secondary containment.

(17) "Secondary containment" means a safeguard applied to one or more aboveground storage tanks that prevents the discharge into the waters of the state of the entire capacity of the largest single tank and sufficient freeboard to contain precipitation. In order to qualify as secondary containment, the barrier and containment field must be sufficiently impervious to contain fluids in the event of a release, and may include double-walled tanks, dikes, containment curbs, pits, or drainage trench enclosures that safely confine the release from a tank in a facility catchment basin or holding pond. Earthen dikes and similar containment structures must be designed and constructed to contain, for a minimum of ~~seventy-two~~ 72 hours, fluid that escapes from a tank.

(18) "Secretary" means the Secretary of the Department of Environmental Protection, or his or her designee.

(19) "Source water protection area" for a public groundwater supply source is the area within an aquifer that supplies water to a public water supply well within a five-year time of travel, and is determined by the mathematical calculation of the locations from which a drop of water placed at the edge of the protection area would theoretically take five years to reach the well.

(20) "Zone of critical concern" for a public surface water supply source and for a public surface water influenced groundwater supply source is a corridor along streams within a watershed that warrants detailed scrutiny due to its proximity to the surface water intake and the intake's susceptibility to potential contaminants within that corridor. The zone of critical concern is determined using a mathematical model that accounts for stream flows, gradient and area topography. The length of the zone of critical concern is based on a five-hour time of travel of water in the streams to the intake. The width of the zone of critical concern is ~~one thousand~~ 1,000 feet measured horizontally from each bank of the principal stream and ~~five hundred~~ 500 feet measured horizontally from each bank of the tributaries draining into the principal stream.

(21) "Zone of peripheral concern" for a public surface water supply source and for a public surface water influenced groundwater supply source is a corridor along streams within a watershed that warrants scrutiny due to its proximity to the surface water intake and the intake's susceptibility to potential contaminants within that corridor. The zone of peripheral concern is determined using a mathematical model that accounts for stream flows, gradient, and area topography. The length of the zone of peripheral concern is based on an additional five-hour time of travel of water in the streams beyond the perimeter of the zone of critical concern, which creates a protection zone of ~~ten~~ 10 hours above the water intake. The width of the zone of peripheral concern is ~~one thousand~~ 1,000 feet measured horizontally from each bank of the principal stream and ~~five hundred~~ 500 feet measured horizontally from each bank of the tributaries draining into the principal stream.

#### **§22-30-24. Powers and duties of secretary.**

(a) In addition to the powers and duties prescribed in this chapter or otherwise provided by law, the secretary has the exclusive authority to perform all acts necessary to implement this article.

(b) The secretary may receive and expend money from the federal government or any other sources to implement this article.

(c) The secretary may revoke any registration or certificate to operate for a significant violation of this article or the rules promulgated hereunder.

(d) The secretary may issue orders, assess civil penalties, institute enforcement proceedings, and prosecute violations of this article as necessary.

(e) The secretary, in accordance with this article, may order corrective action to be undertaken, take corrective action, or authorize a third party to take corrective action.

(f) The secretary may recover the costs of taking corrective action, including costs associated with authorizing third parties to perform corrective action. Costs may not include routine inspection and administrative activities not associated with a release.

(g) The secretary shall promulgate for review and consideration by the West Virginia Legislature in the regular session of the Legislature, 2020, legislative rules to incorporate the relevant provisions of this article in the Groundwater Protection Rules for Coal Mining, 38 CSR 2F, for tanks and devices located at coal mining operations.

## CHAPTER 22A. MINERS' HEALTH, SAFETY, AND TRAINING.

### ARTICLE 1. OFFICE OF MINERS' HEALTH, SAFETY, AND TRAINING; ADMINISTRATION; ENFORCEMENT.

#### §22A-1-21. Penalties.

(a) (1) Any operator of a coal mine in which a violation of any health or safety rule occurs or who violates any other provisions of this chapter shall be assessed a civil penalty by the director under subdivision (3) of this subsection, which shall be not more than \$5,000, for each violation, unless the director determines that it is appropriate to impose a special assessment for the violation, pursuant to the provisions of subdivision (2), subsection (b) of this section. Each violation constitutes a separate offense. In determining the amount of the penalty, the director shall consider the operator's history of previous violations, whether the operator was negligent, the appropriateness of the penalty to the size of the business of the operator charged, the gravity of the violation, and the demonstrated good faith of the operator charged in attempting to achieve rapid compliance after notification of a violation.

(2) Revisions to the assessment of civil penalties shall be proposed as legislative rules in accordance with the provisions of §29A-3-1 *et seq.* of this code.

(3) Any miner who knowingly violates any health or safety provision of this chapter or health or safety rule promulgated pursuant to this chapter is subject to a civil penalty assessed by the director under subdivision (4) of this subsection which shall not be more than \$250 for each occurrence of the violation. Any miner issued a violation under this subsection shall either appeal the violation or pay the civil penalty within 30 days after receipt of the violation. Any violation not appealed or paid within 30 days shall become delinquent.

Any civil penalty that becomes delinquent on or after July 1, 2019, and has not been paid shall be deemed a failure by the miner to perform a duty mandated pursuant to this article for purposes of §22A-1-31 of this code.

(4) A civil penalty under subdivision (1) or (2), subsection (a) of this section or subdivision (1) or (2), subsection (b) of this section shall be assessed by the director only after the person charged with a violation under this chapter or rule promulgated pursuant to this chapter has been

given an opportunity for a public hearing and the director has determined, by a decision incorporating the director's findings of fact in the decision, that a violation did occur and the amount of the penalty which is warranted and incorporating, when appropriate, an order in the decision requiring that the penalty be paid. Any hearing under this section shall be of record.

(5) If the person against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in the order, the director may file a petition for enforcement of the order in any appropriate circuit court. The petition shall designate the person against whom the order is sought to be enforced as the respondent. A copy of the petition shall immediately be sent by certified mail, return receipt requested, to the respondent and to the representative of the miners at the affected mine or the operator, as the case may be. The director shall certify and file in the court the record upon which the order sought to be enforced was issued. The court has jurisdiction to enter a judgment enforcing, modifying and enforcing as modified, or setting aside, in whole or in part, the order and decision of the director or it may remand the proceedings to the director for any further action it may direct. The court shall consider and determine de novo all relevant issues, except issues of fact which were or could have been litigated in review proceedings before a circuit court under §22A-1-20 of this code and, upon the request of the respondent, those issues of fact which are in dispute shall be submitted to a jury. On the basis of the jury's findings the court shall determine the amount of the penalty to be imposed. Subject to the direction and control of the Attorney General, attorneys appointed for the director may appear for and represent the director in any action to enforce an order assessing civil penalties under this subdivision.

(b) (1) Any operator who knowingly violates a health or safety provision of this chapter or health or safety rule promulgated pursuant to this chapter, or knowingly violates or fails or refuses to comply with any order issued under §22A-1-15 of this ~~article~~ code, or any order incorporated in a final decision issued under this article, except an order incorporated in a decision under §22A-1-22(a) or §22A-1-22(b) of this ~~article~~ code, shall be assessed a civil penalty by the director under subdivision (5), subsection (a) of this section of not more than \$5,000 and for a second or subsequent violation assessed a civil penalty of not more than \$10,000, unless the director determines that it is appropriate to impose a special assessment for the violation, pursuant to the provisions of subdivision (2) of this subsection.

(2) In lieu of imposing a civil penalty pursuant to the provisions of subsection (a) of this section or subdivision (1) of this subsection, the director may impose a special assessment if an operator violates a health or safety provision of this chapter or health or safety rule promulgated pursuant to this chapter and the violation is of serious nature and involves one or more of the following by the operator:

- (A) Violations involving fatalities and serious injuries;
- (B) Failure or refusal to comply with any order issued under §22A-1-15 of this code;
- (C) Operation of a mine in the face of a closure order;
- (D) Violations involving an imminent danger;
- (E) Violations involving an extraordinarily high degree of negligence or gravity or other unique aggravating circumstances; or
- (F) A discrimination violation under §22A-1-22 of this code.

In situations in which the director determines that there are factors present which would make it appropriate to impose a special assessment, the director shall assess a civil penalty of at least \$5,000 and not more than \$10,000.

(c) Whenever a corporate operator knowingly violates a health or safety provision of this chapter or health or safety rules promulgated pursuant to this chapter, or knowingly violates or fails or refuses to comply with any order issued under this law or any order incorporated in a final decision issued under this law, except an order incorporated in a decision issued under §22A-1-22(a) or §22A-1-22(b) of this ~~article~~ code, any director, officer, or agent of the corporation who knowingly authorized, ordered or carried out the violation, failure or refusal is subject to the same civil penalties that may be imposed upon a person under subsections (a) and (b) of this section.

(d) Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this law or any order or decision issued under this law is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$10,000 or confined in jail not more than one year, or both fined and confined. The conviction of any person under this subsection shall result in the revocation of any certifications held by the person under this chapter which certified or authorized the person to direct other persons in coal mining by operation of law and bars that person from being issued any license under this chapter, except a miner's certification, for a period of not less than one year or for a longer period as may be determined by the director.

(e) Whoever willfully distributes, sells, offers for sale, introduces, or delivers in commerce any equipment for use in a coal mine, including, but not limited to, components and accessories of the equipment, who willfully misrepresents the equipment as complying with the provisions of this law, or with any specification or rule of the director applicable to the equipment, and which does not comply with the law, specification or rule, is guilty of a misdemeanor and, upon conviction thereof, is subject to the same fine and confinement that may be imposed upon a person under subsection (d) of this section.

(f) Any person who willfully violates any safety standard pursuant to this chapter or a rule promulgated thereunder that causes a fatality or who willfully orders or carries out such violation that causes a fatality is guilty of a felony and, upon conviction thereof, shall be fined not more than \$10,000 or confined in a state correctional facility not less than one year and not more than five years, or both fined and ~~imprisoned~~ confined.

(g) There is continued in the Treasury of the State of West Virginia a Special Health, Safety and Training Fund. All civil penalty assessments collected under this section shall be collected by the director and deposited with the Treasurer of the State of West Virginia to the credit of the Special Health, Safety and Training Fund. The fund shall be used by the director who is authorized to expend the moneys in the fund for the administration of this chapter.

#### **§22A-1-35. Mine rescue teams.**

(a) The operator shall provide mine rescue coverage at each active underground mine.

(b) Mine rescue coverage may be provided by:

(1) Establishing at least two mine rescue teams which are available at all times when miners are underground; or

(2) Entering into an arrangement for mine rescue services which assures that at least two mine rescue teams are available at all times when miners are underground.

(3) A West Virginia Office of Miners' Health, Safety, and Training Mine Rescue Team ~~may~~ shall serve as a second or backup team for mines within the state and qualify as one of the two teams required under subdivision (1) of this subsection and in accordance with 30 CFR, Part 49.20(4) for all mines with no backup team available within a one-hour drive to the mine. The operator shall contact the office and ~~obtain the state's agreement to serve as a backup team in the form of a written notification signed by the director and this notification shall be kept posted at the mine~~ notify them of the need for mine rescue services beginning July 1, 2019. The director shall utilize surplus funds from the West Virginia Office of Miners' Health, Safety, and Training's special revenue fund to provide backup mine rescue services.

(c) As used in this section, mine rescue teams shall be considered available where teams are capable of presenting themselves at the mine site(s) within a reasonable time after notification of an occurrence which might require their services. Rescue team members will be considered available even though performing regular work duties or while in an off-duty capacity. The requirement that mine rescue teams be available does not apply when teams are participating in mine rescue contests or providing rescue services to another mine.

(d) In the event of a fire, explosion, or recovery operations in or about any mine, the director is hereby authorized to assign any mine rescue team to said mine to protect and preserve life and property. The director may also assign mine rescue and recovery work to inspectors, instructors, or other qualified employees of the office as he or she deems necessary.

(e) The ground travel time between any mine rescue station and any mine served by that station shall not exceed two hours. To ensure adequate rescue coverage for all underground mines, no mine rescue station may provide coverage for more than ~~seventy~~ 70 mines within the two-hour ground travel limit as defined in this subsection.

(f) Each mine rescue team shall consist of five members and one alternate, who are fully qualified, trained, and equipped for providing emergency mine rescue service. Each mine rescue team shall be trained by a state certified mine rescue instructor.

(g) Each member of a mine rescue team must have been employed in an underground mine for a minimum of one year. For the purpose of mine rescue work only, miners who are employed on the surface but work regularly underground meet the experience requirement. The underground experience requirement is waived for those members of a mine rescue team on the effective date of this statute.

(h) An applicant for initial mine rescue training shall pass, on at least an annual basis, a physical examination by a licensed physician certifying his or her fitness to perform mine rescue work. A record that such examination was taken, together with pertinent data relating thereto, shall be kept on file by the operator and a copy shall be furnished to the director.

(i) Upon completion of the initial training, all mine rescue team members shall receive at least ~~forty~~ 40 hours of refresher training annually. This training shall be given at least four hours each month, or for a period of eight hours every two months, and shall include:

(1) Sessions underground at least once every six months;

(2) The wearing and use of a breathing apparatus by team members for a period of at least two hours, while under oxygen, once every two months;

(3) Where applicable, the use, care, capabilities, and limitations of auxiliary mine rescue equipment, or a different breathing apparatus; and

(4) Mine map training and ventilation procedures.

(j) When engaged in rescue work required by an explosion, fire, or other emergency at a mine, all members of mine rescue teams assigned to rescue operations shall, during the period of their rescue work, be employees of the operator of the mine where the emergency exists, and shall be compensated by the operator at the rate established in the area for such work. In no case shall this rate be less than the prevailing wage rate in the industry for the most skilled class of inside mine labor. During the period of their emergency employment, members of mine rescue teams shall be protected by the workers' compensation subscription of the mine operator.

(k) During the recovery work and prior to entering any mine at the start of each shift, all rescue or recovery teams shall be properly informed of existing conditions and work to be performed by the designated company official in charge.

(1) For every two teams performing rescue or recovery work underground, one six-member team shall be stationed at the mine portal.

(2) Each rescue or recovery team performing work with a breathing apparatus shall be provided with a backup team of equal number, stationed at each fresh air base.

(3) The mine operator shall provide two-way communication and a lifeline or its equivalent at each fresh air base for all mine rescue or recovery teams and no mine rescue team member shall advance more than 1,000 feet in by the fresh air base: *Provided*, That if a life may possibly be saved and existing conditions do not create an unreasonable hazard to mine rescue team members, the rescue team may advance a distance agreed upon by those persons directing the mine rescue or recovery operations: *Provided, however*, That the mine operator shall provide a lifeline or its equivalent in each fresh air base for all mine rescue or recovery teams.

(4) A rescue or recovery team shall immediately return to the fresh air base when the atmospheric pressure of any member's breathing apparatus depletes to ~~sixty~~ 60 atmospheres, or its equivalent.

(l) Mine rescue stations shall provide a centralized storage location for rescue equipment. This storage location may be either at the mine site, affiliated mines, or a separate mine rescue structure. All mine rescue teams shall be guided by the mine rescue apparatus and auxiliary equipment manual. Each mine rescue station shall be provided with at least the following equipment:

(1) Twelve self-contained oxygen breathing apparatuses, each with a minimum of two hours capacity, and any necessary equipment for testing such breathing apparatuses;

(2) A portable supply of liquid air, liquid oxygen, pressurized oxygen, oxygen generating or carbon dioxide absorbent chemicals, as applicable to the supplied breathing apparatuses and sufficient to sustain each team for six hours while using the breathing apparatuses during rescue operations;

(3) One extra, fully charged, oxygen bottle for each self-contained compressed oxygen breathing apparatus, as required under subdivision (1) of this subsection;

(4) One oxygen pump or a cascading system, compatible with the supplied breathing apparatuses;

(5) Twelve permissible cap lamps and a charging rack;

(6) Two gas detectors appropriate for each type of gas which may be encountered at the mines served;

(7) Two oxygen indicators;

(8) One portable mine rescue communication system or a sound-powered communication system. The wires or cable to the communication system shall be of sufficient tensile strength to be used as a manual communication system. The communication system shall be at least ~~one thousand~~ 1,000 feet in length; and

(9) Necessary spare parts and tools for repairing the breathing apparatuses and communication system, as presently prescribed by the manufacturer.

(m) Mine rescue apparatuses and equipment shall be maintained in a manner that will ensure readiness for immediate use. A person trained in the use and care of breathing apparatuses shall inspect and test the apparatuses at intervals not exceeding ~~thirty~~ 30 days and shall certify by signature and date that the inspections and tests were done. When the inspection indicates that a corrective action is necessary, the corrective action shall be made and recorded by said person. The certification and corrective action records shall be maintained at the mine rescue station for a period of one year and made available on request to an authorized representative of the director.

(n) Authorized representatives of the director have the right of entry to inspect any designated mine rescue station.

(o) When an authorized representative finds a violation of any of the mine rescue requirements, the representative shall take appropriate corrective action in accordance with §22A-1-15 of this ~~article~~ code.

(p) Operators affiliated with a station issued an order by an authorized representative will be notified of that order and that their mine rescue program is invalid. The operators shall have ~~twenty-four~~ 24 hours to submit to the director a revised mine rescue program.

(q) Every operator of an underground mine shall develop and adopt a mine rescue program for submission to the director within ~~thirty~~ 30 days of the effective date of this statute: *Provided*, That a new program need only be submitted when conditions exist as defined in subsection (p) of this section, or when information contained within the program has changed.

(r) A copy of the mine rescue program shall be posted at the mine and kept on file at the operator's mine rescue station or rescue station affiliate and the state regional office where the mine is located. A copy of the mine emergency notification plan filed pursuant to 30 CFR §49.9(a) will satisfy the requirements of subsection (q) of this section if submitted to the director.

(s) The operator shall immediately notify the director of any changed conditions materially affecting the information submitted in the mine rescue program.

**§22A-1-43. Hold harmless clause; decision to enter mine.**

(a) If any injury or death shall occur to any person who has entered any mine, whether active workings, inactive workings, or abandoned workings, without permission, neither:

(1) The owner of that mine or property; nor



(2) The State of West Virginia or any of its political subdivisions, or any agency operating under color of law thereunder; nor

(3) Any person, organization, or entity involved in any rescue or attempted rescue of such person who has committed an entry without permission, shall be held liable in any court or other forum for such injury or death.

(b) The director is authorized to make the decision on whether a mine is too dangerous, and this decision is not subject to review by a court of this state.

(c) A company shall not be required or ordered to conduct rescue operations.

**§22A-1-44. Temporary exemption for environmental regulations.**

In the event of an unauthorized entry by any person or persons into any mine whether active workings, inactive workings, or abandoned workings, neither the owner of that mine or property, nor any other person, organization, or entity involved in any rescue or attempted rescue of such person, may be held liable for any violation of any environmental regulation, if such violation occurred as part of any rescue efforts.

**ARTICLE 1A. OFFICE OF MINERS' HEALTH, SAFETY, AND TRAINING; ADMINISTRATION;  
SUBSTANCE ABUSE.**

**§22A-1A-1. Substance abuse screening; minimum requirements; standards and procedures for screening.**

(a) Every employer of certified persons, as defined in §22A-1-2 of this ~~chapter~~ code, shall implement a substance abuse screening policy and program that shall, at a minimum, include:

(1) A preemployment, ~~ten~~ 10-panel urine test for the following and any other substances as set out in rules adopted by the Office of Miners' Health, Safety, and Training:

- (A) Amphetamines;
- (B) Cannabinoids/THC;
- (C) Cocaine;
- (D) Opiates;
- (E) Phencyclidine (PCP);
- (F) Benzodiazepines;
- (G) Propoxyphene;
- (H) Methadone;
- (I) Barbiturates; and
- (J) Synthetic narcotics.

Split samples shall be collected by providers who are certified as complying with standards and procedures set out in the United States Department of Transportation's rule, 49 C. F. R. Part 40, which may be amended, from time to time, by legislative rule of the Office of Miners' Health, Safety, and Training. Collected samples shall be tested by laboratories certified by the United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) for collection and testing. Notwithstanding the provisions of this subdivision, the mine operator may implement a more stringent substance abuse screening policy and program;

(2) A random substance abuse testing program covering the substances referenced in subdivision (1) of this subsection. "Random testing" means that each person subject to testing has a statistically equal chance of being selected for testing at random and at unscheduled times. The selection of persons for random testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with the persons' Social Security numbers, payroll identification numbers, or other comparable identifying numbers; and

(3) Review of the substance abuse screening program with all persons required to be tested at the time of employment, upon a change in the program and annually thereafter.

(b) For purposes of this subsection, preemployment testing shall be required upon hiring by a new employer, rehiring by a former employer following a termination of the employer/employee relationship or transferring to a West Virginia mine from an employer's out-of-state mine to the extent that any substance abuse test required by the employer in the other jurisdiction does not comply with the minimum standards for substance abuse testing required by this article. Furthermore, the provisions of this section apply to all employers that employ certified persons who work in mines, regardless of whether that employer is an operator, contractor, subcontractor or otherwise.

(c) Any employee involved in an accident that results in physical injuries or damage to equipment or property may be subject to a drug test by his or her employer.

~~(e)~~ (d) (1) Every employer shall notify the director, on a form prescribed by the director, within seven days of any of the following:

(A) A Any positive drug or alcohol test of a certified person., ~~whether it be a preemployment test, random test, reasonable suspicion test or post-accident test.~~ However, for purposes of determining whether a drug test is positive the certified employee may not rely on a prescription dated more than one year prior to the date of the drug test result;

(B) The refusal of a certified person to submit a sample;

(C) A certified person possessing a substituted sample or an adulterated sample; or

(D) A certified person submitting a substituted sample or an adulterated sample.

(2) With respect to any certified person subject to a collective bargaining agreement, the employer shall notify the director, on a form prescribed by the director, within seven days of any of the following:

(A) A Any positive drug or alcohol test of a certified person., ~~whether it be a preemployment test, random test, reasonable suspicion test or post-accident test.~~ However, for purposes of

determining whether a drug test is positive the certified employee may not rely on a prescription dated more than one year prior to the date of the drug test result;

- (B) The refusal of a certified person to submit a sample;
- (C) A certified person possessing a substituted sample or an adulterated sample; or
- (D) A certified person submitting a substituted sample or an adulterated sample.

(3) When the employer submits the completed notification form prescribed by the director, the employer shall also submit a copy of the laboratory test results showing the substances tested for and the results of the test.

(4) Notice shall result in the immediate temporary suspension of all certificates held by the certified person who failed the screening, pending a hearing before the board of appeals pursuant to §22A-1-2 of this ~~article~~ code.

~~(d)~~ (e) Suspension or revocation of a certified person's certificate as a miner or other miner specialty in another jurisdiction by the applicable regulatory or licensing authority for substance abuse-related matters shall result in the director's immediately and temporarily suspending the certified person's West Virginia certificate until such time as the certified person's certification is reinstated in the other jurisdiction.

~~(e)~~ (f) The provisions of this article shall not be construed to preclude an employer from developing or maintaining a drug and alcohol abuse policy, testing program, or substance abuse program that exceeds the minimum requirements set forth in this section. The provisions of this article shall also not be construed to require an employer to alter, amend, revise or otherwise change, in any respect, a previously established substance abuse screening policy and program that meets or exceeds the minimum requirements set forth in this section. The provisions of this article shall require an employer to subject its employees who as part of their employment are regularly present at a mine and who are employed in a safety-sensitive position to preemployment and random substance abuse tests: *Provided*, That each employer shall retain the discretion to establish the parameters of its substance abuse screening policy and program so long as it meets the minimum requirements of this article. For purposes of this section, a "safety-sensitive position" means an employment position where the employee's job responsibilities include duties and activities that involve the personal safety of the employee or others working at a mine.

#### **§22A-1A-2. Board of Appeals hearing procedures.**

(a) Any hearing conducted after the temporary suspension of a certified person's certificate pursuant to this article, shall be conducted within ~~sixty~~ 60 days of the temporary suspension. The Board of Appeals shall make every effort to hold the hearing within ~~forty~~ 40 days of the temporary suspension.

(b) All hearings of the Board of Appeals pursuant to this section shall be conducted in accordance with the provisions of §22A-1-31 of this ~~chapter~~ code. In addition to the rules and procedures in §22A-1-31 of this ~~chapter~~ code in hearings under this section, the Board of Appeals may accept as evidence a notarized affidavit of drug testing procedures and results from a Medical Review Officer (MRO) in lieu of live testimony by the MRO. If the Board of Appeals desires testimony in lieu of a notarized affidavit, the MRO may testify under oath telephonically or by an Internet-based program in lieu of physically attending the hearing. The Board of Appeals may suspend the certificate or certificates of a certified person for violation of this article or for any other violation of this chapter pertaining to substance abuse. The Board of Appeals may impose

further disciplinary actions for repeat violations. The director shall have the authority to propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code to establish the disciplinary actions referenced in this section following the receipt of recommendations from the Board of Coal Mine Health and Safety following completion of the study required pursuant to §22A-6-14 of this ~~chapter~~ code. The legislative rules authorized by this subsection shall not, however, include any provisions requiring an employer to take or refrain from taking any specific personnel action or mandating any employer to establish or maintain an employer-funded substance abuse rehabilitation program.

(c) No person whose certification is suspended or revoked under this section may perform any duties under any other certification issued under this chapter, during the period of the suspension imposed by the Board of Appeals. For all miners determined to have a positive drug or alcohol test as determined pursuant to the provisions of this article, the board shall suspend the miner's certification card(s) for a minimum of six months from the date of the drug test. This six-month minimum suspension shall also apply to miners who enter into a treatment program after testing positive in a drug test administered pursuant to the provisions of this article and are placed under probationary treatment and testing agreements by the board. The director shall promulgate an emergency rule and legislative rule by July 1, 2019, requiring all miners who have a positive drug or alcohol test shall have their miner certification card(s) suspended for a minimum of six months.

(d) Any party adversely affected by a final order or decision issued by the Board of Appeals hereunder is entitled to judicial review thereof pursuant to §29A-5-4 of this code.

## **ARTICLE 2. UNDERGROUND MINES.**

### **§22A-2-2. Submittal of detailed ventilation plan to director.**

~~(a) A mine operator shall submit a detailed ventilation plan and any addenda to the director for review and comment. The mine operator shall review the plan with the director and address concerns to the extent practicable. The operator shall deliver to the miners' representative employed by the operator at the mine, if any, a copy of the operator's proposed annual ventilation plan at least 10 days prior to the date of submission. The miners' representative, if any, shall be afforded the opportunity to submit written comments to the operator prior to such submission; in addition, the miners' representative, if any, may submit written comments to the director. The director shall submit any concern that is not addressed to the United States Department of Labor – Mine Safety and Health Administration (MSHA) through comments to the plan. The mine operator shall provide a copy of the plan to the director 10 days prior to the submittal of the plan to MSHA. The MSHA-approved plan shall serve as the state-approved plan: Provided, That the MSHA-approved plan shall comply with all provisions of state mining law as set forth in state code or code of state rules.~~

~~(b)~~ (a) The A mine operator shall give the director a copy of the MSHA United States Department of Labor's Mine Safety and Health Administration (MSHA)-approved plan and any addenda as soon as the operator receives the approval from MSHA. The MSHA-approved plan shall serve as the state-approved plan: Provided, That the MSHA-approved plan shall comply with all provisions of state mining law as set forth in this code or state rules.

~~(c)~~ (b) In the event of an unforeseen situation requiring immediate action on a plan revision, the operator shall submit the proposed revision to the director and the miners' representative, if any, employed by the operator at the mine when the proposed revision is submitted to MSHA. The director shall work with the operator to review and comment on the proposed plan revision to MSHA as quickly as possible.

(d) (c) Upon approval by MSHA, the plan is enforceable by the director. The approved plan and all revisions and addenda thereto shall be posted on the mine bulletin board and made available for inspection by the miners at that mine for the period of time that they are in effect.

**§22A-2-12. Instruction of employees and supervision of apprentices; annual examination of persons using approved methane-detecting devices; records of examination; maintenance of methane detectors, etc.**

(a) The Office of Miners' Health, Safety, and Training shall prescribe and establish a course of instruction in mine safety and particularly in dangers incident to employment in mines and in mining laws and rules, which course of instruction shall be successfully completed within ~~twelve~~ 12 weeks after any person is first employed as a miner. It is further the duty and responsibility of the Office of Miners' Health, Safety, and Training to see that the course is given to all persons as above provided after their first being employed in any mine in this state. In addition to other enforcement actions available to the director, upon a finding by the director of the existence of a pattern of conduct creating a hazardous condition at a mine, the director shall notify the ~~Board of Miners' Training, Education and Certification~~ Board of Coal Mine Health and Safety, which shall cause additional training to occur at the mine addressing such safety issue or issues identified by the director, pursuant to §22A-7-1 *et seq.* of this ~~chapter code~~. The Director of the Office of Miners' Health, Safety, and Training is authorized to promulgate emergency and legislative rules establishing a course of instruction.

(b) It is the duty of the mine foreman or the assistant mine foreman of every coal mine in this state to see that every person employed to work in the mine is, before beginning work therein, instructed in the particular danger incident to his or her work in the mine, and furnished a copy of the mining laws and rules of the mine. It is the duty of every mine operator who employs apprentices, as that term is used in §22A-8-3 and §22A-8-4 of this ~~chapter code~~ to ensure that the apprentices are effectively supervised with regard to safety practices and to instruct apprentices in safe mining practices. Every apprentice shall work under the direction of the mine foreman or his or her assistant mine foreman and they are responsible for his or her safety. The mine foreman or assistant mine foreman may delegate the supervision of an apprentice to an experienced miner, but the foreman and his or her assistant mine foreman remain responsible for the apprentice. During the first ~~one hundred twenty~~ 120 days of employment in a mine, the apprentice shall work within sight and sound of the mine foreman, assistant mine foreman, or an experienced miner, and in a location that the mine foreman, assistant mine foreman, or experienced miner can effectively respond to cries for help of the apprentice; Provided, that if the apprentice has completed an approved training program as certified by the Board of Coal Mine Health and Safety, this period may be reduced by an amount not to exceed 30 days. The location shall be on the same side of any belt, conveyor, or mining equipment.

(c) Persons whose duties require them to use an approved methane-detecting device or other approved methane detectors shall be examined at least annually as to their competence by a qualified official from the Office of Miners' Health, Safety, and Training and a record of the examination shall be kept by the operator and the office. Approved methane-detecting devices and other approved methane detectors shall be given proper maintenance and shall be tested before each working shift. Each operator shall provide for the proper maintenance and care of the permissible approved methane-detecting device or any other approved device for detecting methane and oxygen deficiency by a person trained in the maintenance, and, before each shift, care shall be taken to ensure that the approved methane-detecting device or other device is in a permissible condition and maintained according to manufacturer's specifications.

**§22A-2-13. Daily inspection of working places; records.**

Before the beginning of any shift upon which they shall perform supervisory duties, the mine foreman or his or her assistant shall review carefully and countersign all books and records reflecting the conditions and the areas under their supervision, exclusive of equipment logs, which the operator is required to keep under this chapter. The mine foreman, assistant mine foreman, or fire boss shall visit and carefully examine each working place in which miners will be working at the beginning of each shift before any face equipment is energized and shall examine each working place in the mine at least once every two hours each shift while such miners are at work in such places, and shall direct that each working place shall be secured by props, timbers, roof bolts, or other approved methods of roof support or both where necessary to the end that the working places shall be made safe. The mine foreman or his or her assistants upon observing a violation or potential violation of §22A-2-1 *et seq.* of this ~~chapter~~ code or any regulation or any plan or agreement promulgated or entered into thereunder shall arrange for the prompt correction thereof. The foreman shall not permit any miner other than a certified foreman, fire boss, assistant mine foreman, assistant mine foreman-fire boss or pumper to be on a working section by himself or herself. Should the mine foreman or his or her assistants find a place to be in a dangerous condition, they shall not leave the place until it is made safe, or shall remove the persons working therein until the place is made safe by some competent person designated for that purpose.

He or she shall place his or her initials, time and the date at or near each place he or she examines. He or she shall also record any dangerous conditions and practices found during his or her examination in a book provided for that purpose.

Notwithstanding any other law to the contrary, the director may use any data collected from a tracking device as evidence that a person designated to perform daily examinations under this section neglected or failed to perform a duty mandated by this section under §22A-1-31 of this code and may decertify any miner who is found to have failed to perform his or her duties.

#### **§22A-2-80. Existing regulations to be revised.**

By August 31, 2019, all existing rules or regulations under authority of this article shall be revised to reflect the changes enacted during the 2019 Regular Session of the Legislature.

### **ARTICLE 8. CERTIFICATION OF UNDERGROUND AND SURFACE COAL MINERS.**

#### **§22A-8-5. Supervision of apprentices.**

Each holder of a permit of apprenticeship shall be known as an apprentice. Any miner holding a certificate of competency and qualification may have one person working with him or her, and under his or her supervision and direction, as an apprentice, for the purpose of learning and being instructed in the duties and calling of mining. Any mine foreman or fire boss, or assistant mine foreman or fire boss, may have three persons working with him or her under his or her supervision and direction, as apprentices, for the purpose of learning and being instructed in the duties and calling of mining: *Provided*, That a mine foreman, assistant mine foreman, or fire boss supervising apprentices in an area where no coal is being produced or which is outby the working section may have as many as five apprentices under his or her supervision and direction, as apprentices, for the purpose of learning and being instructed in the duties and calling of mining or where the operator is using a production section under program for training of apprentice miners, approved by the ~~Board of Miner Training, Education and Certification~~ Board of Coal Mine Health and Safety.

Every apprentice working at a surface mine shall be at all times under the supervision and control of at least one person who holds a certificate of competency and qualification.

In all cases, it is the duty of every mine operator who employs apprentices to ensure that such persons are effectively supervised and to instruct such persons in safe mining practices. Each apprentice shall wear a red hat which identifies the apprentice as such while employed at or near a mine. No person shall be employed as an apprentice for a period in excess of eight months, except that in the event of illness or injury, time extensions shall be permitted as established by the Director of the Office of Miners' Health, Safety, and Training.

**§22A-8-10. Loss of certification for unlawful trespass.**

Upon a conviction under the provisions of §61-3B-6 of this code, the certification of any person certified under the provision of §22A-8-1 et seq. of this code, including a safety sensitive certification issued pursuant to 56 CSR 19, shall be deemed revoked and person shall be permanently barred from holding a certification under the provisions of §22A-8-1 et seq. of this code.

**CHAPTER 61. CRIMES AND THEIR PUNISHMENT.**

**ARTICLE 3. CRIMES AGAINST PROPERTY.**

**§61-3-12. Entry of building other than dwelling; entry of railroad, traction or motorcar, steamboat, or other vessel; penalties; counts in indictment.**

If any person shall, at any time, break and enter, or shall enter without breaking, any office, shop, ~~underground coal mine~~, storehouse, warehouse, banking house, or any house or building, other than a dwelling house or outhouse adjoining thereto or occupied therewith, any railroad or traction car, propelled by steam, electricity or otherwise, any steamboat or other boat or vessel, or any commercial, industrial or public utility property enclosed by a fence, wall, or other structure erected with the intent of the property owner of protecting or securing the area within and its contents from unauthorized persons, within the jurisdiction of any county in this state, with intent to commit a felony or any larceny, he or she shall be deemed guilty of a felony and, upon conviction, shall be confined in a state correctional facility not less than one nor more than 10 years. And if any person shall, at any time, break and enter, or shall enter without breaking, any automobile, motorcar, or bus, with like intent, within the jurisdiction of any county in this state, he or she shall be guilty of a misdemeanor and, upon conviction, shall be confined in jail not less than two nor more than 12 months and be fined not exceeding \$100.

An indictment for burglary may contain one or more counts for breaking and entering, or for entering without breaking, the house or building mentioned in the count for burglary under the provisions of this section and §61-3-11 of this code.

**ARTICLE 3B. TRESPASS.**

**§61-3B-6. Mine trespass; penalties.**

(a) A person who willfully enters an underground coal mine, whether active workings, inactive workings, or abandoned workings, without permission, is guilty of a felony and, upon conviction thereof shall be imprisoned in a correctional facility not less than one year and nor more than 10 years and shall be fined not less than \$5,000 nor more than \$10,000: *Provided*, that for any conviction pursuant to this subsection, any inactive or abandoned underground workings must be either: (1) sealed; or (2) clearly identified by signage at some conspicuous place near the entrance of the mine that includes a notice that the unauthorized entry into the mine is a felony criminal offense.

(b) A person who willfully enters a surface coal mine, whether active workings, inactive workings or abandoned workings, without permission, and with the intent to commit a felony or any larceny, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail not less than one week and not more than one month and shall be fined not less than \$1,000 nor more than \$5,000. For a second conviction, pursuant to this subsection, the person shall be guilty of a felony and shall be confined in a correctional facility not less than one year and not more than five years and shall be fined not less than \$5,000 nor more than \$10,000. For a third or subsequent conviction, pursuant to this subsection, the person shall be guilty of a felony and shall be confined in a correctional facility not less than five year and not more than 10 years and shall be fined not less than \$10,000, nor more than \$25,000.

(c) If a person violates subsections (a) or (b) of this section, and during any rescue efforts for any such person, there occurs an injury that causes substantial physical pain, illness, or any impairment of physical condition to any person other than himself or herself, then that person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than one week and not more than one year and shall be fined not less than \$1,000 nor more than \$5,000: *Provided*, That such jail term shall include actual confinement of not less than seven days.

(d) If a person violates subsections (a) or (b) of this section, and during any rescue efforts for any such person, there occurs an injury that creates a substantial risk of death, causes serious or prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ to any person other than himself or herself, then that person is guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility for not less than two nor more than 10 years and shall be fined not less than \$5,000 nor more than \$10,000.

(e) If a person violates subsections (a) or (b) of this section, and during any rescue efforts of such person, the death of any other person occurs, then that person is guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility for not less than three nor more than 15 years and shall be fined not less than \$10,000 nor more than \$25,000.

(f) Notwithstanding and in addition to any other penalties provided by law, any person who performs or causes damage to property in the course of a willful trespass in violation of this section is liable to the property owner in the amount of twice the amount of such damage.

(g) The terms "mine", "active workings", "inactive workings," and "abandoned workings" have the same meaning ascribed to such terms as set forth in §22A-1-2 of this code.

(h) Nothing in this section shall be construed to prevent lawful assembly and petition for the lawful redress of grievances, during any dispute, including, but not limited to, activities protected by the West Virginia Constitution or the United States Constitution or any statute of this state or the United States.;

And,

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

**Eng. Senate Bill 635**—A Bill to amend and reenact §5B-2A-5, §5B-2A-6, §5B-2A-8, and §5B-2A-9 of the Code of West Virginia, 1931, as amended; to amend and reenact §22-3-14 of said code; to amend and reenact §22-11-10 of said code; to amend and reenact §22-30-3 and §22-30-24 of said code; to amend and reenact §22A-1-21 and §22A-1-35 of said code; to amend said code by adding thereto two new sections, designated §22A-1-43 and §22A-1-44; to amend and reenact §22A-1A-1 and §22A-1A-2 of said code; to amend and reenact §22A-2-2, §22A-2-12, and



§22A-2-13 of said code; to amend said code by adding thereto a new section, designated, §22A-2-80; to amend and reenact §22A-8-5 of said code; to amend said code by adding thereto a new section, designated §22A-8-10; to amend and reenact §61-3-12 of said code; and to amend said code by adding thereto a new section, designated §61-3B-6, all relating generally to coal mining activities; eliminating the requirement for submission of the community impact statement; requiring review of new mining activity for submission to the Office of Coalfield Community Development; eliminating requirements for submission of certain additional information; requiring the submission of certain information related to land and infrastructure needs upon request of the Office of Coalfield Community Development; requiring and authorizing the Secretary of the Department of Environmental Protection to promulgate rules relating to mine subsidence protection for dwelling owners; authorizing the Secretary of the Department of Environmental Protection to promulgate rules for permit modification and renewal fees for surface mining operations pursuant to the Water Pollution Control Act; authorizing the Secretary of the Department of Environmental Protection to promulgate rules relating to exemptions pursuant to the Aboveground Storage Tank Act; requiring a miner who was issued an assessment to either pay the fine or appeal a violation within 30 days; requiring the Office of Miners' Health, Safety, and Training Mine Rescue Team be provided to a coal operation where the operation has no mine rescue team available within one hour's drive; permitting employers to drug test an employee involved in an accident that results in physical injuries or damage to equipment or property; requiring miners testing positive for drug use to undergo a mandatory minimum six-month suspension; eliminating timing requirements for submission of a detailed mine ventilation plan to the Director of the Office of Miners' Health, Safety, and Training; authorizing the Director of the Office of Miners' Health, Safety, and Training to promulgate emergency rules for establishing a course of instruction for apprentice miners; requiring apprentice miners to work 90 days in a mine within sight and sound of a mine foreman or assistant foreman; permitting the Director of the Office of Miners' Health, Safety, and Training to decertify miners who fail to perform daily examinations; allowing the Director of the Office of Miners' Health, Safety, and Training to use the employer's tracking data of the designated daily examiner; authorizing the Director of the Office of Miners' Health, Safety, and Training to promulgate rules generally; allowing certified competent miners to supervise up to two apprentice miners; holding mine owners, the state, and person or entities engaged in rescue operations harmless for injury or death; authorizing a temporary exemption from environmental regulations during rescue operations; revoking certifications of persons convicted of mine trespass; removing underground coal mines from those places subject to the crime of unlawful entry of building other than a dwelling; creating the new criminal misdemeanor and felony offenses of mine trespass; establishing penalties for mine trespass including enhanced penalties for bodily injury or death during rescue operations; authorizing increased liability for damages caused during a mine trespass; and exempting lawful activities under the West Virginia and United States Constitutions, and state and federal law from the operation of the mine trespass criminal statute.

On motions of Senators Stollings, Smith, and Hardesty, the following amendments to the House of Delegates amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

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

## **CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.**

### **ARTICLE 2A. OFFICE OF COALFIELD COMMUNITY DEVELOPMENT.**

#### **§5B-2A-5. Powers and duties.**

The office has and may exercise the following duties, powers, and responsibilities:

~~(1) To establish a procedure for developing a community impact statement as provided in section six of this article and to administer the procedure so established;~~

~~(2) (1) To establish a procedure for determining the assets that could be developed in and maintained by the community to foster its long-term viability as provided in §5B-2A-8 of this code and to administer the procedure so established;~~

~~(3) (2) To establish a procedure for determining the land and infrastructure needs in the general area of the surface mining operations as provided in §5B-2A-9 of this code and to administer the procedure so established;~~

~~(4) (3) To establish a procedure to develop action reports and annual updates as provided in §5B-2A-10 of this code and to administer the procedure so established;~~

~~(5) (4) To determine the need for meetings to be held among the various interested parties in the communities impacted by surface mining operations and, when appropriate, to facilitate the meetings;~~

~~(6) (5) To establish a procedure to assist property owners in the sale of their property as provided in §5B-2A-11 of this code and to administer the procedure so established;~~

~~(7) (6) In conjunction with the department, to maintain and operate a system to receive and address questions, concerns, and complaints relating to surface mining; and~~

~~(8) (7) On its own initiative or at the request of a community in close proximity to a mining operation, or a mining operation, offer assistance to facilitate the development of economic or community assets. Such assistance shall include the preparation of a master land use plan pursuant to the provisions of §5B-2A-9 of this code.~~

#### **§5B-2A-6. Community impact statement review.**

~~(a)(1) The office shall, no less frequently than quarterly, either consult with representatives of the department's Office of Mining and Reclamation or review the department's permit application database(s) to determine whether newly proposed surface mines or significant modifications to existing surface mining operations may present opportunities for mine operators to cooperate with local landowners and local governmental officials to mine and reclaim properties so as to develop community assets or secure developable land and infrastructure pursuant to this article. The operator shall develop a community impact statement, as described in this section, which shall be submitted to the office within sixty days of the filing of a surface mining application pursuant to the provisions of article three, chapter twenty-two of this code. Failure to submit a community impact statement to the office shall be considered a violation under the provisions of section seventeen of said article; and~~

~~(2) The operator shall provide copies of the community impact statement to the department's Office of Mining Reclamation and Office of Explosives and Blasting and to the county commissions, county clerks' offices and local, county or regional development or redevelopment authorities of the areas to be affected by the surface mining operations.~~

~~(b) The community impact statement, where practicable, shall not be a highly technical or legalistic document, but shall be written in a clear and concise manner understandable to all citizens. The community impact statement shall include the following:~~

~~(1) The amount and location of land to be mined or used in the actual mining operations;~~

- ~~(2) The expected duration of the mining operations in each area of the community;~~
- ~~(3) The extent of anticipated mining-related property acquisitions, to the extent that such acquisitions are known or knowable;~~
- ~~(4) The intentions of the surface and mineral owners relative to the acquired property, to the extent that such intentions are known or knowable;~~
- ~~(5) A statement of the post-mining land use for all land within the permit boundary;~~
- ~~(6) The intended blasting plan and the expected time and duration it will affect each community;~~
- ~~(7) Information concerning the extent and nature of valley fills and the watersheds to be affected;~~
- ~~(8) Economic information, such as the number of jobs created and annual coal production resulting from the surface mining operation, the anticipated life of the mining operation and such other information as may be deemed appropriate; and~~
- ~~(9) An acknowledgment of the recommendations of any approved master land use plan that pertains to the land proposed to be mined, including an acknowledgment of the infrastructure components needed to accomplish the designated post-mine land use required by the plan.~~
- ~~(c) Where the operator makes any significant revision to the permit application under section eighteen, article three, chapter twenty-two of this code, which revision substantially affects any of the information provided in subsection (b) of this section, the operator shall revise the affected provisions of its community impact statement and shall submit such revisions as set forth in subsection (a) of this section.~~
- ~~(d) Within thirty days of receipt of a community impact statement pursuant to subdivision (2), subsection (a) of this section or a revised community impact statement pursuant to subsection (c) of this section, the local, county or regional development or redevelopment authorities of the areas to be affected by the surface mining operations shall provide a written acknowledgment of the receipt of this community impact statement or revised community impact statement to the department's Division of Mining Reclamation, to the county commission or county commissions and to the office.~~
- ~~(e) (b) The provisions of this section shall apply as follows: to all surface mining permit applications granted after July 1, 2018.~~

~~(1) To all surface mining permits granted after June 11, 1999; and~~

~~(2) At the first renewal date of all previously issued permits: *Provided*, That the permittee shall be afforded ninety days from said date to comply with the provisions of this section.~~

#### **§5B-2A-8. Determining and developing needed community assets.**

(a) The office shall determine the community assets that may be developed by the community, county, or region to foster its viability when surface mining operations are completed.

(b) Community assets to be identified pursuant to subsection (a) of this section may include the following:

- (1) Water and wastewater services;
- (2) Developable land for housing, commercial development, or other community purposes;
- (3) Recreation facilities and opportunities; and
- (4) Education facilities and opportunities.

~~(c) The operator shall be required to prepare and submit to the office the information set forth in this subsection as follows:~~

~~(1) A map of the area for which a permit under article three, chapter twenty-two of this code is being sought or has been obtained;~~

~~(2) The names of the surface and mineral owners of the property to be mined pursuant to the permit; and~~

~~(3) A statement of the post-mining land use for all land which may be affected by the mining operations.~~

~~(d)~~ (c) In determining the nature and extent of the needed community assets, the office shall consider at least the following:

- (1) An evaluation of the future of the community once mining operations are completed;
- (2) The prospects for the long-term viability of any asset developed under this section;
- (3) The desirability of foregoing some or all of the asset development required by this section in lieu of the requirements of §5B-2A-9 of this code; and
- (4) The extent to which the community, local, state, or the federal government may participate in the development of assets the community needs to assure its viability.

#### **§5B-2A-9. Securing developable land and infrastructure.**

(a) The office shall determine the land and infrastructure needs in the general area of the surface mining operations for which it makes the determination authorized in §5B-2A-6 of this code.

(b) For the purposes of this section, the term “general area” shall mean the county or counties in which the mining operations are being conducted or any adjacent county.

(c) To assist the office, the operator, upon request by the office, shall be required to prepare and submit to the office the information set forth in this subsection as follows:

(1) A map of the area for which a permit under §22-3-1 *et seq.* of this code is being sought or has been obtained;

(2) The names of the surface and mineral owners of the property to be mined pursuant to the permit; and

(3) A statement of the post-mining land use for all land which may be affected by the mining operations.

(d) In making a determination of the land and infrastructure needs in the general area of the mining operations, the office shall consider at least the following:

(1) The availability of developable land in the general area;

(2) The needs of the general area for developable land;

(3) The availability of infrastructure, including, but not limited to, access roads, water service, wastewater service, and other utilities;

(4) The amount of land to be mined and the amount of valley to be filled;

(5) The amount, nature, and cost to develop and maintain the community assets identified in §5B-2A-8 of this code; and

(6) The availability of federal, state, and local grants and low-interest loans to finance all or a portion of the acquisition and construction of the identified land and infrastructure needs of the general area.

(e) In making a determination of the land and infrastructure needs in the general area of the surface mining operations, the office shall give significant weight to developable land on or near existing or planned multilane highways.

(f) The office may secure developable land and infrastructure for a Development Office or county through the preparation of a master land use plan for inclusion into a reclamation plan prepared pursuant to the provisions of §22-3-10 of this code. No provision of this section may be construed to modify requirements of §22-3-1 *et seq.* of this code.

(1) The county commission or other governing body for each county in which there are surface mining operations that are subject to this article shall determine land and infrastructure needs within their jurisdictions through the development of a master land use plan which incorporates post-mining land use needs, including, but not limited to, renewable and alternative energy uses, residential uses, highway uses, industrial uses, commercial uses, agricultural uses, public facility uses, or recreational facility uses. A county commission or other governing body of a county may designate a local, county, or regional development or redevelopment authority to assist in the preparation of a master land use plan. A county commission or other governing body of a county may adopt a master land use plan developed after July 1, 2009, only after a reasonable public comment period.

(2) Upon the request of a county or designated development or redevelopment authority, the office shall assist the county or development or redevelopment authority with the development of a master land use plan.

(3)(A) The Department of Environmental Protection and the Office of Coalfield Community Development shall review master land use plans existing as of July 1, 2009. If the office determines that a master land use plan complies with the requirements of this article and the rules promulgated pursuant to this article, the office shall approve the plan on or before July 1, 2010.

(B) Master land use plans developed after July 1, 2009, shall be submitted to the department and the office for review. The office shall determine whether to approve a master land use plan submitted pursuant to this subdivision within three months of submission. The office shall approve the plan if it complies with the requirements of this article and the rules promulgated pursuant to this article.

(C) The office shall review a master land use plan approved under this section every three years. No later than six months before the review of a master land use plan, the county or designated development or redevelopment authority shall submit an updated master land use plan to the department and the office for review. The county may submit its updated master land use plan only after a reasonable public comment period. The office shall approve the master land use plan if the updated plan complies with the requirements of this article and the rules promulgated pursuant to this article.

(D) If the office does not approve a master land use plan, the county or designated development or redevelopment authority shall submit a supplemental master land use plan to the office for approval.

(4) The required infrastructure component standards needed to accomplish the designated post-mining land uses identified in a master land use plan shall be developed by the county or its designated development or redevelopment authority. These standards must be in place before the respective county or development or redevelopment authority can accept ownership of property donated pursuant to a master land use plan. Acceptance of ownership of such property by a county or development or redevelopment authority may not occur unless it is determined that: ~~(i) The property use is compatible with adjacent land uses; (ii) the use satisfies the relevant county or development or redevelopment authority's anticipated need and market use; (iii) the property has in place necessary infrastructure components needed to achieve the anticipated use; (iv) the use is supported by all other appropriate public agencies; (v) the property is eligible for bond release in accordance with section twenty three, article three, chapter twenty-two of this code; and (vi) the use is feasible. Required infrastructure component standards require approval of the relevant county commission, commissions or other county governing body before such standards are accepted. County commission or other county governing body approval may be rendered only after a reasonable public comment period;~~

(A) The property use is compatible with adjacent land uses;

(B) The use satisfies the relevant county or development or redevelopment authority's anticipated need and market use;

(C) The property has in place necessary infrastructure components needed to achieve the anticipated use;

(D) The use is supported by all other appropriate public agencies;

(E) The property is eligible for bond release in accordance with §22-3-23 of this code; and

(F) The use is feasible.

Required infrastructure component standards require approval of the relevant county commission, commissions, or other county governing body before such standards are accepted. County commission or other county governing body approval may be rendered only after a reasonable public comment period.

(5) The provisions of this subsection shall not take effect until legislative rules are promulgated pursuant to ~~paragraph (C), subdivision (1), subsection (c), section twenty-three, article three, chapter twenty-two~~ of this code governing bond releases which assure sound future maintenance by the local or regional economic development, redevelopment, or planning agencies.

## CHAPTER 11. TAXATION.

**ARTICLE 28. POST-COAL MINE SITE BUSINESS CREDIT.****§11-28-1. Definitions.**

For purposes of this article:

“Business entity” or “person” means an individual, firm, sole proprietorship, partnership, corporation, association, or other entity entitled to a post-coal mine site business credit.

“Coal mining operation” means the business of developing, producing, preparing, or loading bituminous coal, subbituminous coal, anthracite, or lignite.

“Post-coal mine site” means property that has remained undeveloped for business purposes, subsequent to coal mining operations on the property within the bonded area of the last issued coal mine permit.

“Principal place of business” means the physical location from which the entity’s direction, control, and coordination of the operations of the business are primarily exercised, with consideration given, but not limited to:

(1) The physical location at which the primary executive and administrative headquarters of the entity is located; and

(2) From which the management of overall operations of the entity is directed.

“Undeveloped for business purposes” means land has been previously used for coal mining operations and has not been built or developed for use for other activities in the commercial or manufacturing sectors of the economy.

**§11-28-2. Eligibility for credit.**

For those tax years beginning on or after January 1, 2020, a business entity will be allowed a credit against certain taxes imposed by this chapter, as described in §11-28-3 of this code, if the business entity meets the following requirements:

(1) The entity is a corporation, small business corporation, limited liability company, partnership, or unincorporated business entity as defined in this code that also has a principal place of business in the state;

(2) The entity employs at the post-coal mine site a minimum of 10 full-time (32 hours a week or more) employees; and

(3) The entity’s principal place of business is located on a post-coal mine site within this state.

**§11-28-3. Application of credit.**

(a) Amount of credit. — For those tax years beginning on or after January 1, 2020, an eligible business entity will be allowed a tax credit in the amount of 50 percent of that entity’s capital expenditures (as defined in Section 263 of the United States Internal Revenue Code of 1986, as amended) at the post-coal mine site for the first five taxable years during which the entity’s principal place of business is located on the post-coal mine site within this state. The dollar amount of the credit claimed by an eligible business entity may not exceed the amount of 50 percent of the entity’s state income tax for a single year.

(b) Application of annual credit allowance. — The credit created by this article is allowed as a credit against the taxpayer's state tax liability applied as provided in subdivisions (1) and (2) of this subsection, and in that order.

(1) Corporation net income taxes. — Any credit is first applied to reduce the taxes imposed by §11-24-1 et seq. of this code for the taxable year.

(2) Personal income taxes. — After application of §11-28-3(b)(1) of this code, any unused credit is next applied as follows:

(A) If the person making the qualified investment is an electing small business corporation (as defined in Section 1361 of the United States Internal Revenue Code of 1986, as amended), a partnership or a limited liability company that is treated as a partnership for federal income tax purposes, then any unused credit (after application of §11-28-3(b)(1) of this code) is allowed as a credit against the taxes imposed by §11-21-1 et seq. of this code on the income from business or other activity subject to tax under §11-23-1 et seq. of this code.

(B) Electing small business corporations, limited liability companies, partnerships, and other unincorporated organizations shall allocate the credit allowed by this article among its members in the same manner as profits and losses are allocated for the taxable year.

(3) A credit is not allowed under this section against any employer withholding taxes imposed by §11-21-1 et seq. of this code.

(c) Unused credit. — A carryback to a prior taxable year is not allowed for the amount of any unused portion of any annual credit allowance. If the amount of the allowable credit exceeds the taxpayer's tax liability for the taxable year, the amount which exceeds the tax liability may be carried over and applied as a credit against the tax liability of the taxpayer pursuant to §11-21-1 et seq. or §11-24-1 et seq. of this code for each of the next 10 taxable years following the year of creation of the tax credit unless sooner used.

(d) Eligibility requirements. — Those businesses that benefit from other state economic development programs or incentives that result in a reduction of their income tax liability due shall not be eligible for this tax credit.

(e) Rule-making authority. — The State Tax Division shall promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code. These rules shall include, at a minimum, forms for use in claiming the credit authorized in this article, administration of the credit authorized in this article, and any other matter seen necessary by the State Tax Division for the administration of this article.

## CHAPTER 22. ENVIRONMENTAL RESOURCES.

### ARTICLE 3. SURFACE AND COAL MINING RECLAMATION ACT.

#### **§22-3-14. General environmental protection performance standards for the surface effects of underground mining; application of other provisions of article to surface effects of underground mining.**

(a) The director shall promulgate separate rules directed toward the surface effects of underground coal mining operations, embodying the requirements in subsection (b) of this section: *Provided*, That in adopting such rules, the director shall consider the distinct difference between surface coal mines and underground coal mines in West Virginia. Such rules may not



conflict with or supersede any provision of the federal or state coal mine health and safety laws or any rule issued pursuant thereto.

(b) Each permit issued by the director pursuant to this article and relating to underground coal mining shall require the operation at a minimum to:

(1) Adopt measures consistent with known technology in order to prevent subsidence causing material damage to the extent technologically and economically feasible, maximize mine stability and maintain the value and reasonably foreseeable use of overlying surface lands, except in those instances where the mining technology used requires planned subsidence in a predictable and controlled manner: *Provided*, That this subsection does not prohibit the standard method of room and pillar mining;

(2) Seal all portals, entryways, drifts, shafts, or other openings that connect the earth's surface to the underground mine workings when no longer needed for the conduct of the mining operations in accordance with the requirements of all applicable federal and state law and rules promulgated pursuant thereto;

(3) Fill or seal exploratory holes no longer necessary for mining and maximize to the extent technologically and economically feasible, if environmentally acceptable, return of mine and processing waste, tailings, and any other waste incident to the mining operation to the mine workings or excavations;

(4) With respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine workings or excavations, stabilize all waste piles created by the operator from current operations through construction in compacted layers, including the use of incombustible and impervious materials, if necessary, and assure that any leachate therefrom will not degrade surface or groundwaters below water quality standards established pursuant to applicable federal and state law and that the final contour of the waste accumulation will be compatible with natural surroundings and that the site is stabilized and revegetated according to the provisions of this section;

(5) Design, locate, construct, operate, maintain, enlarge, modify, and remove or abandon, in accordance with the standards and criteria developed pursuant to §22-3-13 of this article code, all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, and solid wastes and used either temporarily or permanently as dams or embankments;

(6) Establish on regraded areas and all other disturbed areas a diverse and permanent vegetative cover capable of self-regeneration and plant succession and at least equal in extent of cover to the natural vegetation of the area within the time period prescribed in §22-3-13(b)(20) of this article code;

(7) Protect off-site areas from damages which may result from such mining operations;

(8) Eliminate fire hazards and otherwise eliminate conditions which constitute a hazard to health and safety of the public;

(9) Minimize the disturbance of the prevailing hydrologic balance at the mine site and in associated off-site areas and to the quantity and the quality of water in surface and groundwater systems both during and after mining operations and during reclamation by: (A) Avoiding acid or other toxic mine drainage by such measures as, but not limited to: (i) Preventing or removing water from contact with toxic producing deposits; (ii) treating drainage to reduce toxic content which adversely affects downstream water before being released to water courses; and (iii)

casing, sealing, or otherwise managing boreholes, shafts, and wells to keep acid or other toxic drainage from entering ground and surface waters; and (B) conducting mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area, but in no event shall the contributions be in excess of requirements set by applicable state or federal law, and avoiding channel deepening or enlargement in operations requiring the discharge of water from mines: *Provided*, That in recognition of the distinct differences between surface and underground mining the monitoring of water from underground coal mine workings shall be in accordance with the provisions of the Clean Water Act of 1977;

(10) With respect to other surface impacts of underground mining not specified in this subsection, including the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities, operate in accordance with the standards established under §22-3-13 of this code for such effects which result from surface-mining operations: *Provided*, That the director shall make such modifications in the requirements imposed by this subdivision as are necessary to accommodate the distinct difference between surface and underground mining in West Virginia;

(11) To the extent possible using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, aquatic life, wildlife, and related environmental values, and achieve enhancement of such resources where practicable; and

(12) Unless otherwise permitted by the director and in consideration of the relevant safety and environmental factors, locate openings for all new drift mines working in acid producing or iron producing coal seams in a manner as to prevent a gravity discharge of water from the mine.

(c) In order to protect the stability of the land, the director shall suspend underground mining under urbanized areas, cities, towns, and communities and adjacent to industrial or commercial buildings, major impoundments, or permanent streams if he or she finds imminent danger to inhabitants of the urbanized areas, cities, towns, or communities.

(d) The provisions of this article relating to permits, bonds, insurance, inspections, reclamation and enforcement, public review, and administrative and judicial review are also applicable to surface operations and surface impacts incident to an underground mine with such modifications by rule to the permit application requirements, permit approval, or denial procedures and bond requirements as are necessary to accommodate the distinct difference between surface mines and underground mines in West Virginia.

(e) The secretary shall promulgate for review and consideration by the West Virginia Legislature during the regular session of the Legislature, 2020, revisions to legislative rules (38 CSR 2) pertaining to surface owner protection from material damage due to subsidence under this article. The secretary shall specifically consider adoption of the federal standards codified at 30 C.F.R. § 817.121.

## **ARTICLE 11. WATER POLLUTION CONTROL ACT.**

### **§22-11-10. Water Quality Management Fund established; permit application fees; annual permit fees; dedication of proceeds; rules.**

(a) The special revenue fund designated the Water Quality Management Fund established in the State Treasury on July 1, 1989, is hereby continued.

(b) The permit application fees and annual permit fees established and collected pursuant to this section; any interest or surcharge assessed and collected by the secretary; interest accruing on investments and deposits of the fund; and any other moneys designated by the secretary shall be deposited into the Water Quality Management Fund. The secretary shall expend the proceeds of the Water Quality Management Fund for the review of initial permit applications, renewal permit applications, and permit issuance activities.

(c) The secretary shall propose for promulgation, legislative rules in accordance with the provisions of §29A-1-1 *et seq.* of this code, to establish a schedule of application fees for all applications except for surface coal mining operations as defined in §22-3-13 of this code. The appropriate fee shall be submitted by the applicant to the department with the application filed pursuant to this article for any state water pollution control permit or national pollutant discharge elimination system permit. The schedule of application fees shall be designed to establish reasonable categories of permit application fees based upon the complexity of the permit application review process required by the department pursuant to the provisions of this article and the rules promulgated under this article: *Provided*, That no initial application fee may exceed \$15,000 for any facility nor may any permit renewal application fee exceed \$5,000. The department may not process any permit application pursuant to this article until the required permit application fee has been received.

(d) The secretary shall propose for promulgation legislative rules in accordance with the provisions of §29A-1-1 *et seq.* of this code, to establish a schedule of permit fees to be assessed annually upon each person holding a state water pollution control permit or national pollutant discharge elimination system permit issued pursuant to this article except for permits held by surface coal mining operations as defined in §22-3-1 *et seq.* of this ~~chapter~~ code. Each person holding a permit shall pay the prescribed annual permit fee to the department pursuant to the rules promulgated under this section: *Provided*, That no person holding a permit for a home aerator of ~~six hundred~~ 600 gallons and under shall be required to pay an annual permit fee. The schedule of annual permit fees shall be designed to establish reasonable categories of annual permit fees based upon the relative potential of categories or permits to degrade the waters of the state: *Provided, however*, That no annual permit fee may exceed \$5,000. The secretary may declare any permit issued pursuant to this article void when the annual permit fee is more than ~~ninety~~ 90 days past due pursuant to the rules promulgated under this section. Voiding of the permit will only become effective upon the date the secretary mails, by certified mail, written notice to the permittee's last known address notifying the permittee that the permit has been voided.

(e) The secretary shall file a quarterly report with the Joint Committee on Government and Finance setting forth the fees established and collected pursuant to this section.

(f) On July 1, 2002, and each year thereafter, a \$1,000 fee shall be assessed for permit applications and renewals submitted pursuant to this article for surface coal mining operations, as defined in §22-3-1 *et seq.* of this code. On July 1, 2002, and each year thereafter, a \$500 fee shall be assessed for application for permit modifications submitted pursuant to this article for surface coal mining operations, as defined in §22-3-1 *et seq.* of this code. Beginning July 1, 2002 and every year thereafter, an annual permit fee shall be assessed on the issuance anniversary dates of all permits issued pursuant to this article for surface coal mining operations as defined in §22-3-1 *et seq.* of this code. The annual permit fee shall be collected as follows: ~~Five hundred dollars~~ \$500 for the fiscal year beginning on July 1, 2002, and \$1,000 for each fiscal year thereafter. For all other categories of permitting actions pursuant to this article related to surface coal mining operations, the secretary shall propose for promulgation legislative rules in accordance with the provisions of §29A-1-1 et seq. of this code to establish a schedule of permitting fees.

**ARTICLE 30. THE ABOVEGROUND STORAGE TANK ACT.****§22-30-3. Definitions.**

For purposes of this article:

(1) "Aboveground storage tank" or "tank" or "AST" means a device made to contain an accumulation of more than ~~one thousand three hundred twenty~~ 1,320 gallons of fluids that are liquid at standard temperature and pressure, which is constructed primarily of nonearthen materials, including concrete, steel, plastic, or fiberglass reinforced plastic, which provide structural support, more than ~~ninety percent~~ 90 percent of the capacity of which is above the surface of the ground, and includes all ancillary pipes and dispensing systems up to the first point of isolation. The term includes stationary devices which are permanently affixed, and mobile devices which remain in one location on a continuous basis for ~~three hundred sixty-five~~ 365 or more days. A device meeting this definition containing hazardous waste subject to regulation under 40 C. F. R. Parts 264 and 265, exclusive of tanks subject to regulation under 40 C. F. R. § 265.201 is included in this definition but is not a regulated tank. Notwithstanding any other provision of this code to the contrary, the following categories of devices are not subject to the provisions of this article:

(A) Shipping containers that are subject to state or federal laws or regulations governing the transportation of hazardous materials, including, but not limited to, railroad freight cars subject to federal regulation under the Federal Railroad Safety Act, 49 U. S. C. §§20101-2015, as amended, including, but not limited to, federal regulations promulgated thereunder at 49 C. F. R. ~~Parts §§172, 173, or 174;~~

(B) Barges or boats subject to federal regulation under the United States Coast Guard, United States Department of Homeland Security, including, but not limited to, federal regulations promulgated at 33 C. F. R. 17 *et seq.* or subject to other federal law governing the transportation of hazardous materials;

(C) Swimming pools;

(D) Process vessels;

(E) Devices containing drinking water for human or animal consumption, surface water or groundwater, demineralized water, noncontact cooling water, or water stored for fire or emergency purposes;

(F) Devices containing food or food-grade materials used for human or animal consumption and regulated under the Federal Food, Drug and Cosmetic Act (21 U. S. C. §301-392);

(G) Except when located in a zone of critical concern, a device located on a farm, the contents of which are used exclusively for farm purposes and not for commercial distribution;

(H) Devices holding wastewater that is being actively treated or processed (e.g., clarifier, chlorine contact chamber, batch reactor, etc.);

(I) Empty tanks held in inventory or offered for sale;

(J) Pipeline facilities, including gathering lines, regulated under the Natural Gas Pipeline Safety Act of 1968 or the Hazardous Liquid Pipeline Safety Act of 1979, or an intrastate pipeline facility regulated by the West Virginia Public Service Commission or otherwise regulated under

any state law comparable to the provisions of either the Natural Gas Pipeline Safety Act of 1968 or the Hazardous Liquid Pipeline Safety Act of 1979;

(K) Liquid traps, atmospheric and pressure vessels, or associated gathering lines related to oil or gas production and gathering operations;

(L) Electrical equipment such as transformers, circuit breakers, and voltage regulator transformers;

(M) Devices having a capacity of ~~two hundred ten~~ 210 barrels or less, containing brine water or other fluids produced in connection with hydrocarbon production activities, that are not located in a zone of critical concern; and

(N) Devices having a capacity of 10,000 gallons or less, containing sodium chloride or calcium chloride water for roadway snow and ice pretreatment, that are not located in a zone of critical concern: *Provided*, That all such devices exempted under subdivisions (M) and (N) of this subdivision must still meet the registration requirements contained in §22-30-4 of this code, the notice requirements contained in §22-30-10 of this code, and the signage requirements contained in §22-30-11 of this code.

(2) "Department" means the West Virginia Department of Environmental Protection.

(3) "First point of isolation" means the valve, pump, dispenser, or other device or equipment on or nearest to the tank where the flow of fluids into or out of the tank may be shut off manually or where it automatically shuts off in the event of a pipe or tank failure.

(4) "Nonoperational storage tank" means an empty aboveground storage tank in which fluids will not be deposited or from which fluids will not be dispensed on or after the effective date of this article.

(5) "Operator" means any person in control of, or having responsibility for, the daily operation of an aboveground storage tank.

(6) "Owner" means a person who holds title to, controls, or owns an interest in an aboveground storage tank, including the owner immediately preceding the discontinuation of its use. "Owner" does not mean a person who holds an interest in a tank for financial security unless the holder has taken possession of and operated the tank.

(7) "Person", "persons", or "people" means any individual, trust, firm, owner, operator, corporation, or other legal entity, including the United States government, an interstate commission or other body, the state or any agency, board, bureau, office, department, or political subdivision of the state, but does not include the Department of Environmental Protection.

(8) "Process vessel" means a tank that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process or in which a biological, chemical, or physical change in the material occurs. This does not include tanks used for storage of materials prior to their introduction into the production process or for the storage of finished products or by-products of the production process.

(9) "Public groundwater supply source" means a primary source of water supply for a public water system which is directly drawn from a well, underground stream, underground reservoir, underground mine, or other primary sources of water supplies which are found underneath the surface of the state.

(10) "Public surface water supply source" means a primary source of water supply for a public water system which is directly drawn from rivers, streams, lakes, ponds, impoundments, or other primary sources of water supplies which are found on the surface of the state.

(11) "Public surface water influenced groundwater supply source" means a source of water supply for a public water system which is directly drawn from an underground well, underground river or stream, underground reservoir, or underground mine, and the quantity and quality of the water in that underground supply source is heavily influenced, directly or indirectly, by the quantity and quality of surface water in the immediate area.

(12) "Public water system" means:

(A) Any water supply or system which regularly supplies or offers to supply water for human consumption through pipes or other constructed conveyances, if serving at least an average of ~~twenty-five~~ 25 individuals per day for at least ~~sixty~~ 60 days per year, or which has at least ~~fifteen~~ 15 service connections, and shall include:

(i) Any collection, treatment, storage, and distribution facilities under the control of the owner or operator of the system and used primarily in connection with the system; and

(ii) Any collection or pretreatment storage facilities not under such control which are used primarily in connection with the system.

(B) A public water system does not include a bathhouse located on coal company property solely for the use of its employees or a system which meets all of the following conditions:

(i) Consists only of distribution and storage facilities (and does not have any collection and treatment facilities);

(ii) Obtains all of its water from, but is not owned or operated by, a public water system which otherwise meets the definition;

(iii) Does not sell water to any person; and

(iv) Is not a carrier conveying passengers in interstate commerce.

(13) "Regulated level 1 aboveground storage tank" or "level 1 regulated tank" means:

(A) An AST located within a zone of critical concern, source water protection area, public surface water influenced groundwater supply source area, or any AST system designated by the secretary as a level 1 regulated tank; or

(B) An AST that contains substances defined in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) as a "hazardous substance" (42 U. S. C. § 9601(14)); or is on EPA's Consolidated List of Chemicals Subject to the Emergency Planning and Community Right to Know Act (EPCRA), CERCLA, and §112(r) of the Clean Air Act (CAA) (known as the List of Lists) as provided by 40 C. F. R. §§ 355, 372, 302, and 68) in a concentration of one percent or greater, regardless of the AST's location, except ASTs containing petroleum are not level 1 regulated tanks based solely upon containing constituents recorded on the CERCLA lists; or

(C) An AST with a capacity of 50,000 gallons or more, regardless of its contents or location.

(14) "Regulated level 2 aboveground storage tank" or "level 2 regulated tank" means an AST that is located within a zone of peripheral concern that is not a level 1 regulated tank.

(15) "Regulated aboveground storage tank" or "regulated tank" means an AST that meets the definition of a level 1 or level 2 regulated tank.

(16) "Release" means any spilling, leaking, emitting, discharging, escaping, or leaching of fluids from an aboveground storage tank into the waters of the state or escaping from secondary containment.

(17) "Secondary containment" means a safeguard applied to one or more aboveground storage tanks that prevents the discharge into the waters of the state of the entire capacity of the largest single tank and sufficient freeboard to contain precipitation. In order to qualify as secondary containment, the barrier and containment field must be sufficiently impervious to contain fluids in the event of a release, and may include double-walled tanks, dikes, containment curbs, pits, or drainage trench enclosures that safely confine the release from a tank in a facility catchment basin or holding pond. Earthen dikes and similar containment structures must be designed and constructed to contain, for a minimum of ~~seventy-two~~ 72 hours, fluid that escapes from a tank.

(18) "Secretary" means the Secretary of the Department of Environmental Protection, or his or her designee.

(19) "Source water protection area" for a public groundwater supply source is the area within an aquifer that supplies water to a public water supply well within a five-year time of travel, and is determined by the mathematical calculation of the locations from which a drop of water placed at the edge of the protection area would theoretically take five years to reach the well.

(20) "Zone of critical concern" for a public surface water supply source and for a public surface water influenced groundwater supply source is a corridor along streams within a watershed that warrants detailed scrutiny due to its proximity to the surface water intake and the intake's susceptibility to potential contaminants within that corridor. The zone of critical concern is determined using a mathematical model that accounts for stream flows, gradient and area topography. The length of the zone of critical concern is based on a five-hour time of travel of water in the streams to the intake. The width of the zone of critical concern is ~~one thousand~~ 1,000 feet measured horizontally from each bank of the principal stream and ~~five hundred~~ 500 feet measured horizontally from each bank of the tributaries draining into the principal stream.

(21) "Zone of peripheral concern" for a public surface water supply source and for a public surface water influenced groundwater supply source is a corridor along streams within a watershed that warrants scrutiny due to its proximity to the surface water intake and the intake's susceptibility to potential contaminants within that corridor. The zone of peripheral concern is determined using a mathematical model that accounts for stream flows, gradient, and area topography. The length of the zone of peripheral concern is based on an additional five-hour time of travel of water in the streams beyond the perimeter of the zone of critical concern, which creates a protection zone of ~~ten~~ 10 hours above the water intake. The width of the zone of peripheral concern is ~~one thousand~~ 1,000 feet measured horizontally from each bank of the principal stream and ~~five hundred~~ 500 feet measured horizontally from each bank of the tributaries draining into the principal stream.

#### **§22-30-24. Powers and duties of secretary.**

(a) In addition to the powers and duties prescribed in this chapter or otherwise provided by law, the secretary has the exclusive authority to perform all acts necessary to implement this article.

(b) The secretary may receive and expend money from the federal government or any other sources to implement this article.

(c) The secretary may revoke any registration or certificate to operate for a significant violation of this article or the rules promulgated hereunder.

(d) The secretary may issue orders, assess civil penalties, institute enforcement proceedings, and prosecute violations of this article as necessary.

(e) The secretary, in accordance with this article, may order corrective action to be undertaken, take corrective action, or authorize a third party to take corrective action.

(f) The secretary may recover the costs of taking corrective action, including costs associated with authorizing third parties to perform corrective action. Costs may not include routine inspection and administrative activities not associated with a release.

(g) The secretary shall promulgate for review and consideration by the West Virginia Legislature in the regular session of the Legislature, 2020, legislative rules to incorporate the relevant provisions of this article in the Groundwater Protection Rules for Coal Mining, 38 CSR 2F, for tanks and devices located at coal mining operations.

## CHAPTER 22A. MINERS' HEALTH, SAFETY, AND TRAINING.

### ARTICLE 1. OFFICE OF MINERS' HEALTH, SAFETY, AND TRAINING; ADMINISTRATION; ENFORCEMENT.

#### §22A-1-21. Penalties.

(a) (1) Any operator of a coal mine in which a violation of any health or safety rule occurs or who violates any other provisions of this chapter shall be assessed a civil penalty by the director under subdivision (3) of this subsection, which shall be not more than \$5,000, for each violation, unless the director determines that it is appropriate to impose a special assessment for the violation, pursuant to the provisions of subdivision (2), subsection (b) of this section. Each violation constitutes a separate offense. In determining the amount of the penalty, the director shall consider the operator's history of previous violations, whether the operator was negligent, the appropriateness of the penalty to the size of the business of the operator charged, the gravity of the violation, and the demonstrated good faith of the operator charged in attempting to achieve rapid compliance after notification of a violation.

(2) Revisions to the assessment of civil penalties shall be proposed as legislative rules in accordance with the provisions of §29A-3-1 *et seq.* of this code.

(3) Any miner who knowingly violates any health or safety provision of this chapter or health or safety rule promulgated pursuant to this chapter is subject to a civil penalty assessed by the director under subdivision (4) of this subsection which shall not be more than \$250 for each occurrence of the violation. Any miner issued a violation under this subsection shall either appeal the violation or pay the civil penalty within 30 days after receipt of the violation. Any violation not appealed or paid within 30 days shall become delinquent.



Any civil penalty that becomes delinquent on or after July 1, 2019, and has not been paid shall be deemed a failure by the miner to perform a duty mandated pursuant to this article for purposes of §22A-1-31 of this code.

(4) A civil penalty under subdivision (1) or (2), subsection (a) of this section or subdivision (1) or (2), subsection (b) of this section shall be assessed by the director only after the person charged with a violation under this chapter or rule promulgated pursuant to this chapter has been given an opportunity for a public hearing and the director has determined, by a decision incorporating the director's findings of fact in the decision, that a violation did occur and the amount of the penalty which is warranted and incorporating, when appropriate, an order in the decision requiring that the penalty be paid. Any hearing under this section shall be of record.

(5) If the person against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in the order, the director may file a petition for enforcement of the order in any appropriate circuit court. The petition shall designate the person against whom the order is sought to be enforced as the respondent. A copy of the petition shall immediately be sent by certified mail, return receipt requested, to the respondent and to the representative of the miners at the affected mine or the operator, as the case may be. The director shall certify and file in the court the record upon which the order sought to be enforced was issued. The court has jurisdiction to enter a judgment enforcing, modifying and enforcing as modified, or setting aside, in whole or in part, the order and decision of the director or it may remand the proceedings to the director for any further action it may direct. The court shall consider and determine de novo all relevant issues, except issues of fact which were or could have been litigated in review proceedings before a circuit court under §22A-1-20 of this code and, upon the request of the respondent, those issues of fact which are in dispute shall be submitted to a jury. On the basis of the jury's findings the court shall determine the amount of the penalty to be imposed. Subject to the direction and control of the Attorney General, attorneys appointed for the director may appear for and represent the director in any action to enforce an order assessing civil penalties under this subdivision.

(b) (1) Any operator who knowingly violates a health or safety provision of this chapter or health or safety rule promulgated pursuant to this chapter, or knowingly violates or fails or refuses to comply with any order issued under §22A-1-15 of this ~~article~~ code, or any order incorporated in a final decision issued under this article, except an order incorporated in a decision under §22A-1-22(a) or §22A-1-22(b) of this ~~article~~ code, shall be assessed a civil penalty by the director under subdivision (5), subsection (a) of this section of not more than \$5,000 and for a second or subsequent violation assessed a civil penalty of not more than \$10,000, unless the director determines that it is appropriate to impose a special assessment for the violation, pursuant to the provisions of subdivision (2) of this subsection.

(2) In lieu of imposing a civil penalty pursuant to the provisions of subsection (a) of this section or subdivision (1) of this subsection, the director may impose a special assessment if an operator violates a health or safety provision of this chapter or health or safety rule promulgated pursuant to this chapter and the violation is of serious nature and involves one or more of the following by the operator:

- (A) Violations involving fatalities and serious injuries;
- (B) Failure or refusal to comply with any order issued under §22A-1-15 of this code;
- (C) Operation of a mine in the face of a closure order;
- (D) Violations involving an imminent danger;

(E) Violations involving an extraordinarily high degree of negligence or gravity or other unique aggravating circumstances; or

(F) A discrimination violation under §22A-1-22 of this code.

In situations in which the director determines that there are factors present which would make it appropriate to impose a special assessment, the director shall assess a civil penalty of at least \$5,000 and not more than \$10,000.

(c) Whenever a corporate operator knowingly violates a health or safety provision of this chapter or health or safety rules promulgated pursuant to this chapter, or knowingly violates or fails or refuses to comply with any order issued under this law or any order incorporated in a final decision issued under this law, except an order incorporated in a decision issued under §22A-1-22(a) or §22A-1-22(b) of this ~~article~~ code, any director, officer, or agent of the corporation who knowingly authorized, ordered or carried out the violation, failure or refusal is subject to the same civil penalties that may be imposed upon a person under subsections (a) and (b) of this section.

(d) Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this law or any order or decision issued under this law is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$10,000 or confined in jail not more than one year, or both fined and confined. The conviction of any person under this subsection shall result in the revocation of any certifications held by the person under this chapter which certified or authorized the person to direct other persons in coal mining by operation of law and bars that person from being issued any license under this chapter, except a miner's certification, for a period of not less than one year or for a longer period as may be determined by the director.

(e) Whoever willfully distributes, sells, offers for sale, introduces, or delivers in commerce any equipment for use in a coal mine, including, but not limited to, components and accessories of the equipment, who willfully misrepresents the equipment as complying with the provisions of this law, or with any specification or rule of the director applicable to the equipment, and which does not comply with the law, specification or rule, is guilty of a misdemeanor and, upon conviction thereof, is subject to the same fine and confinement that may be imposed upon a person under subsection (d) of this section.

(f) Any person who willfully violates any safety standard pursuant to this chapter or a rule promulgated thereunder that causes a fatality or who willfully orders or carries out such violation that causes a fatality is guilty of a felony and, upon conviction thereof, shall be fined not more than \$10,000 or confined in a state correctional facility not less than one year and not more than five years, or both fined and ~~imprisoned~~ confined.

(g) There is continued in the Treasury of the State of West Virginia a Special Health, Safety and Training Fund. All civil penalty assessments collected under this section shall be collected by the director and deposited with the Treasurer of the State of West Virginia to the credit of the Special Health, Safety and Training Fund. The fund shall be used by the director who is authorized to expend the moneys in the fund for the administration of this chapter.

#### **§22A-1-35. Mine rescue teams.**

(a) The operator shall provide mine rescue coverage at each active underground mine.

(b) Mine rescue coverage may be provided by:

(1) Establishing at least two mine rescue teams which are available at all times when miners are underground; or

(2) Entering into an arrangement for mine rescue services which assures that at least two mine rescue teams are available at all times when miners are underground.

(3) A West Virginia Office of Miners' Health, Safety, and Training Mine Rescue Team ~~may~~ shall serve as a second or backup team for mines within the state and qualify as one of the two teams required under subdivision (1) of this subsection and in accordance with 30 CFR, Part 49.20(4) for all mines with no backup team available within a one-hour drive to the mine. The operator shall contact the office and ~~obtain the state's agreement to serve as a backup team in the form of a written notification signed by the director and this notification shall be kept posted at the mine~~ notify them of the need for mine rescue services beginning July 1, 2019. The director shall utilize surplus funds from the West Virginia Office of Miners' Health, Safety, and Training's special revenue fund to provide backup mine rescue services.

(c) As used in this section, mine rescue teams shall be considered available where teams are capable of presenting themselves at the mine site(s) within a reasonable time after notification of an occurrence which might require their services. Rescue team members will be considered available even though performing regular work duties or while in an off-duty capacity. The requirement that mine rescue teams be available does not apply when teams are participating in mine rescue contests or providing rescue services to another mine.

(d) In the event of a fire, explosion, or recovery operations in or about any mine, the director is hereby authorized to assign any mine rescue team to said mine to protect and preserve life and property. The director may also assign mine rescue and recovery work to inspectors, instructors, or other qualified employees of the office as he or she deems necessary.

(e) The ground travel time between any mine rescue station and any mine served by that station shall not exceed two hours. To ensure adequate rescue coverage for all underground mines, no mine rescue station may provide coverage for more than ~~seventy~~ 70 mines within the two-hour ground travel limit as defined in this subsection.

(f) Each mine rescue team shall consist of five members and one alternate, who are fully qualified, trained, and equipped for providing emergency mine rescue service. Each mine rescue team shall be trained by a state certified mine rescue instructor.

(g) Each member of a mine rescue team must have been employed in an underground mine for a minimum of one year. For the purpose of mine rescue work only, miners who are employed on the surface but work regularly underground meet the experience requirement. The underground experience requirement is waived for those members of a mine rescue team on the effective date of this statute.

(h) An applicant for initial mine rescue training shall pass, on at least an annual basis, a physical examination by a licensed physician certifying his or her fitness to perform mine rescue work. A record that such examination was taken, together with pertinent data relating thereto, shall be kept on file by the operator and a copy shall be furnished to the director.

(i) Upon completion of the initial training, all mine rescue team members shall receive at least ~~forty~~ 40 hours of refresher training annually. This training shall be given at least four hours each month, or for a period of eight hours every two months, and shall include:

(1) Sessions underground at least once every six months;

(2) The wearing and use of a breathing apparatus by team members for a period of at least two hours, while under oxygen, once every two months;

(3) Where applicable, the use, care, capabilities, and limitations of auxiliary mine rescue equipment, or a different breathing apparatus; and

(4) Mine map training and ventilation procedures.

(j) When engaged in rescue work required by an explosion, fire, or other emergency at a mine, all members of mine rescue teams assigned to rescue operations shall, during the period of their rescue work, be employees of the operator of the mine where the emergency exists, and shall be compensated by the operator at the rate established in the area for such work. In no case shall this rate be less than the prevailing wage rate in the industry for the most skilled class of inside mine labor. During the period of their emergency employment, members of mine rescue teams shall be protected by the workers' compensation subscription of the mine operator.

(k) During the recovery work and prior to entering any mine at the start of each shift, all rescue or recovery teams shall be properly informed of existing conditions and work to be performed by the designated company official in charge.

(1) For every two teams performing rescue or recovery work underground, one six-member team shall be stationed at the mine portal.

(2) Each rescue or recovery team performing work with a breathing apparatus shall be provided with a backup team of equal number, stationed at each fresh air base.

(3) The mine operator shall provide two-way communication and a lifeline or its equivalent at each fresh air base for all mine rescue or recovery teams and no mine rescue team member shall advance more than 1,000 feet in by the fresh air base: *Provided*, That if a life may possibly be saved and existing conditions do not create an unreasonable hazard to mine rescue team members, the rescue team may advance a distance agreed upon by those persons directing the mine rescue or recovery operations: *Provided, however*, That the mine operator shall provide a lifeline or its equivalent in each fresh air base for all mine rescue or recovery teams.

(4) A rescue or recovery team shall immediately return to the fresh air base when the atmospheric pressure of any member's breathing apparatus depletes to ~~sixty~~ 60 atmospheres, or its equivalent.

(l) Mine rescue stations shall provide a centralized storage location for rescue equipment. This storage location may be either at the mine site, affiliated mines, or a separate mine rescue structure. All mine rescue teams shall be guided by the mine rescue apparatus and auxiliary equipment manual. Each mine rescue station shall be provided with at least the following equipment:

(1) Twelve self-contained oxygen breathing apparatuses, each with a minimum of two hours capacity, and any necessary equipment for testing such breathing apparatuses;

(2) A portable supply of liquid air, liquid oxygen, pressurized oxygen, oxygen generating or carbon dioxide absorbent chemicals, as applicable to the supplied breathing apparatuses and sufficient to sustain each team for six hours while using the breathing apparatuses during rescue operations;

(3) One extra, fully charged, oxygen bottle for each self-contained compressed oxygen breathing apparatus, as required under subdivision (1) of this subsection;

(4) One oxygen pump or a cascading system, compatible with the supplied breathing apparatuses;

(5) Twelve permissible cap lamps and a charging rack;

(6) Two gas detectors appropriate for each type of gas which may be encountered at the mines served;

(7) Two oxygen indicators;

(8) One portable mine rescue communication system or a sound-powered communication system. The wires or cable to the communication system shall be of sufficient tensile strength to be used as a manual communication system. The communication system shall be at least ~~one thousand~~ 1,000 feet in length; and

(9) Necessary spare parts and tools for repairing the breathing apparatuses and communication system, as presently prescribed by the manufacturer.

(m) Mine rescue apparatuses and equipment shall be maintained in a manner that will ensure readiness for immediate use. A person trained in the use and care of breathing apparatuses shall inspect and test the apparatuses at intervals not exceeding ~~thirty~~ 30 days and shall certify by signature and date that the inspections and tests were done. When the inspection indicates that a corrective action is necessary, the corrective action shall be made and recorded by said person. The certification and corrective action records shall be maintained at the mine rescue station for a period of one year and made available on request to an authorized representative of the director.

(n) Authorized representatives of the director have the right of entry to inspect any designated mine rescue station.

(o) When an authorized representative finds a violation of any of the mine rescue requirements, the representative shall take appropriate corrective action in accordance with §22A-1-15 of this ~~article~~ code.

(p) Operators affiliated with a station issued an order by an authorized representative will be notified of that order and that their mine rescue program is invalid. The operators shall have ~~twenty-four~~ 24 hours to submit to the director a revised mine rescue program.

(q) Every operator of an underground mine shall develop and adopt a mine rescue program for submission to the director within ~~thirty~~ 30 days of the effective date of this statute: *Provided*, That a new program need only be submitted when conditions exist as defined in subsection (p) of this section, or when information contained within the program has changed.

(r) A copy of the mine rescue program shall be posted at the mine and kept on file at the operator's mine rescue station or rescue station affiliate and the state regional office where the mine is located. A copy of the mine emergency notification plan filed pursuant to 30 CFR §49.9(a) will satisfy the requirements of subsection (q) of this section if submitted to the director.

(s) The operator shall immediately notify the director of any changed conditions materially affecting the information submitted in the mine rescue program.

**§22A-1-43. Hold harmless clause; decision to enter mine.**

(a) If any injury or death shall occur to any person who has entered any mine, whether active workings, inactive workings, or abandoned workings, without permission, neither:

(1) The owner of that mine or property; nor

(2) The State of West Virginia or any of its political subdivisions, or any agency operating under color of law thereunder; nor

(3) Any person, organization, or entity involved in any rescue or attempted rescue of such person who has committed an entry without permission, shall be held liable in any court or other forum for such injury or death.

(b) The director is authorized to make the decision on whether a mine is too dangerous, and this decision is not subject to review by a court of this state.

(c) A company shall not be required or ordered to conduct rescue operations.

**§22A-1-44. Temporary exemption for environmental regulations.**

In the event of an unauthorized entry by any person or persons into any mine whether active workings, inactive workings, or abandoned workings, neither the owner of that mine or property, nor any other person, organization, or entity involved in any rescue or attempted rescue of such person, may be held liable for any violation of any environmental regulation, if such violation occurred as part of any rescue efforts.

**ARTICLE 1A. OFFICE OF MINERS' HEALTH, SAFETY, AND TRAINING; ADMINISTRATION; SUBSTANCE ABUSE.****§22A-1A-1. Substance abuse screening; minimum requirements; standards and procedures for screening.**

(a) Every employer of certified persons, as defined in §22A-1-2 of this ~~chapter~~ code, shall implement a substance abuse screening policy and program that shall, at a minimum, include:

(1) A preemployment, ~~ten~~ 10-panel urine test for the following and any other substances as set out in rules adopted by the Office of Miners' Health, Safety, and Training:

(A) Amphetamines;

(B) Cannabinoids/THC;

(C) Cocaine;

(D) Opiates;

(E) Phencyclidine (PCP);

(F) Benzodiazepines;

(G) Propoxyphene;

- (H) Methadone;
- (I) Barbiturates; and
- (J) Synthetic narcotics.

Split samples shall be collected by providers who are certified as complying with standards and procedures set out in the United States Department of Transportation's rule, 49 C. F. R. Part 40, which may be amended, from time to time, by legislative rule of the Office of Miners' Health, Safety, and Training. Collected samples shall be tested by laboratories certified by the United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) for collection and testing. Notwithstanding the provisions of this subdivision, the mine operator may implement a more stringent substance abuse screening policy and program;

(2) A random substance abuse testing program covering the substances referenced in subdivision (1) of this subsection. "Random testing" means that each person subject to testing has a statistically equal chance of being selected for testing at random and at unscheduled times. The selection of persons for random testing shall be made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with the persons' Social Security numbers, payroll identification numbers, or other comparable identifying numbers; and

(3) Review of the substance abuse screening program with all persons required to be tested at the time of employment, upon a change in the program and annually thereafter.

(b) For purposes of this subsection, preemployment testing shall be required upon hiring by a new employer, rehiring by a former employer following a termination of the employer/employee relationship or transferring to a West Virginia mine from an employer's out-of-state mine to the extent that any substance abuse test required by the employer in the other jurisdiction does not comply with the minimum standards for substance abuse testing required by this article. Furthermore, the provisions of this section apply to all employers that employ certified persons who work in mines, regardless of whether that employer is an operator, contractor, subcontractor or otherwise.

(c) Any employee involved in an accident that results in physical injuries or damage to equipment or property may be subject to a drug test by his or her employer.

~~(e)~~ (d) (1) Every employer shall notify the director, on a form prescribed by the director, within seven days of any of the following:

(A) A Any positive drug or alcohol test of a certified person., ~~whether it be a preemployment test, random test, reasonable suspicion test or post-accident test.~~ However, for purposes of determining whether a drug test is positive the certified employee may not rely on a prescription dated more than one year prior to the date of the drug test result;

- (B) The refusal of a certified person to submit a sample;
- (C) A certified person possessing a substituted sample or an adulterated sample; or
- (D) A certified person submitting a substituted sample or an adulterated sample.

(2) With respect to any certified person subject to a collective bargaining agreement, the employer shall notify the director, on a form prescribed by the director, within seven days of any of the following:

(A) A Any positive drug or alcohol test of a certified person, ~~whether it be a preemployment test, random test, reasonable suspicion test or post-accident test.~~ However, for purposes of determining whether a drug test is positive the certified employee may not rely on a prescription dated more than one year prior to the date of the drug test result;

(B) The refusal of a certified person to submit a sample;

(C) A certified person possessing a substituted sample or an adulterated sample; or

(D) A certified person submitting a substituted sample or an adulterated sample.

(3) When the employer submits the completed notification form prescribed by the director, the employer shall also submit a copy of the laboratory test results showing the substances tested for and the results of the test.

(4) Notice shall result in the immediate temporary suspension of all certificates held by the certified person who failed the screening, pending a hearing before the board of appeals pursuant to §22A-1-2 of this ~~article~~ code.

~~(d)~~ (e) Suspension or revocation of a certified person's certificate as a miner or other miner specialty in another jurisdiction by the applicable regulatory or licensing authority for substance abuse-related matters shall result in the director's immediately and temporarily suspending the certified person's West Virginia certificate until such time as the certified person's certification is reinstated in the other jurisdiction.

~~(e)~~ (f) The provisions of this article shall not be construed to preclude an employer from developing or maintaining a drug and alcohol abuse policy, testing program, or substance abuse program that exceeds the minimum requirements set forth in this section. The provisions of this article shall also not be construed to require an employer to alter, amend, revise or otherwise change, in any respect, a previously established substance abuse screening policy and program that meets or exceeds the minimum requirements set forth in this section. The provisions of this article shall require an employer to subject its employees who as part of their employment are regularly present at a mine and who are employed in a safety-sensitive position to preemployment and random substance abuse tests: *Provided*, That each employer shall retain the discretion to establish the parameters of its substance abuse screening policy and program so long as it meets the minimum requirements of this article. For purposes of this section, a "safety-sensitive position" means an employment position where the employee's job responsibilities include duties and activities that involve the personal safety of the employee or others working at a mine.

#### **§22A-1A-2. Board of Appeals hearing procedures.**

(a) Any hearing conducted after the temporary suspension of a certified person's certificate pursuant to this article, shall be conducted within ~~sixty~~ 60 days of the temporary suspension. The Board of Appeals shall make every effort to hold the hearing within ~~forty~~ 40 days of the temporary suspension.

(b) All hearings of the Board of Appeals pursuant to this section shall be conducted in accordance with the provisions of §22A-1-31 of this ~~chapter~~ code. In addition to the rules and procedures in §22A-1-31 of this ~~chapter~~ code in hearings under this section, the Board of Appeals



may accept as evidence a notarized affidavit of drug testing procedures and results from a Medical Review Officer (MRO) in lieu of live testimony by the MRO. If the Board of Appeals desires testimony in lieu of a notarized affidavit, the MRO may testify under oath telephonically or by an Internet-based program in lieu of physically attending the hearing. The Board of Appeals may suspend the certificate or certificates of a certified person for violation of this article or for any other violation of this chapter pertaining to substance abuse. The Board of Appeals may impose further disciplinary actions for repeat violations. The director shall have the authority to propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code to establish the disciplinary actions referenced in this section following the receipt of recommendations from the Board of Coal Mine Health and Safety following completion of the study required pursuant to §22A-6-14 of this ~~chapter~~ code. The legislative rules authorized by this subsection shall not, however, include any provisions requiring an employer to take or refrain from taking any specific personnel action or mandating any employer to establish or maintain an employer-funded substance abuse rehabilitation program.

(c) No person whose certification is suspended or revoked under this section may perform any duties under any other certification issued under this chapter, during the period of the suspension imposed by the Board of Appeals. For all miners determined to have a positive drug or alcohol test as determined pursuant to the provisions of this article, the board shall suspend the miner's certification card(s) for a minimum of six months from the date of the drug test. This six-month minimum suspension shall also apply to miners who enter into a treatment program after testing positive in a drug test administered pursuant to the provisions of this article and are placed under probationary treatment and testing agreements by the board. The director shall promulgate an emergency rule and legislative rule by July 1, 2019, requiring all miners who have a positive drug or alcohol test shall have their miner certification card(s) suspended for a minimum of six months.

(d) Any party adversely affected by a final order or decision issued by the Board of Appeals hereunder is entitled to judicial review thereof pursuant to §29A-5-4 of this code.

## **ARTICLE 2. UNDERGROUND MINES.**

### **§22A-2-2. Submittal of detailed ventilation plan to director.**

~~(a) A mine operator shall submit a detailed ventilation plan and any addenda to the director for review and comment. The mine operator shall review the plan with the director and address concerns to the extent practicable. The operator shall deliver to the miners' representative employed by the operator at the mine, if any, a copy of the operator's proposed annual ventilation plan at least 10 days prior to the date of submission. The miners' representative, if any, shall be afforded the opportunity to submit written comments to the operator prior to such submission; in addition, the miners' representative, if any, may submit written comments to the director. The director shall submit any concern that is not addressed to the United States Department of Labor – Mine Safety and Health Administration (MSHA) through comments to the plan. The mine operator shall provide a copy of the plan to the director 10 days prior to the submittal of the plan to MSHA. The MSHA-approved plan shall serve as the state-approved plan: Provided, That the MSHA-approved plan shall comply with all provisions of state mining law as set forth in state code or code of state rules.~~

(b) (a) The A mine operator shall give the director a copy of the MSHA United States Department of Labor's Mine Safety and Health Administration (MSHA)-approved plan and any addenda as soon as the operator receives the approval from MSHA. The MSHA-approved plan shall serve as the state-approved plan: Provided, That the MSHA-approved plan shall comply with all provisions of state mining law as set forth in this code or state rules.

(e) (b) In the event of an unforeseen situation requiring immediate action on a plan revision, the operator shall submit the proposed revision to the director and the miners' representative, if any, employed by the operator at the mine when the proposed revision is submitted to MSHA. The director shall work with the operator to review and comment on the proposed plan revision to MSHA as quickly as possible.

(d) (c) Upon approval by MSHA, the plan is enforceable by the director. The approved plan and all revisions and addenda thereto shall be posted on the mine bulletin board and made available for inspection by the miners at that mine for the period of time that they are in effect.

**§22A-2-12. Instruction of employees and supervision of apprentices; annual examination of persons using approved methane-detecting devices; records of examination; maintenance of methane detectors, etc.**

(a) The Office of Miners' Health, Safety, and Training shall prescribe and establish a course of instruction in mine safety and particularly in dangers incident to employment in mines and in mining laws and rules, which course of instruction shall be successfully completed within ~~twelve~~ 12 weeks after any person is first employed as a miner. It is further the duty and responsibility of the Office of Miners' Health, Safety, and Training to see that the course is given to all persons as above provided after their first being employed in any mine in this state. In addition to other enforcement actions available to the director, upon a finding by the director of the existence of a pattern of conduct creating a hazardous condition at a mine, the director shall notify the ~~Board of Miners' Training, Education and Certification~~ Board of Coal Mine Health and Safety, which shall cause additional training to occur at the mine addressing such safety issue or issues identified by the director, pursuant to §22A-7-1 *et seq.* of this ~~chapter code~~. The Director of the Office of Miners' Health, Safety, and Training is authorized to promulgate emergency and legislative rules in consultation with the Board of Coal Mine Health and Safety establishing a course of instruction.

(b) It is the duty of the mine foreman or the assistant mine foreman of every coal mine in this state to see that every person employed to work in the mine is, before beginning work therein, instructed in the particular danger incident to his or her work in the mine, and furnished a copy of the mining laws and rules of the mine. It is the duty of every mine operator who employs apprentices, as that term is used in §22A-8-3 and §22A-8-4 of this ~~chapter code~~ to ensure that the apprentices are effectively supervised with regard to safety practices and to instruct apprentices in safe mining practices. Every apprentice shall work under the direction of the mine foreman or his or her assistant mine foreman and they are responsible for his or her safety. The mine foreman or assistant mine foreman may delegate the supervision of an apprentice to an experienced miner, but the foreman and his or her assistant mine foreman remain responsible for the apprentice. During the first ~~one hundred twenty~~ 120 days of employment in a mine, the apprentice shall work within sight and sound of the mine foreman, assistant mine foreman, or an experienced miner, and in a location that the mine foreman, assistant mine foreman, or experienced miner can effectively respond to cries for help of the apprentice: Provided, that if the apprentice has completed an approved training program as approved by the Board of Coal Mine Health and Safety, this period may be reduced by an amount not to exceed 30 days. The location shall be on the same side of any belt, conveyor, or mining equipment.

(c) Persons whose duties require them to use an approved methane-detecting device or other approved methane detectors shall be examined at least annually as to their competence by a qualified official from the Office of Miners' Health, Safety, and Training and a record of the examination shall be kept by the operator and the office. Approved methane-detecting devices and other approved methane detectors shall be given proper maintenance and shall be tested before each working shift. Each operator shall provide for the proper maintenance and care of the permissible approved methane-detecting device or any other approved device for detecting

methane and oxygen deficiency by a person trained in the maintenance, and, before each shift, care shall be taken to ensure that the approved methane-detecting device or other device is in a permissible condition and maintained according to manufacturer's specifications.

**§22A-2-13. Daily inspection of working places; records.**

Before the beginning of any shift upon which they shall perform supervisory duties, the mine foreman or his or her assistant shall review carefully and countersign all books and records reflecting the conditions and the areas under their supervision, exclusive of equipment logs, which the operator is required to keep under this chapter. The mine foreman, assistant mine foreman, or fire boss shall visit and carefully examine each working place in which miners will be working at the beginning of each shift before any face equipment is energized and shall examine each working place in the mine at least once every two hours each shift while such miners are at work in such places, and shall direct that each working place shall be secured by props, timbers, roof bolts, or other approved methods of roof support or both where necessary to the end that the working places shall be made safe. The mine foreman or his or her assistants upon observing a violation or potential violation of §22A-2-1 *et seq.* of this ~~chapter~~ code or any regulation or any plan or agreement promulgated or entered into thereunder shall arrange for the prompt correction thereof. The foreman shall not permit any miner other than a certified foreman, fire boss, assistant mine foreman, assistant mine foreman-fire boss or pumper to be on a working section by himself or herself. Should the mine foreman or his or her assistants find a place to be in a dangerous condition, they shall not leave the place until it is made safe, or shall remove the persons working therein until the place is made safe by some competent person designated for that purpose.

He or she shall place his or her initials, time and the date at or near each place he or she examines. He or she shall also record any dangerous conditions and practices found during his or her examination in a book provided for that purpose.

**§22A-2-80. Existing regulations to be revised.**

By August 31, 2019, all existing rules or regulations under authority of this article shall be revised to reflect the changes enacted during the 2019 Regular Session of the Legislature.

**ARTICLE 8. CERTIFICATION OF UNDERGROUND AND SURFACE COAL MINERS.**

**§22A-8-5. Supervision of apprentices.**

Each holder of a permit of apprenticeship shall be known as an apprentice. Any miner holding a certificate of competency and qualification may have one person working with him or her, and under his or her supervision and direction, as an apprentice, for the purpose of learning and being instructed in the duties and calling of mining. Any mine foreman or fire boss, or assistant mine foreman or fire boss, may have three persons working with him or her under his or her supervision and direction, as apprentices, for the purpose of learning and being instructed in the duties and calling of mining: *Provided*, That a mine foreman, assistant mine foreman, or fire boss supervising apprentices in an area where no coal is being produced or which is outby the working section may have as many as five apprentices under his or her supervision and direction, as apprentices, for the purpose of learning and being instructed in the duties and calling of mining or where the operator is using a production section under program for training of apprentice miners, approved by the ~~Board of Miner Training, Education and Certification~~ Board of Coal Mine Health and Safety.

Every apprentice working at a surface mine shall be at all times under the supervision and control of at least one person who holds a certificate of competency and qualification.

In all cases, it is the duty of every mine operator who employs apprentices to ensure that such persons are effectively supervised and to instruct such persons in safe mining practices. Each apprentice shall wear a red hat which identifies the apprentice as such while employed at or near a mine. No person shall be employed as an apprentice for a period in excess of eight months, except that in the event of illness or injury, time extensions shall be permitted as established by the Director of the Office of Miners' Health, Safety, and Training.

**§22A-8-10. Loss of certification for unlawful trespass.**

Upon a conviction under the provisions of §61-3B-6 of this code, the certification of any person certified under the provision of §22A-8-1 et seq. of this code, including a safety sensitive certification issued pursuant to 56 CSR 19, shall be deemed revoked and person shall be permanently barred from holding a certification under the provisions of §22A-8-1 et seq. of this code.

**CHAPTER 61. CRIMES AND THEIR PUNISHMENT.**

**ARTICLE 3. CRIMES AGAINST PROPERTY.**

**§61-3-12. Entry of building other than dwelling; entry of railroad, traction or motorcar, steamboat, or other vessel; penalties; counts in indictment.**

If any person shall, at any time, break and enter, or shall enter without breaking, any office, shop, ~~underground coal mine~~, storehouse, warehouse, banking house, or any house or building, other than a dwelling house or outhouse adjoining thereto or occupied therewith, any railroad or traction car, propelled by steam, electricity or otherwise, any steamboat or other boat or vessel, or any commercial, industrial or public utility property enclosed by a fence, wall, or other structure erected with the intent of the property owner of protecting or securing the area within and its contents from unauthorized persons, within the jurisdiction of any county in this state, with intent to commit a felony or any larceny, he or she shall be deemed guilty of a felony and, upon conviction, shall be confined in a state correctional facility not less than one nor more than 10 years. And if any person shall, at any time, break and enter, or shall enter without breaking, any automobile, motorcar, or bus, with like intent, within the jurisdiction of any county in this state, he or she shall be guilty of a misdemeanor and, upon conviction, shall be confined in jail not less than two nor more than 12 months and be fined not exceeding \$100.

An indictment for burglary may contain one or more counts for breaking and entering, or for entering without breaking, the house or building mentioned in the count for burglary under the provisions of this section and §61-3-11 of this code.

**ARTICLE 3B. TRESPASS.**

**§61-3B-6. Mine trespass; penalties.**

(a) A person who willfully enters an underground coal mine, whether active workings, inactive workings, or abandoned workings, without permission, is guilty of a felony and, upon conviction thereof shall be imprisoned in a correctional facility not less than one year and nor more than 10 years and shall be fined not less than \$5,000 nor more than \$10,000: *Provided*, that for any conviction pursuant to this subsection, any inactive or abandoned underground workings must be either: (1) sealed; or (2) clearly identified by signage at some conspicuous place near the entrance of the mine that includes a notice that the unauthorized entry into the mine is a felony criminal offense.

(b) A person who willfully enters a surface coal mine, whether active workings, inactive workings or abandoned workings, without permission, and with the intent to commit a felony or any larceny, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail not less than one week and not more than one month and shall be fined not less than \$1,000 nor more than \$5,000. For a second conviction, pursuant to this subsection, the person shall be guilty of a felony and shall be confined in a correctional facility not less than one year and not more than five years and shall be fined not less than \$5,000 nor more than \$10,000. For a third or subsequent conviction, pursuant to this subsection, the person shall be guilty of a felony and shall be confined in a correctional facility not less than five year and not more than 10 years and shall be fined not less than \$10,000, nor more than \$25,000.

(c) If a person violates subsections (a) or (b) of this section, and during any rescue efforts for any such person, there occurs an injury that causes substantial physical pain, illness, or any impairment of physical condition to any person other than himself or herself, then that person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than one week and not more than one year and shall be fined not less than \$1,000 nor more than \$5,000: *Provided*, That such jail term shall include actual confinement of not less than seven days.

(d) If a person violates subsections (a) or (b) of this section, and during any rescue efforts for any such person, there occurs an injury that creates a substantial risk of death, causes serious or prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ to any person other than himself or herself, then that person is guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility for not less than two nor more than 10 years and shall be fined not less than \$5,000 nor more than \$10,000.

(e) If a person violates subsections (a) or (b) of this section, and during any rescue efforts of such person, the death of any other person occurs, then that person is guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility for not less than three nor more than 15 years and shall be fined not less than \$10,000 nor more than \$25,000.

(f) Notwithstanding and in addition to any other penalties provided by law, any person who performs or causes damage to property in the course of a willful trespass in violation of this section is liable to the property owner in the amount of twice the amount of such damage.

(g) The terms "mine", "active workings", "inactive workings," and "abandoned workings" have the same meaning ascribed to such terms as set forth in §22A-1-2 of this code.

(h) Nothing in this section shall be construed to prevent lawful assembly and petition for the lawful redress of grievances, during any dispute, including, but not limited to, activities protected by the West Virginia Constitution or the United States Constitution or any statute of this state or the United States.

And,

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

**Eng. Senate Bill 635**—A Bill to amend and reenact §5B-2A-5, §5B-2A-6, §5B-2A-8, and §5B-2A-9 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto three new sections, designated §11-28-1, §11-28-2, and §11-28-3; to amend and reenact §22-3-14 of said code; to amend and reenact §22-11-10 of said code; to amend and reenact §22-30-3 and §22-30-24 of said code; to amend and reenact §22A-1-21 and §22A-1-35 of said code; to amend said code by adding thereto two new sections, designated §22A-1-43 and §22A-1-44; to

amend and reenact §22A-1A-1 and §22A-1A-2 of said code; to amend and reenact §22A-2-2, §22A-2-12, and §22A-2-13 of said code; to amend said code by adding thereto a new section, designated, §22A-2-80; to amend and reenact §22A-2A-405 of said code; to amend and reenact §22A-8-5 of said code; to amend said code by adding thereto a new section, designated §22A-8-10; to amend and reenact §61-3-12 of said code; and to amend said code by adding thereto a new section, designated §61-3B-6, all relating generally to coal mining activities; eliminating the requirement for submission of the community impact statement; requiring review of new mining activity for submission to the Office of Coalfield Community Development; eliminating requirements for submission of certain additional information; requiring the submission of certain information related to land and infrastructure needs upon request of the Office of Coalfield Community Development; requiring and authorizing the Secretary of the Department of Environmental Protection to promulgate rules relating to mine subsidence protection for dwelling owners; creating a tax credit for post coal mine development; authorizing the Secretary of the Department of Environmental Protection to promulgate rules for permit modification and renewal fees for surface mining operations pursuant to the Water Pollution Control Act; authorizing the Secretary of the Department of Environmental Protection to promulgate rules relating to exemptions pursuant to the Aboveground Storage Tank Act; requiring a miner who was issued an assessment to either pay the fine or appeal a violation within 30 days; requiring the Office of Miners' Health, Safety, and Training Mine Rescue Team be provided to a coal operation where the operation has no mine rescue team available within one hour's drive; permitting employers to drug test an employee involved in an accident that results in physical injuries or damage to equipment or property; requiring miners testing positive for drug use to undergo a mandatory minimum six-month suspension; eliminating timing requirements for submission of a detailed mine ventilation plan to the Director of the Office of Miners' Health, Safety, and Training; authorizing the Director of the Office of Miners' Health, Safety, and Training to promulgate emergency rules for establishing a course of instruction for apprentice miners; requiring apprentice miners to work 90 days in a mine within sight and sound of a mine foreman or assistant foreman; permitting the Director of the Office of Miners' Health, Safety, and Training to decertify miners who fail to perform daily examinations; allowing the Director of the Office of Miners' Health, Safety, and Training to use the employer's tracking data of the designated daily examiner; authorizing the Director of the Office of Miners' Health, Safety, and Training to promulgate rules generally; amending standards for controlling and monitoring exhaust gases for diesel-powered underground coal mining equipment; allowing certified competent miners to supervise up to two apprentice miners; holding mine owners, the state, and person or entities engaged in rescue operations harmless for injury or death; authorizing a temporary exemption from environmental regulations during rescue operations; revoking certifications of persons convicted of mine trespass; removing underground coal mines from those places subject to the crime of unlawful entry of building other than a dwelling; creating the new criminal misdemeanor and felony offenses of mine trespass; establishing penalties for mine trespass including enhanced penalties for bodily injury or death during rescue operations; authorizing increased liability for damages caused during a mine trespass; and exempting lawful activities under the West Virginia and United States Constitutions, and state and federal law from the operation of the mine trespass criminal statute.

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

Engrossed Senate Bill 635, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 635) passed with its Senate amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 635) takes effect from passage.

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

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

**Eng. Senate Bill 673**, Relating to public higher education accountability and planning.

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

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

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

## **CHAPTER 18B. HIGHER EDUCATION.**

### **ARTICLE 1. GOVERNANCE**

#### **§18B-1-2. Definitions.**

The following words when used in this chapter and chapter eighteen-c of this code have the meanings ascribed to them unless the context clearly indicates a different meaning:

(1) “Administratively linked community and technical college” means a state institution of higher education delivering community and technical college education and programs which has maintained a contractual agreement to receive essential services from another accredited state institution of higher education prior to July 1, 2008;

(2) “Advanced technology center” means a facility established under the direction of an independent community and technical college or the council for the purpose of implementing and

delivering education and training programs for high-skill, high-performance Twenty-first Century workplaces;

(3) “Approve” or “approval”, when used in reference to action by the Commission or the Council, means action in which the governance rationale of a governing board under its jurisdiction is given due consideration, and the action of the Commission is to additionally establish whether the proposed institutional action is consistent with law and established policy and is an appropriate advancement of the public interest;

(4) “Board of visitors” means the advisory board previously appointed for the West Virginia Graduate College and the advisory board previously appointed for West Virginia University Institute of Technology, which provide guidance to the Marshall University Graduate College and West Virginia University Institute of Technology, respectively;

(5) “Broker” or “brokering” means serving as an agent on behalf of students, employers, communities or responsibility areas to obtain education services not offered at that institution. These services include courses, degree programs or other services contracted through an agreement with a provider of education services either in-state or out-of-state;

(6) “Chancellor” means the Chancellor for Higher Education where the context refers to a function of the Higher Education Policy Commission. “Chancellor” means the Chancellor for Community and Technical College Education where the context refers to a function of the West Virginia Council for Community and Technical College Education;

(7) “Chancellor for Community and Technical College Education” means the chief executive officer of the West Virginia Council for Community and Technical College Education employed pursuant to section three, article two-b of this chapter;

(8) “Chancellor for Higher Education” means the chief executive officer of the Higher Education Policy Commission employed pursuant to section five, article one-b of this chapter;

(9) “Collaboration” means entering into an agreement with one or more providers of education services in order to enhance the scope, quality or efficiency of education services;

(10) “Community and technical college”, in the singular or plural, means the free-standing community and technical colleges and other state institutions of higher education which deliver community and technical college education. This definition includes Blue Ridge Community and Technical College, Bridgemont Community and Technical College, Eastern West Virginia Community and Technical College, Kanawha Valley Community and Technical College, Mountwest Community and Technical College, New River Community and Technical College, Pierpont Community and Technical College, Southern West Virginia Community and Technical College, West Virginia Northern Community and Technical College and West Virginia University at Parkersburg;

(11) “Community and technical college education” means the programs, faculty, administration and funding associated with the delivery of community and technical college education programs;

(12) “Community and technical college education program” means any college-level course or program beyond the high school level provided through a public institution of higher education resulting in or which may result in a two-year associate degree award including an associate of arts, an associate of science and an associate of applied science; certificate programs and skill sets; developmental education; continuing education; collegiate credit and noncredit workforce



development programs; and transfer and baccalaureate parallel programs. All programs are under the jurisdiction of the council. Any reference to “post-secondary vocational education programs” means community and technical college education programs as defined in this subsection;

(13) “Confirm” or “confirmation”, when used in reference to action by the Commission, means action in which substantial deference is allocated to the governing authority of a governing board under its jurisdiction and the action of the Commission is to review whether the proposed institutional action is consistent with law and established policy;

(14) “Council” means the West Virginia Council for Community and Technical College Education created by article two-b of this chapter;

(15) “Dual credit course” or “dual enrollment course” means a credit-bearing college-level course offered in a high school by a state institution of higher education for high school students in which the students are concurrently enrolled and receiving credit at the secondary level.

(16) “Essential conditions” means those conditions which shall be met by community and technical colleges as provided in section three, article three-c of this chapter;

(17) “Exempted schools” means West Virginia University, including West Virginia University Potomac State College and West Virginia University Institute of Technology; Marshall University; Fairmont State University; Shepherd University; and the West Virginia School of Osteopathic Medicine;

(18) “Free-standing community and technical colleges” means Southern West Virginia Community and Technical College, West Virginia Northern Community and Technical College, and Eastern West Virginia Community and Technical College, which may not be operated as branches or off-campus locations of any other state institution of higher education;

(19) “Governing boards” or “boards” means the institutional boards of Governors created by section one, article two-a of this chapter;

(20) “Higher Education Policy Commission”, “Policy Commission” or “Commission” means the commission created by section one, article one-b of this chapter;

(21) “Independent community and technical college” means a state institution of higher education under the jurisdiction of the council which is independently accredited, is governed by its own independent governing board, and may not be operated as a branch or off-campus location of any other state institution of higher education. This definition includes Blue Ridge Community and Technical College, Bridgemont Community and Technical College, Eastern West Virginia Community and Technical College, Kanawha Valley Community and Technical College, Mountwest Community and Technical College, New River Community and Technical College, Pierpont Community and Technical College, Southern West Virginia Community and Technical College, West Virginia Northern Community and Technical College, and West Virginia University at Parkersburg;

(22) “Institutional compact” means the compact developed by a state institution of higher education, consistent with the public policy agenda for higher education;

(23) “Institutional operating budget” or “operating budget” means for any fiscal year an institution’s total unrestricted education and general funding from all sources, including, but not limited to, tuition and fees and legislative appropriation, and any adjustments to that funding as

approved by the commission or council based on comparisons with peer institutions or to reflect consistent components of peer operating budgets;

(24) "Rule" or "rules" means a regulation, standard, policy or interpretation of general application and future effect;

(25) "Sponsoring institution" means a state institution of higher education that maintained an administrative link to a community and technical college providing essential services prior to July 1, 2008. This definition includes institutions whose governing boards had under their jurisdiction a community and technical college, regional campus or a division delivering community and technical college education and programs;

(26) "State college and university" means Bluefield State College, Concord University, Fairmont State University, Glenville State College, Shepherd University, West Liberty University or West Virginia State University;

(27) "State institution of higher education" means any university, college or community and technical college under the jurisdiction of a governing board as that term is defined in this section;

(28) "Statewide network of independently accredited community and technical colleges" or "community and technical college network" means the state institutions of higher education under the jurisdiction of the West Virginia Council for Community and Technical College Education which are independently accredited, each governed by its own independent governing board, and each having a core mission of providing affordable access to and delivering high quality community and technical education in every region of the state; and

(29) "Vice Chancellor for Administration" means the person employed in accordance with section two, article four of this chapter. Any reference in this chapter or chapter eighteen-c of this code to "Senior Administrator" means Vice Chancellor for Administration.

## **CHAPTER 18B. HIGHER EDUCATION.**

### **ARTICLE 1D. HIGHER EDUCATION ACCOUNTABILITY.**

#### **§18B-1D-1. Master plan repealed; accountability system continued.**

(a) The Legislature finds that:

(1) Accountability and strategic planning are valuable and necessary components of establishing and achieving goals for higher education in this state and fulfilling missions of the institutions;

(2) To be most effective and efficient, the accountability and strategic planning process should be coordinated, streamlined, and nonduplicative; and

(3) Redundant reporting requirements exist in the accountability and strategic planning process which serve to waste scarce resources and decrease efficiency.

(b) It is the intent of the Legislature that the accountability and strategic planning process for public higher education in this state continues in a unified and comprehensive manner while utilizing the resources of the higher education systems in an economical and efficient manner. To that end:

(1) The requirement for a statewide master plan for public higher education is repealed, and any provision of this code regarding the plan is void and of no effect;

(2) The requirements for state and institutional compacts for public higher education are repealed, and any provision of this code regarding the compacts are void and of no effect; and

(3) When collecting data from an institution, the commission and council first shall consider data generated from the unit-record student, registration, course and personnel files, the audited financial statements, and any source previously submitted formally to the commission or council from which the requested data may be obtained, so long as the data or information available through these sources reflects the most current reporting period.

**§18B-1D-2. Definitions.**

[Repealed]

**§18B-1D-3. State vision for public higher education; findings; establishment of objectives.**

[Repealed]

**§18B-1D-4. Responsibilities of Higher Education Policy Commission and Council for Community and Technical College Education; development of public policy agendas; reports; institutional responsibilities.**

[Repealed.]

**§18B-1D-5. Master plans; reports; approval process.**

[Repealed]

**§18B-1D-8. Institutional and system report cards Publication of institution and system data.**

(a) The purpose of the institutional and statewide report cards data reporting system is to make information available through the official websites of the commission and council to parents, students, faculty, staff, state policymakers, and the general public on the quality and performance of public higher education. The focus of the report cards is to determine annual progress of the commission, the council and institutions under their respective jurisdictions toward achieving state goals and objectives identified in this article and section one-a, article one of this chapter and system goals and objectives contained in the statewide master plans of the commission and council created pursuant to section five of this article.

(b) The information contained in the report cards provided through the reporting system shall be consistent and comparable between and among state institutions of higher education. If applicable, the information shall allow for easy comparison with higher education-related data collected and disseminated by the Southern Regional Education Board, the United States Department of Education and other education data-gathering and data-disseminating organizations upon which state policymakers frequently rely in setting policy.

(c) The rules required by subsection (c), section one of this article shall provide for the collection, analysis, and dissemination of information on the performance of the state institutions of higher education, including health sciences education, in relation to the findings, goals, and

objectives set forth in this article and §18B-1-1a of this code. and those contained in the statewide master plans of the commission and council developed pursuant to section five of this article

(1) The objective of this portion of the rule is to ensure that the Legislative Oversight Commission on Education Accountability and others identified in subsection (a) of this section are provided with full and accurate information while minimizing the institutional burden of recordkeeping and reporting.

(2) This portion of the rule shall identify various indicators of student and institutional performance that, at a minimum, must be reported annually, set forth general guidelines for the collection and reporting of data, and provide for the preparation printing and distribution of report cards under this section and publication of the statewide data and reports.

(d) The report cards statewide annual report shall be analysis-driven, rather than simply data-driven, and shall present information in a format that can inform education policymaking. They shall include an executive summary which outlines It shall outline significant trends, identifies identify major areas of concern, and discusses discuss progress toward meeting state and system goals and objectives. They It shall be brief and concise, reporting required information in nontechnical language. Any technical or supporting material to be included shall be contained in a separate appendix.

(e) (d) The statewide report card data reporting system shall include the data for each separately listed, applicable indicator identified in the rule promulgated pursuant to subsection (c) of this section and the aggregate of the data for all public institutions of higher education.

(f) The (e) A statewide annual report card shall be prepared using actual institutional, state, regional, and national data, as applicable and available, indicating the present performance of the individual institutions, the governing boards, and the state systems of higher education. The statewide report cards shall be based upon information for the current school year or for the most recent school year for which the information is available, in which case the year shall be clearly noted.

(g) (f) The president or chief executive officer of each state institution of higher education shall prepare and submit annually all requested data to the commission at the times established by the commission.

(h) (g) The higher education central office staff, under the direction of the vice chancellor for administration, shall provide technical assistance to each institution and governing board in data collection and reporting and is responsible for assembling the statewide annual report card from information submitted by each governing board.

(i) (h) Current data shall be published to the statewide data reporting system prior to January 1 annually. The statewide annual report shall be completed and disseminated with copies to the Legislative Oversight Commission on Education Accountability prior to January 1 of each year annually, and the staff of the commission and the council shall prepare a report highlighting specifically the trends, progress toward meeting goals and objectives, and major areas of concern for public higher education, including medical education, for presentation to the Legislative Oversight Commission on Education Accountability annually at the interim meetings in January, 2009, and annually thereafter.

(j) For a reasonable fee

(i) The vice chancellor for administration shall make copies a digital copy of the statewide annual report cards, including any appendices of supporting material, available to any individual requesting them available to the public for download from the official websites of the commission and council.

## **ARTICLE 7. PERSONNEL GENERALLY.**

### **§18B-7-8. Reporting.**

[Repealed]

## **CHAPTER 18C. STUDENT LOANS; SCHOLARSHIPS AND STATE AID.**

### **ARTICLE 1. FINANCIAL ASSISTANCE GENERALLY.**

#### **§18C-1-1. Legislative findings; purpose; administration generally; reporting.**

(a) The Legislature makes the following findings:

(1) Although enrollments in institutions of higher education in this state and throughout the nation continue to increase at a rapid pace, West Virginia has not developed sufficiently the state's human talent and resources because many able, but needy, students are not able to finance a higher education program;

(2) The state can achieve its full economic and social potential only when the following elements are in place:

(A) Every individual has the opportunity to contribute to the full extent of his or her capability; and

(B) The state assists in removing financial barriers to the individual's education goals that remain after he or she has used all resources and work opportunities available;

(b) The ultimate state goal in providing student financial aid is to create a culture that values education, to improve the quality of the workforce, and to enhance the quality of life for the citizens of West Virginia.

(c) The vice chancellor for administration has a ministerial duty to administer, oversee, and monitor all state and federal student financial aid programs administered at the state level in accordance with established rules under the direction of the commission and council and in consultation with the Higher Education Student Financial Aid Advisory Board.

(d) These programs include, but are not limited to, the following programs:

(1) The Guaranteed Student Loan Program, which may be administered by a private nonprofit agency;

(2) The Medical Student Loan Program;

(3) The Underwood-Smith Teacher Scholarship Program;

(4) The Engineering, Science and Technology Scholarship Program;

- (5) The West Virginia Higher Education Grant Program;
- (6) The Higher Education Adult Part-Time Student Grant Program;
- (7) The West Virginia Providing Real Opportunities for Maximizing In-State Student Excellence (PROMISE) Scholarship Program;
- (8) The Higher Education Student Assistance Loan Program established pursuant to article twenty-two-d, chapter eighteen §18-22D-1 et seq. of this code;
- (9) The West Virginia College Prepaid Tuition and Savings Program established pursuant to article thirty, chapter eighteen §18-30-1 et seq. of this code, which is administered by the state Treasurer;
- (10) The state aid programs for students of optometry, pursuant to article three §18C-3-1 et seq. of this chapter code;
- (11) The state aid programs for students of veterinary medicine pursuant to section six-a, article eleven, chapter eighteen §18-11-6a of this code;
- (12) Any reciprocal program and contract program for student aid established pursuant to sections three and four, article four, chapter eighteen-b §18B-4-3 and §18B-4-4 of this code;
- (13) Any other state-level student aid programs in this code; and
- (14) Any federal grant or contract student assistance or support programs administered at the state level.
- (e) Notwithstanding any provision of this chapter to the contrary, the Vice Chancellor for Administration shall prepare a single, comprehensive report publish comprehensive data to the official websites of the commission and council regarding the implementation of the financial aid programs identified in subsection (d) of this section which are administered under his or her supervision. The A concise summary report shall be provided to the commission and the council and shall be presented to the Legislative Oversight Commission on Education Accountability no later than November 30, 2009, and annually thereafter January 1 annually. The report shall address all financial aid issues for which reports are required in this code, as well as any findings and recommendations.;

And,

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

**Eng. Senate Bill 673**—A Bill to repeal §18B-1D-2, §18B-1D-3, §18B-1D-4, and §18B-1D-5 of the Code of West Virginia, 1931, as amended; to repeal §18B-7-8 of said code; to amend and reenact §18B-1D-1 and §18B-1D-8 of said code; and to amend and reenact §18C-1-1 of said code, all relating to public higher education governance, accountability and planning; changing the definition of exempted schools; ensuring efficiency in planning and accountability; modifying the data collection and reporting processes; eliminating the requirement for a statewide master plan for public higher education; eliminating the requirement for state and institutional compacts for public higher education; eliminating the requirement for a human resources report card for public higher education; modifying the reporting methods for certain institutional and statewide reports; modifying the reporting method for the student financial aid report card for public higher education; and continuing the accountability system for public higher education.

On motion of Senator Takubo, the Senate refused to concur in the foregoing House amendments to the bill (Eng. S. B. 673) and requested the House of Delegates to recede therefrom.

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

The Senate again proceeded to the eighth order of business, the next bill coming up in numerical sequence being

**Eng. House Bill 2209**, Allowing military veterans who meet certain qualifications to qualify for examination for license as an emergency medical technician.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2209) passed with its title.

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

**Eng. Com. Sub. for House Bill 2378**, Relating generally to grounds for revocation of a teaching certificate.

On third reading, coming up in regular order, was reported by the Clerk.

On motion of Senator Rucker, the Senate reconsidered the vote by which on yesterday, Thursday, March 7, 2019, it adopted the Education committee amendments to the bill (*shown in the Senate Journal of that day, pages 79 and 80*).

The vote thereon having been reconsidered,

The question again being on the adoption of the Education committee amendments to the bill.

Thereafter, at the request of Senator Rucker, as chair of the Committee on Education, and by unanimous consent, the Education committee amendments to the bill were withdrawn.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2378) was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2378) passed.

At the request of Senator Rucker, as chair of the Committee on Education, and by unanimous consent, the unreported Education committee amendment to the title of the bill was withdrawn.

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

At the request of Senator Trump, unanimous consent being granted, Senator Trump announced a meeting of the committee of conference on Engrossed Committee Substitute for Senate Bill 295.

**Eng. Com. Sub. for House Bill 2396, West Virginia Fresh Food Act.**

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2396) passed.

The following amendment to the title of the bill, from the Committee on Agriculture and Rural Development, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 2396**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-37-1, §19-37-2, and §19-37-3, all relating to requiring all state-funded institutions to purchase a minimum of five percent of fresh produce, meat and poultry products from in-state producers if available; providing legislative findings and purpose; and establishing rule-making authority and enforcement authority.

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

**Eng. House Bill 2412,** Relating to criminal acts concerning government procurement of commodities and services.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard,



Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2412) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. House Bill 2412**—A Bill to repeal §5A-3-28, §5A-3-30, and §5A-3-31 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §61-5B-1, §61-5B-2, and §61-5B-3, all relating to state purchasing; moving and modifying certain criminal provisions relating to government procurement from chapter 5A of the code to chapter 61; defining terms; prohibiting persons purchasing commodities and services for a governmental entity from having an interest in entities selling or contracting to sell commodities or services to a governmental entity; prohibiting persons purchasing commodities or services for a governmental entity from accepting things of value from persons selling, attempting to sell, or contracting to sell commodities or services to a governmental entity; prohibiting persons or entities attempting to sell or selling commodities to a governmental entity from offering anything of value to the person acting as a governmental entity's agent; prohibiting delivery and acceptance of inferior commodities or services, authorizing change orders made in good faith from prohibited conduct; creating exceptions to prohibited conduct consistent with state ethics law; and establishing criminal penalties.

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

**Eng. Com. Sub. for House Bill 2422**, Relating to the time for the observation of "Celebrate Freedom Week".

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2422) passed with its title.

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

**Eng. Com. Sub. for House Bill 2486**, Using records of criminal conviction to disqualify a person from receiving a license for a profession or occupation.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: Tarr—1.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2486) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 2486**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-1-22; and to amend and reenact §30-5-11, §30-5-11a, §30-10-8, §30-10-10, §30-13A-9, §30-13A-12, §30-14-11, §30-20-8, §30-20-10, §30-21-7, §30-22-10, §30-23-9, §30-23-15, §30-23-17, §30-23-20, §30-25-8, §30-26-5, §30-26-13, §30-30-8, §30-30-10, §30-30-12, §30-30-14, §30-30-26, §30-31-8, §30-31-9, §30-38-12 and §30-39-6 of said code, all relating to the use of post-criminal conduct in professional and occupational initial licensure decision making; creating a rational nexus requirement between prior criminal conduct and initial licensure decision making; removing offenses of moral turpitude as to basis for license denial; authorizing persons to petition licensure boards for a determination as to whether a person's criminal record precludes licensure; limiting licensure disqualification.

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

**Eng. Com. Sub. for House Bill 2524**, Permitting a pharmacist to convert prescriptions authorizing refills under certain circumstances.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2524) passed with its title.

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

**Eng. Com. Sub. for House Bill 2541**, Requiring certain safety measures be taken at public schools.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2541) passed with its title.

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

**Eng. Com. Sub. for House Bill 2601**, Relating to the review and approval of state property leases.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2601) passed with its title.

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

**Eng. Com. Sub. for House Bill 2661**, Relating to natural gas utilities.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2661) passed with its title.

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

**Eng. Com. Sub. for House Bill 2662**, Relating to certificates or employment of school personnel.

On third reading, coming up in regular order, was reported by the Clerk.

On motion of Senator Rucker, the Senate reconsidered the vote by which on yesterday, Thursday, March 7, 2019, it adopted the Education committee amendments to the bill (*shown in the Senate Journal of that day, page 110*).

The vote thereon having been reconsidered,

The question again being on the adoption of the Education committee amendments to the bill.

Thereafter, at the request of Senator Rucker, as chair of the Committee on Education, and by unanimous consent, the Education committee amendments to the bill were withdrawn.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2662) was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Mann—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2662) passed.

At the request of Senator Rucker, as chair of the Committee on Education, and by unanimous consent, the unreported Education committee amendment to the title of the bill was withdrawn.

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

**Eng. Com. Sub. for House Bill 2715**, Relating to Class Q special hunting permit for disabled persons.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2715 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2715) passed with its title.

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

**Eng. House Bill 2716**, Relating to vessel lighting and equipment requirements.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2716) passed with its title.

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

**Eng. House Bill 2739**, Relating to contributions on behalf of employees to a retirement plan administered by the Consolidated Public Retirement Board.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2739) passed with its title.

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

**Eng. Com. Sub. for House Bill 2768**, Reducing the use of certain prescription drugs.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney,

Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Weld—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2768) passed with its title.

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

**Eng. Com. Sub. for House Bill 2809**, Relating to prohibited acts and penalties in the Hatfield-McCoy Recreation Area.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for Senate Bill 2809 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Mann, Maroney, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Woelfel, and Carmichael (Mr. President)—29.

The nays were: Facemire, Lindsay, Maynard, and Stollings—4.

Absent: Weld—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2809) passed with its title.

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

**Eng. House Bill 2816**, Removing the terms “hearing impaired,” “hearing impairment,” and “deaf mute” from the West Virginia Code and substituting terms.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Weld—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2816) passed with its title.

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

**Eng. Com. Sub. for House Bill 2831**, Finding and declaring certain claims against the state and its agencies to be moral obligations of the state.

On third reading, coming up in regular order, with the unreported Finance committee amendments pending, and with the right having been granted on yesterday, Thursday, March 7, 2019, for amendments to be received on third reading, was reported by the Clerk.

The following amendments to the bill, from the Committee on Finance, were reported by the Clerk, considered simultaneously, and adopted:

On page five, section one, subsection (j), after item (45), by inserting a new item, designated item (46), to read as follows:

“(46) Wilson Restoration, Inc. .... \$29,000.00”;

And,

By renumbering the remaining items.

On motion of Senator Sypolt, the following amendments to the bill (Eng. Com. Sub. for H. B. 2831) were next reported by the Clerk, considered simultaneously, and adopted:

On page twelve, section one, item (139), by striking out “\$8,500.00” and inserting in lieu thereof “\$5,525.00”;

On page twenty-five, section one, item (492) by striking out “\$215,000.00” and inserting in lieu thereof “\$139,750.00”;

And,

On page twenty-five, section one, item (493) by striking out “\$42,750.00” and inserting in lieu thereof “\$27,787.50”.

There being no further amendments offered,

Having been engrossed, the bill (Eng. Com. Sub. for House Bill 2831), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Weld—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2831) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Weld—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2831) takes effect from passage.

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

**Eng. House Bill 2846**, Designating a “Back the Blue” plate in support of law-enforcement personnel.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Weld—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2846) passed.

The following amendment to the title of the bill, from the Committee on Transportation and Infrastructure, was reported by the Clerk and adopted:

**Eng. House Bill 2846**—A Bill to amend and reenact §17A-3-14 of the Code of West Virginia, 1931, as amended, relating to special vehicle registration plates; designating a “Back the Blue” plate in support of law-enforcement personnel; designating a special beekeeper pollinator plate; establishing fees related to plates; and permitting extension of registration fee exemption to military-related special registration plates.

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

Pending announcement of a meeting of a standing committee of the Senate,

On motion of Senator Takubo, at 2:58 p.m., the Senate recessed until 3:30 p.m. today.



The Senate reconvened at 3:53 p.m. and, without objection, returned to the third order of business.

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

**Eng. Com. Sub. for Senate Bill 4**, Relating generally to Municipal Home Rule Program.

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

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

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

**ARTICLE 1. PURPOSE AND SHORT TITLE; DEFINITIONS; GENERAL PROVISIONS; CONSTRUCTION.**

**§8-1-5a. Municipal Home Rule ~~Pilot~~ Program.**

(a) ~~Legislative findings.~~— The Legislature finds and declares that:

(1) The initial Municipal Home Rule Pilot Program brought innovative results, including novel municipal ideas that became municipal ordinances which later resulted in new statewide statutes;

(2) The initial Municipal Home Rule Pilot Program also brought novel municipal ideas that resulted in court challenges against some of the participating municipalities;

(3) The Municipal Home Rule Board was an essential part of the initial Municipal Home Rule Pilot Program, but it lacked some needed powers and duties;

(4) Municipalities still face challenges delivering services required by federal and state law or demanded by their constituents;

(5) Municipalities are sometimes restrained by state statutes, policies, and rules that challenge their ability to carry out their duties and responsibilities in a cost-effective, efficient, and timely manner;

(6) ~~Continuing the Municipal Home Rule Pilot Program is in the public interest~~ Establishing the Municipal Home Rule Pilot Program as a permanent program is in the public interest; and

(7) Increasing the powers and duties of the Municipal Home Rule Board, subject to the limitations set forth herein, will enhance the Municipal Home Rule ~~Pilot~~ Program.

(b) ~~Continuance of pilot program.~~— ~~The Municipal Home Rule Pilot Program is continued until July 1, 2019. The ordinances enacted by the participating municipalities pursuant to the Municipal Home Rule Pilot Program may remain in effect, subject to the requirements of this section, until the ordinances are repealed: *Provided*, That any ordinance enacting a municipal occupation tax is hereby null and void.~~

(b) The Municipal Home Rule Pilot Program is established as a permanent program and shall be identified as the Municipal Home Rule Program. Any plan or amendment to a plan approved by the board during the period of the Municipal Home Rule Pilot Program is continued. Any ordinance, act, resolution, rule, or regulation enacted by a participating municipality under the provisions of this

section during the period of the Municipal Home Rule Pilot Program shall continue in full force and effect unless and until repealed: *Provided*, That municipalities that are participants in the Municipal Home Rule Program shall update their ordinances, acts, resolutions, rules, and regulations to comply with any additions or modifications to subsection (i), subsection (j), or subsection (k) of this section.

*(c) Authorizing participation.—*

(1) Commencing ~~July 1, 2015~~ July 1, 2019, ~~30 any~~ Class I, Class II, and ~~or~~ Class III municipalities ~~municipality that is~~ and four Class IV municipalities that are current in payment of all state fees may ~~apply to~~ participate in the Municipal Home Rule ~~Pilot~~ Program pursuant to the provisions of this section. ~~Also, commencing July 1, 2019, up to four applications per year from Class IV municipalities may be approved by the board for participation in the Municipal Home Rule Program pursuant to the provisions of this section, provided the Class IV municipality is current in payment of all state fees.~~

(2) The municipalities participating in the ~~pilot program~~ Municipal Home Rule Pilot Program on the effective date of the amendment and reenactment of this section are ~~hereby~~ authorized to continue in the ~~pilot program~~ Municipal Home Rule Program, subject to the requirements of this section, and may amend current written plans and/or submit new written plans in accordance with the provisions of this section.

(3) On July 1, 2019, all municipalities currently participating in the Municipal Home Rule Pilot Program shall pay an annual assessment of \$2,000 for the operation and administration of the Home Rule Board. On July 1 of each year thereafter, all municipalities participating in the Municipal Home Rule Program as of that date shall pay the annual assessment. Any participating municipality that fails to timely remit its assessment when due may be assessed a penalty of an additional \$2,000 by the board.

(4) There is created in the office of the State Treasurer a special revenue account fund to be known as the Home Rule Board Operations Fund. The assessments required by the provisions of subdivision (3) of this subsection shall be deposited into the fund, and expenditures from the fund shall be made in accordance with appropriation of the Legislature under the provisions of §12-3-1 *et seq.* of this code, and in compliance with the provisions of §11B-2-1 *et seq.* of this code: *Provided*, That legislative appropriation is not required during fiscal year 2019.

(5) Any balance in the fund created under subdivision (4) of this subsection at the end of a fiscal year shall not revert to the General Revenue Fund but shall remain in the special revenue account for uses consistent with the provisions of this section.

(6) All costs and expenses lawfully incurred by the board may be paid from the fund created under subdivision (4) of this subsection.

(7) Notwithstanding any provision of this section to the contrary, if at the end of a fiscal year the unencumbered balance of the fund created in subdivision (4) of this subsection is \$200,000 or more, then annual assessments shall be suspended until the board determines that the unencumbered balance in the fund is insufficient to meet operational expenses. The board shall notify all participating municipalities of the suspension of the annual assessment prior to the end of the fiscal year and provide an estimate of when payment of annual assessments will resume.

*(d) Municipal Home Rule Board.—* The Municipal Home Rule Board is ~~hereby~~ continued. Effective July 1, 2015, the ~~The~~ Municipal Home Rule Board shall consist of the following five voting members:

- (1) The Governor, or a designee, who shall serve as chair;
- (2) The Executive Director of the West Virginia Development Office, or a designee;
- (3) One member representing the Business and Industry Council, appointed by the Governor with the advice and consent of the Senate;
- (4) One member representing the largest labor organization in the state, appointed by the Governor with the advice and consent of the Senate; and
- (5) One member representing the West Virginia Chapter of the American ~~Institute of Certified Planners~~ Planning Association, appointed by the Governor with the advice and consent of the Senate.

The Chair of the Senate Committee on Government Organization and the Chair of the House Committee on Government Organization shall ~~continue to be~~ serve as ex officio nonvoting members of the board.

(e) ~~Board's powers and duties.~~— The Municipal Home Rule Board ~~has the following powers and duties shall~~:

(1) Review, evaluate, make recommendations, and approve or reject, for any lawful reason, by a majority vote of the board, each aspect of the written plan, or the written plan in its entirety, submitted by a municipality;

(2) By a majority vote of the board, select, based on the municipality's written plan, new Class I, Class II, Class III, and/or Class IV municipalities to participate in the Municipal Home Rule ~~Pilot~~ Program;

(3) Review, evaluate, make recommendations, and approve or reject, for any lawful reason, by a majority vote of the board, the amendments to the existing approved written plans submitted by municipalities: Provided, That any new application or amendment that does not reasonably demonstrate the municipality's ability to manage its associated costs or liabilities shall be rejected;

(4) Consult with any agency affected by the written plans or the amendments to the existing approved written plans; and

(5) Perform any other powers or duties necessary to effectuate the provisions of this section: Provided, That any administrative rules established by the board for the operation of the Municipal Home Rule Program shall be published on the Municipal Home Rule Board's website, and made available to the public in print upon request.

(f) ~~Written plan.~~— Any Class I, Class II, Class III, or Class IV municipality desiring to participate in the Municipal Home Rule ~~Pilot~~ Program, or any municipality desiring to amend its existing approved written plan, shall submit a written plan to the board stating in detail the following:

(1) The specific laws, acts, resolutions, policies, rules, or regulations which prevent the municipality from carrying out its duties in the most cost-efficient, effective, and timely manner;

(2) The problems created by ~~the~~ those laws, acts, resolutions, policies, rules, or regulations;

(3) The proposed solutions to the problems, including all proposed changes to ordinances, acts, resolutions, rules, and regulations: *Provided*, That the specific municipal ordinance instituting the solution does not have to be included in the written plan; and

(4) A written opinion, by an attorney licensed to practice in the State of West Virginia, stating that the proposed written plan does not violate the provisions of this section.

(g) ~~Public hearing on written plan.~~— Prior to submitting its written plan, or an amendment to an existing approved written plan, to the board, the municipality shall:

(1) Hold a public hearing on the written plan or the amendment to the existing approved written plan;

(2) Provide notice of the public hearing at least 30 days prior to the public hearing by a Class II legal advertisement: *Provided*, That on or before the first day of publication, the municipality shall send a copy of the notice by certified mail to the Municipal Home Rule Board and the cabinet secretary of every state department;

(3) Make a copy of the written plan or amendment available for public inspection at least 30 days prior to the public hearing; and

(4) After the public hearing, adopt an ordinance authorizing the municipality to submit a written plan or amendment to the Municipal Home Rule Board: ~~after~~ *Provided*, That the proposed ordinance has been read two times, as required by §8-11-4 of this code.

(h) ~~Selection of municipalities.~~— ~~On or after June 1, 2015, by~~ By a majority vote, the Municipal Home Rule Board may select from the municipalities that submitted written plans and were approved by the board by majority vote new Class I, Class II, Class III, and/or Class IV municipalities to participate in the Municipal Home Rule ~~Pilot~~ Program.

(i) ~~Powers and duties of municipalities.~~— The municipalities participating in the Municipal Home Rule ~~Pilot~~ Program ~~have the authority to~~ may not pass an ordinance, act, resolution, rule, or regulation, under the provisions of this section, that is ~~not~~ contrary to the following:

- (1) Environmental law;
- (2) Laws governing bidding on government construction and other contracts;
- (3) The Freedom of Information Act;
- (4) The Open Governmental Proceedings Act;
- (5) Laws governing wages for construction of public improvements;
- (6) The provisions of this section;
- (7) The provisions of §8-12-5a of this code;
- (8) The municipality's written plan;
- (9) The Constitution of the United States or the Constitution of the State of West Virginia;

(10) Federal law, including those governing ~~of~~ crimes and punishment;

(11) Chapters 60A, 61, and 62 of this code or any other provisions of this code governing state crimes and punishment;

(12) Laws governing pensions or retirement plans;

(13) Laws governing annexation;

(14) Laws governing taxation: *Provided*, That a participating municipality may enact a municipal sales tax up to one percent if it reduces or eliminates its municipal business and occupation tax: *Provided, however*, That if a municipality subsequently reinstates or raises the municipal business and occupation tax it previously reduced or eliminated under the Municipal Home Rule Pilot Program or the Municipal Home Rule Program, it shall reduce or eliminate the municipal sales tax enacted under the Municipal Home Rule Pilot Program or the Municipal Home Rule Program in an amount comparable to the revenue estimated to be generated by the reinstated tax: *Provided further*, That any municipality that imposes a municipal sales tax pursuant to this section shall use the services of the Tax Commissioner to administer, enforce, and collect the tax ~~in the same manner as the state consumers sales and service tax and use tax under~~ required by the provisions of §11-15-1 *et seq.*, §11-15A-1 *et seq.*, and §11-15B-1 *et seq.* of this code and all applicable provisions of the Streamlined Sales and Use Tax Agreement: *And provided further*, That ~~such~~ the tax will ~~does~~ not apply to the sale of motor fuel or motor vehicles;

(15) Laws governing tax increment financing;

(16) Laws governing extraction of natural resources; ~~and~~

(17) Marriage and divorce laws;

(18) Laws governing professional licensing or certification, including the administration and oversight of those laws, by state agencies to the extent required by law;

(19) Laws, rules, or regulations governing the enforcement of state building or fire codes;

(20) Federal laws, regulations, or standards that would affect the state's required compliance or jeopardize federal funding;

(21) Laws or rules governing procurement of architectural and engineering services: *Provided*, That notwithstanding any other provision of this section to the contrary, the change made in this subdivision applies prospectively and any ordinance enacted by the participating municipalities prior to the effective date of the amendments to this section during the 2019 Regular Legislative Session and pursuant to the Municipal Home Rule Pilot Program remains in effect.

(22) The provisions of chapter 17C of this code; or

(23) Laws, rules, or regulations governing communication technologies or telecommunications carriers, as the term "telecommunications carrier" is defined by the Federal Communications Commission in 47 U.S.C. §153 or as determined by the Public Service Commission of West Virginia.

(24) Laws governing the sale, transfer, possession, use, storage, taxation, registration, licensing or carrying firearms, ammunition or accessories thereof.

(j) ~~Municipalities~~ The municipalities participating in the Municipal Home Rule Program may not pass an ordinance, act, resolution, rule, or regulation under the provisions of this section that:

(1) Affects persons or property outside the boundaries of the municipality: *Provided*, That this prohibition under the Municipal Home Rule ~~Pilot~~ Program does not limit a municipality's powers outside its boundary lines to the extent permitted under other provisions of this section, other sections of this chapter, other chapters of this code, or court decisions; ~~or~~

(2) Enacts an occupation tax, fee, or assessment payable by a nonresident of a municipality; or

(3) Imposes duties on another governmental entity, unless the performance of the duties is part of a legally executed agreement between the municipality and the other governmental entity, or is otherwise permitted by state law;

(k) Municipalities may not prohibit or effectively limit the rental of a property, in whole or in part, or regulate the duration, frequency, or location of such rental, in whole or in part. A municipality may regulate activities that arise when a property is used as a rental: *Provided*, That such regulation applies uniformly to all properties, without regard to whether such properties are used as a rental: *Provided*, however, That nothing in this subdivision may be construed to prohibit a municipality from imposing a hotel occupancy tax as prescribed in §7-18-1 *et seq.* of this code.

(l) ~~Amendments to written plans.~~— A municipality participating in the Municipal Home Rule Pilot Program may amend its written plan at any time subject to the requirements of this section.

(~~l~~) (~~m~~) ~~Amendments to ordinances, acts, resolutions, rules, or regulations.~~— A municipality participating in the Municipal Home Rule ~~Pilot~~ Program may amend any ordinance, act, resolution, rule, or regulation enacted pursuant to the municipality's approved written plan at any time ~~so~~ as long as any the amendment is consistent with the municipality's approved written plan, as modified by any amendments adopted pursuant to this section, complies with the provisions of ~~subsections (i) and (j)~~ of this section, and the municipality complies with all applicable state law procedures for enacting municipal legislation.

(~~m~~) (~~n~~) ~~Reporting requirements.~~— ~~Commencing On or before December 1, 2015, and of each year thereafter,~~ each participating municipality shall give a written progress report to the Municipal Home Rule Board, and ~~commencing on or before January 1, 2016, and of each year thereafter,~~ the Municipal Home Rule Board shall give a summary report of all the participating municipalities to the Joint Committee on Government and Finance.

(~~n~~) ~~Termination of the pilot program.~~— ~~The Municipal Home Rule Pilot Program terminates on July 1, 2019. An ordinance, act, resolution, rule or regulation enacted by a participating municipality under the provisions of this section during the period of the Municipal Home Rule Pilot Program shall continue in full force and effect until repealed~~

(o) Notwithstanding any other provision of this code to the contrary, ~~on and after the effective date of the enactment of this provision in 2015, no~~ a distributee under the provisions of this section may not seek from the Tax Division of the Department of Revenue a refund of revenues or moneys collected by, or remitted to, the Tax Division of the Department of Revenue, nor seek a change in past amounts distributed, or any other retrospective adjustment relating to any amount distributed, to the extent that the moneys in question have been distributed by the Tax Division to another distributee, regardless of whether those distributions were miscalculated, mistaken, erroneous, misdirected, or otherwise inaccurate or incorrect. For purposes of this section, the term "distributee" means any municipality that

has enacted a sales and use tax under this section or as otherwise permitted by law that receives or is authorized to receive a specific distribution of revenues or moneys collected by, or remitted to, the Tax Division of the Department of Revenue pursuant to this section.

On motion of Senator Weld, the following amendment to the House of Delegates amendment to the bill (Eng. Com. Sub. for S. B. 4) was reported by the Clerk and adopted:

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

**Eng. Com. Sub. for Senate Bill 4**—A Bill to amend and reenact §8-1-5a of the Code of West Virginia, 1931, as amended, relating to municipal home rule; making legislative findings; establishing the Municipal Home Rule Pilot Program as a permanent program identified as the Municipal Home Rule Program; providing for continuation of plans and amendments approved during Municipal Home Rule Pilot Program; providing that any ordinance, act, resolution, rule, or regulation enacted pursuant to the Municipal Home Rule Pilot Program shall continue until repealed; expanding eligibility to participate in home rule to additional municipalities; establishing annual assessment for participants in Municipal Home Rule Program; establishing penalty for failing to timely pay annual assessment; creating special revenue account for Municipal Home Rule Board; authorizing certain expenditures from special revenue fund; providing suspension of annual assessment when certain conditions are met; clarifying the authority of the Municipal Home Rule Board; requiring Municipal Home Rule Board to reject any application or amendment that does not reasonably demonstrate municipality's ability to manage related costs or liabilities; requiring publication of administrative rules of Municipal Home Rule Board on its website and made available to the public in print upon request; clarifying procedures related to submitting amendment to approved plan; requiring certain notice prior to proposing or amending a plan; requiring public hearing and notice of hearing prior to municipality proposing a plan or amendment; amending certain prohibitions on the powers and duties of municipalities under home rule; providing more specific direction regarding the requirements for municipalities participating in the Municipal Home Rule Program that reinstate or raise business and occupation taxes and its impact on municipal sales tax in certain circumstances; prohibiting municipalities participating in the Municipal Home Rule Program from passing an ordinance, act, resolution, rule, or regulation contrary to laws governing professional licensing or certification of employees; prohibiting municipalities participating in the Municipal Home Rule Program from passing an ordinance, act, resolution, rule, or regulation contrary to laws, rules, or regulations governing enforcement of building codes or fire codes; prohibiting municipalities participating in the Municipal Home Rule Program from passing an ordinance, act, resolution, rule, or regulation contrary to federal laws, regulations, or standards that would affect state's required compliance or jeopardize federal funding; prohibiting municipalities participating in the Home Rule Program from passing an ordinance, act, resolution, rule, or regulation contrary to laws or rules governing procurement of architectural and engineering services with certain exceptions; prohibiting municipalities participating in the Municipal Home Rule Program from passing an ordinance, act, resolution, rule, or regulation contrary to chapter 17C of the Code of West Virginia, 1931, as amended; prohibiting municipalities participating in the Municipal Home Rule Program from passing an ordinance, act, resolution, rule, or regulation contrary to laws, rules, or regulations governing communication technologies or telecommunication carriers; prohibiting municipalities participating in the Municipal Home Rule Program from enacting any ordinance, act, resolution, rule, or regulation that governs the sale, transfer, possession, use, storage, taxation, registration, licensing, or carrying of firearms, ammunition, or accessories thereof; prohibiting municipalities participating in the Municipal Home Rule Program from enacting any ordinance, act, resolution, rule, or regulation that imposes duties on another governmental entity and providing certain exceptions to that prohibition; prohibiting municipalities from prohibiting or effectively limiting the rental of a property or regulating the duration, frequency, or location of such rental and providing certain exceptions to that

prohibition and limitation; modifying reporting requirements; eliminating automatic termination of the Municipal Home Rule Pilot Program on July 1, 2019; and making technical corrections throughout.

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

Engrossed Committee Substitute for Senate Bill 4, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 4) passed with its Senate amended title.

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

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

**Eng. Com. Sub. for Senate Bill 600**, Relating to preservation of biological evidence obtained through criminal investigations and trials.

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

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

On page one, by striking out the section caption and inserting in lieu thereof a new section caption to read as follows:

**§15A-1-8. Preservation of biological evidence from criminal cases; directing Secretary to undertake a study and report to the Legislature.**

And,

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

**Eng. Com. Sub. for Senate Bill 600**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15A-1-8, relating generally to preservation of biological evidence obtained through criminal investigations and criminal trials; directing the Secretary of Military Affairs and Public Safety to investigate methods of storage and preservation of biological materials obtained by law enforcement in criminal investigations and criminal prosecutions; directing the Secretary of Military Affairs and Public Safety to submit to the Senate President and Speaker of the House of Delegates a proposed plan, along with proposed legislation, creating a program for the centralized storage and preservation of biological evidence obtained in criminal investigations and



criminal trials throughout the state; requiring that such plan and proposed legislation be submitted on or before January 1, 2020; and defining terms.

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

Engrossed Committee Substitute for Senate Bill 600, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 600) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Blair, Boley, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 600) takes effect from passage.

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

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

**Eng. Com. Sub. for House Bill 2020**, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution.

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

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

By striking out the Senate amendment in its entirety and inserting in lieu thereof the following:

A Bill making appropriations of public money out of the Treasury in accordance with section 51, article VI of the Constitution.

*Be it enacted by the Legislature of West Virginia:*

TITLE I – GENERAL PROVISIONS.

1           **Section 1. General policy.** – The purpose of this bill is to appropriate money necessary for  
2 the economical and efficient discharge of the duties and responsibilities of the state and its agencies  
3 during the fiscal year 2020.

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

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

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

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

7           The “fiscal year 2020” shall mean the period from July 1, 2019, through June 30, 2020.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **Sec. 5. Maximum expenditures.** — No authority or requirement of law shall be interpreted as  
 2 requiring or permitting an expenditure in excess of the appropriations set out in this bill.

## TITLE II – APPROPRIATIONS.

### ORDER OF SECTIONS

- SECTION 1. Appropriations from general revenue.
- SECTION 2. Appropriations from state road fund.
- SECTION 3. Appropriations from other funds.

- SECTION 4. Appropriations from lottery net profits.
- SECTION 5. Appropriations from state excess lottery revenue.
- SECTION 6. Appropriations of federal funds.
- SECTION 7. Appropriations from federal block grants.
- SECTION 8. Awards for claims against the state.
- SECTION 9. Appropriations from general revenue surplus accrued.
- SECTION 10. Appropriations from lottery net profits surplus accrued.
- SECTION 11. Appropriations from state excess lottery revenue surplus accrued.
- SECTION 12. Special revenue appropriations.
- SECTION 13. State improvement fund appropriations.
- SECTION 14. Specific funds and collection accounts.
- SECTION 15. Appropriations for refunding erroneous payment.
- SECTION 16. Sinking fund deficiencies.
- SECTION 17. Appropriations for local governments.
- SECTION 18. Total appropriations.
- SECTION 19. General school fund.

1           **Section 1. Appropriations from general revenue.** – From the State Fund, General Revenue,  
 2 there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2,  
 3 Chapter 11B the following amounts, as itemized, for expenditure during the fiscal year 2020.

**LEGISLATIVE**

*1 - Senate*

Fund 0165 FY 2020 Org 2100

	<b>Appro-</b>		<b>General</b>
	<b>priation</b>		<b>Revenue</b>
			<b>Fund</b>
1 Compensation of Members (R) .....	00300	\$	1,010,000
2 Compensation and Per Diem of Officers			
3     and Employees (R).....	00500		4,011,332

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

12           The appropriations for the Senate for the fiscal year 2019 are to remain in full force and effect  
13 and are hereby reappropriated to June 30, 2020. Any balances so reappropriated may be transferred  
14 and credited to the fiscal year 2019 accounts.

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

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

24           The Clerk of the Senate, with the approval of the President, or the President of the Senate  
25 shall have authority to employ such staff personnel during any session of the Legislature as shall be  
26 needed in addition to staff personnel authorized by the Senate resolution adopted during any such  
27 session. The Clerk of the Senate, with the approval of the President, or the President of the Senate  
28 shall have authority to employ such staff personnel between sessions of the Legislature as shall be  
29 needed, the compensation of all staff personnel during and between sessions of the Legislature,  
30 notwithstanding any such Senate resolution, to be fixed by the President of the Senate. The Clerk is  
31 hereby authorized to draw his or her requisitions upon the Auditor for the payment of all such staff  
32 personnel for such services, payable out of the appropriation for Compensation and Per Diem of  
33 Officers and Employees or Current Expenses and Contingent Fund of the Senate.

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

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

41 Included in the above appropriation for Senate (fund 0165, appropriation 02100), an amount  
 42 not less than \$5,000 is to be used for the West Virginia Academy of Family Physicians - Doc of the  
 43 Day Program.

*2 - House of Delegates*

Fund 0170 FY 2020 Org 2200

1	Compensation of Members (R) .....	00300	\$	3,000,000
2	Compensation and Per Diem of Officers			
3	and Employees (R).....	00500		575,000
4	Current Expenses and Contingent Fund (R) .....	02100		4,399,031
5	Expenses of Members (R) .....	39900		1,350,000
6	BRIM Premium (R).....	91300		<u>80,000</u>
7	Total .....		\$	9,404,031

8 The appropriations for the House of Delegates for the fiscal year 2019 are to remain in full  
 9 force and effect and are hereby reappropriated to June 30, 2020. Any balances so reappropriated  
 10 may be transferred and credited to the fiscal year 2019 accounts.

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

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

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

29 For duties imposed by law and by the House of Delegates, including salary allowed by law  
 30 as keeper of the rolls, the Clerk of the House of Delegates shall be paid a monthly salary as  
 31 provided in the House resolution, unless increased between sessions under the authority of the

32 Speaker and payable out of the appropriation for Compensation and Per Diem of Officers and  
 33 Employees or Current Expenses and Contingent Fund of the House of Delegates.

34 Included in the above appropriation for House of Delegates (fund 0170, appropriation  
 35 02100), an amount not less than \$5,000 is to be used for the West Virginia Academy of Family  
 36 Physicians - Doc of the Day Program.

*3 - Joint Expenses*

(WV Code Chapter 4)

Fund 0175 FY 2020 Org 2300

1	Joint Committee on Government and Finance (R) .....	10400	\$	6,725,138
2	Legislative Printing (R).....	10500		260,000
3	Legislative Rule-Making Review Committee (R).....	10600		147,250
4	Legislative Computer System (R).....	10700		1,447,500
5	Legislative Fees & Dues (R).....	#####		600,000
6	BRIM Premium (R).....	91300		<u>60,569</u>
7	Total.....		\$	9,240,457

8 The appropriations for the Joint Expenses for the fiscal year 2019 are to remain in full  
 9 force and effect and are hereby reappropriated to June 30, 2020. Any balances reappropriated  
 10 may be transferred and credited to the fiscal year 2019 accounts.

11 Upon the written request of the Clerk of the Senate, with the approval of the President of  
 12 the Senate, and the Clerk of the House of Delegates, with the approval of the Speaker of the  
 13 House of Delegates, and a copy to the Legislative Auditor, the Auditor shall transfer amounts  
 14 between items of the total appropriation in order to protect or increase the efficiency of the service.

**JUDICIAL**

*4 - Supreme Court –*

*General Judicial*

Fund 0180 FY 2020 Org 2400

1	Personal Services and Employee Benefits (R).....	00100	\$	110,767,344
2	Intermediate Court of Appeals.....	09001		0
3	Military Service Members Court (R) .....	#####		300,000
4	Current Expenses (R) .....	13000		9,943,616



5	Repairs and Alterations (R) .....	06400	10,000
6	Equipment (R).....	07000	1,600,000
7	Judges' Retirement System (R) .....	11000	791,000
8	Buildings (R) .....	25800	20,000
9	Other Assets (R) .....	69000	200,000
10	BRIM Premium (R).....	91300	<u>690,384</u>
11	Total.....		\$ 124,322,344

12 The appropriations to the Supreme Court of Appeals for the fiscal years 2017, 2018 and  
 13 2019 are to remain in full force and effect and are hereby reappropriated to June 30, 2020. Any  
 14 balances so reappropriated may be transferred and credited to the fiscal year 2019 accounts.

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

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

### EXECUTIVE

#### 5 - Governor's Office

(WV Code Chapter 5)

#### Fund 0101 FY 2020 Org 0100

1	Personal Services and Employee Benefits.....	00100	\$ 3,250,758
2	Current Expenses (R) .....	13000	800,000
3	Repairs and Alterations.....	06400	25,000
4	National Governors Association .....	12300	60,700
5	Herbert Henderson Office of Minority Affairs .....	13400	146,726
6	BRIM Premium.....	91300	<u>183,645</u>
7	Total.....		\$ 4,466,829

8 Any unexpended balances remaining in the appropriations for Unclassified (fund 0101,  
 9 appropriation 09900), and Current Expenses (fund 0101, appropriation 13000) at the close of the  
 10 fiscal year 2019 are hereby reappropriated for expenditure during the fiscal year 2020.

11 The above appropriation for Herbert Henderson Office of Minority Affairs (fund 0101,  
12 appropriation 13400) shall be transferred to the Minority Affairs Fund (fund 1058).

6 - Governor's Office –

*Custodial Fund*

(WV Code Chapter 5)

Fund 0102 FY 2020 Org 0100

1	Personal Services and Employee Benefits.....	00100	\$	381,293
2	Current Expenses (R) .....	13000		183,158
3	Repairs and Alterations.....	06400		<u>5,000</u>
4	Total.....		\$	569,451

5 Any unexpended balance remaining in the appropriation for Current Expenses (fund 0102,  
6 appropriation 13000) at the close of the fiscal year 2019 is hereby reappropriated for expenditure  
7 during the fiscal year 2020.

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

7 - Governor's Office –

*Civil Contingent Fund*

(WV Code Chapter 5)

Fund 0105 FY 2020 Org 0100

1 Any unexpended balances remaining in the appropriations for Business and Economic  
2 Development Stimulus – Surplus (fund 0105, appropriation 08400), Civil Contingent Fund –  
3 Total (fund 0105, appropriation 11400), 2012 Natural Disasters – Surplus (fund 0105,  
4 appropriation 13500), Civil Contingent Fund – Total – Surplus (fund 0105, appropriation  
5 23800), Civil Contingent Fund – Surplus (fund 0105, appropriation 26300), Business and  
6 Economic Development Stimulus (fund 0105, appropriation 58600), Civil Contingent Fund  
7 (fund 0105, appropriation 61400), and Natural Disasters – Surplus (fund 0105, appropriation  
8 76400) at the close of the fiscal year 2019 are hereby reappropriated for expenditure during  
9 the fiscal year.

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

12 The above fund is intended to provide contingency funding for accidental, unanticipated,  
13 emergency or unplanned events which may occur during the fiscal year and is not to be expended  
14 for the normal day-to-day operations of the Governor's Office.

*8 - Auditor's Office –**General Administration*

(WV Code Chapter 12)

Fund 0116 FY 2020 Org 1200

1	Personal Services and Employee Benefits.....	00100	\$	2,797,589
2	Current Expenses (R) .....	13000		13,429
3	BRIM Premium.....	91300		<u>12,077</u>
4	Total.....		\$	2,823,095

5 Any unexpended balance remaining in the appropriation for Current Expenses (fund 0116,  
6 appropriation 13000) at the close of the fiscal year 2019 is hereby reappropriated for expenditure  
7 during the fiscal year 2020.

8 Included in the above appropriation to Personal Services and Employee Benefits (fund  
9 0116, appropriation 00100), is \$95,000 for the Salary of the Auditor.

*9 - Treasurer's Office*

(WV Code Chapter 12)

Fund 0126 FY 2020 Org 1300

1	Personal Services and Employee Benefits.....	00100	\$	2,561,063
2	Unclassified .....	09900		30,415
3	Current Expenses (R) .....	13000		782,911
4	Abandoned Property Program.....	11800		41,794
5	Other Assets .....	69000		10,000
6	ABLE Program.....	69201		150,000
7	BRIM Premium.....	91300		<u>59,169</u>
8	Total.....		\$	3,635,352

9 Any unexpended balances remaining in the appropriation for Current Expenses (fund  
10 0126, appropriation 13000) at the close of the fiscal year 2019 are hereby reappropriated for  
11 expenditure during the fiscal year 2020.

12 Included in the above appropriation to Personal Services and Employee Benefits (fund  
13 0126, appropriation 00100), is \$95,000 for the Salary of the Treasurer.

## 10 - Department of Agriculture

(WV Code Chapter 19)

Fund 0131 FY 2020 Org 1400

1	Personal Services and Employee Benefits.....	00100	\$	6,346,674
2	Animal Identification Program .....	03900		131,942
3	State Farm Museum.....	05500		87,759
4	Current Expenses (R) .....	13000		141,960
5	Gypsy Moth Program (R) .....	11900		1,003,440
6	WV Farmers Market.....	12801		150,467
7	Black Fly Control.....	13700		453,698
8	Donated Foods Program.....	36300		45,000
9	Veterans to Agriculture Program (R) .....	36301		255,624
10	Predator Control (R).....	47000		176,400
11	Bee Research .....	69100		70,634
12	Microbiology Program .....	78500		99,828
13	Moorefield Agriculture Center.....	78600		975,284
14	Chesapeake Bay Watershed.....	83000		112,427
15	Livestock Care Standards Board.....	84300		8,820
16	BRIM Premium.....	91300		138,905
17	State FFA-FHA Camp and Conference Center .....	94101		638,554
18	Threat Preparedness .....	94200		73,122
19	WV Food Banks .....	96900		126,000
20	Senior's Farmers' Market Nutrition Coupon Program .....	97000		<u>55,835</u>
21	Total.....		\$	11,092,373

22 Any unexpended balances remaining in the appropriations for Gypsy Moth Program (fund  
 23 0131, appropriation 11900), Current Expenses (fund 0131, appropriation 13000), Veterans to  
 24 Agriculture Program (fund 0131, appropriation 36301), Predator Control (fund 0131, appropriation  
 25 47000), and Agricultural Disaster and Mitigation Needs – Surplus (fund 0131, appropriation

26 85000) at the close of the fiscal year 2019 are hereby reappropriated for expenditure during the  
27 fiscal year 2020.

28 Included in the above appropriation to Personal Services and Employee Benefits (fund  
29 0131, appropriation 00100), is \$95,000 for the Salary of the Commissioner.

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

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

35 From the above appropriation for WV Food Banks (fund 0131, appropriation 96900),  
36 \$20,000 is for House of Hope and the remainder of the appropriation shall be allocated to the  
37 Huntington Food Bank and the Mountaineer Food Bank in Braxton County.

*11 - West Virginia Conservation Agency*

(WV Code Chapter 19)

Fund 0132 FY 2020 Org 1400

1	Personal Services and Employee Benefits.....	00100	\$	794,191
2	Unclassified .....	09900		77,059
3	Current Expenses (R) .....	13000		317,848
4	Soil Conservation Projects (R) .....	12000		9,799,709
5	BRIM Premium.....	91300		<u>34,428</u>
6	Total .....		\$	11,023,235

7 Any unexpended balances remaining in the appropriations for Soil Conservation Projects  
8 (fund 0132, appropriation 12000), and Current Expenses (fund 0132, appropriation 13000) at the  
9 close of the fiscal year 2019 are hereby reappropriated for expenditure during the fiscal year 2020.

*12 - Department of Agriculture –*

*Meat Inspection Fund*

(WV Code Chapter 19)

Fund 0135 FY 2020 Org 1400

1	Personal Services and Employee Benefits.....	00100	\$	668,030
2	Unclassified .....	09900		7,090
3	Current Expenses .....	13000		<u>82,605</u>

4 Total..... \$ 757,725

5 Any part or all of this appropriation may be transferred to a special revenue fund for the  
6 purpose of matching federal funds for the above-named program.

*13 - Department of Agriculture –*

*Agricultural Awards Fund*

(WV Code Chapter 19)

Fund 0136 FY 2020 Org 1400

1	Programs and Awards for 4-H Clubs and FFA/FHA .....	57700	\$	15,000
2	Commissioner's Awards and Programs .....	73700		<u>39,250</u>
3	Total.....		\$	54,250

*14 - Department of Agriculture –*

*West Virginia Agricultural Land Protection Authority*

(WV Code Chapter 8A)

Fund 0607 FY 2020 Org 1400

1	Personal Services and Employee Benefits.....	00100	\$	99,547
2	Unclassified .....	09900		<u>950</u>
3	Total.....		\$	100,497

*15 - Attorney General*

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

Fund 0150 FY 2020 Org 1500

1	Personal Services and Employee Benefits (R).....	00100	\$	2,818,788
2	Unclassified (R).....	09900		24,428
3	Current Expenses (R) .....	13000		762,097
4	Repairs and Alterations.....	06400		1,000
5	Equipment.....	07000		1,000
6	Criminal Convictions and Habeas Corpus Appeals (R) .....	26000		946,078
7	Better Government Bureau .....	74000		279,412

8	BRIM Premium.....	91300	120,654
9	Total.....		\$ 4,953,457

10 Any unexpended balances remaining in the above appropriations for Personal Services  
 11 and Employee Benefits (fund 0150, appropriation 00100), Unclassified (fund 0150, appropriation  
 12 09900), Current Expenses (fund 0150, appropriation 13000), Criminal Convictions and Habeas  
 13 Corpus Appeals (fund 0150, appropriation 26000), and Agency Client Revolving Liquidity Pool  
 14 (fund 0150, appropriation 36200) at the close of the fiscal year 2019 are hereby reappropriated  
 15 for expenditure during the fiscal year 2020, with the exception of fund 0150, fiscal year 2016,  
 16 appropriation 00100 (\$208,241.14), and fund 0150, fiscal year 2017, appropriation 00100  
 17 (\$1,474,457.07) which shall expire on June 30, 2019.

18 Included in the above appropriation to Personal Services and Employee Benefits (fund  
 19 0150, appropriation 00100), is \$95,000 for the Salary of the Attorney General.

20 When legal counsel or secretarial help is appointed by the Attorney General for any state  
 21 spending unit, this account shall be reimbursed from such spending units specifically appropriated  
 22 account or from accounts appropriated by general language contained within this bill: *Provided,*  
 23 That the spending unit shall reimburse at a rate and upon terms agreed to by the state spending  
 24 unit and the Attorney General: *Provided, however,* That if the spending unit and the Attorney  
 25 General are unable to agree on the amount and terms of the reimbursement, the spending unit  
 26 and the Attorney General shall submit their proposed reimbursement rates and terms to the  
 27 Governor for final determination.

*16 - Secretary of State*

(WV Code Chapters 3, 5 and 59)

Fund 0155 FY 2020 Org 1600

1	Personal Services and Employee Benefits.....	00100	\$ 118,794
2	Unclassified (R).....	09900	9,555
3	Current Expenses (R) .....	13000	805,948
4	BRIM Premium.....	91300	23,297
5	Total.....		\$ 957,594

6 Any unexpended balances remaining in the appropriations for Unclassified (fund 0155,  
 7 appropriation 09900) and Current Expenses (fund 0155, appropriation 13000) at the close of the  
 8 fiscal year 2019 are hereby reappropriated for expenditure during the fiscal year 2020.

9 Included in the above appropriation to Personal Services and Employee Benefits (fund  
 10 0155, appropriation 00100), is \$95,000 for the Salary of the Secretary of State.

*17 - State Election Commission*

(WV Code Chapter 3)

Fund 0160 FY 2020 Org 1601

1	Personal Services and Employee Benefits.....	00100	\$	2,477
2	Unclassified .....	09900		75
3	Current Expenses .....	13000		<u>4,956</u>
4	Total .....		\$	7,508

**DEPARTMENT OF ADMINISTRATION***18 - Department of Administration –**Office of the Secretary**(WV Code Chapter 5F)*Fund 0186 FY 2020 Org 0201

1	Personal Services and Employee Benefits.....	00100	\$	606,584
2	Unclassified .....	09900		9,177
3	Current Expenses .....	13000		85,009
4	Repairs and Alterations.....	06400		100
5	Equipment.....	07000		1,000
6	Financial Advisor (R).....	30400		27,546
7	Lease Rental Payments .....	51600		15,000,000
8	Design-Build Board .....	54000		4,000
9	Other Assets .....	69000		100
10	BRIM Premium.....	91300		<u>6,736</u>
11	Total .....		\$	15,740,252

12 Any unexpended balance remaining in the appropriation for Financial Advisor (fund 0186,  
13 appropriation 30400) at the close of the fiscal year 2019 is hereby reappropriated for expenditure  
14 during the fiscal year 2020.

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

*19 - Consolidated Public Retirement Board**(WV Code Chapter 5)*



Fund 0195 FY 2020 Org 0205

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

*20 - Division of Finance*

(WV Code Chapter 5A)

Fund 0203 FY 2020 Org 0209

1	Personal Services and Employee Benefits.....	00100	\$	64,696
2	Unclassified .....	09900		1,400
3	Current Expenses .....	13000		66,721
4	GAAP Project (R).....	12500		612,666
5	BRIM Premium.....	91300		<u>7,517</u>
6	Total.....		\$	753,000

7 Any unexpended balance remaining in the appropriation for GAAP Project (fund 0203,  
 8 appropriation 12500) at the close of the fiscal year 2019 is hereby reappropriated for expenditure  
 9 during the fiscal year 2020.

*21 - Division of General Services*

(WV Code Chapter 5A)

Fund 0230 FY 2020 Org 0211

1	Personal Services and Employee Benefits.....	00100	\$	2,722,499
2	Unclassified .....	09900		20,000
3	Current Expenses .....	13000		728,849
4	Repairs and Alterations.....	06400		500
5	Equipment.....	07000		5,000
6	Fire Service Fee.....	12600		14,000
7	Buildings (R) .....	25800		500
8	Preservation and Maintenance of Statues and Monuments			

9	on Capitol Grounds .....	37100	68,000
10	Capital Outlay, Repairs and Equipment (R).....	58900	27,078,888
11	Other Assets .....	69000	500
12	Land (R).....	73000	500
13	BRIM Premium.....	91300	<u>129,983</u>
14	Total.....		\$ 30,769,219

15 Any unexpended balances remaining in the above appropriations for Buildings (fund 0230,  
16 appropriation 25800), Capital Outlay, Repairs and Equipment (fund 0230, appropriation 58900),  
17 Capital Outlay, Repairs and Equipment – Surplus (fund 0230, appropriation 67700), and Land  
18 (fund 0230, appropriation 73000) at the close of the fiscal year 2019 are hereby reappropriated  
19 for expenditure during the fiscal year 2020.

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

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

*22 - Division of Purchasing*

(WV Code Chapter 5A)

Fund 0210 FY 2020 Org 0213

1	Personal Services and Employee Benefits.....	00100	\$ 1,055,926
2	Unclassified .....	09900	144
3	Current Expenses .....	13000	1,285
4	Repairs and Alterations.....	06400	200
5	BRIM Premium.....	91300	<u>6,922</u>
6	Total.....		\$ 1,064,477

7 The Division of Highways shall reimburse Fund 2031 within the Division of Purchasing for  
8 all actual expenses incurred pursuant to the provisions of W.Va. Code §17-2A-13.

*23 - Travel Management*

(WV Code Chapter 5A)

Fund 0615 FY 2020 Org 0215

1	Personal Services and Employee Benefits.....	00100	\$	802,363
2	Unclassified .....	09900		12,032
3	Current Expenses .....	13000		440,247
4	Repairs and Alterations.....	06400		1,000
5	Equipment.....	07000		5,000
6	Buildings (R) .....	25800		100
7	Other Assets .....	69000		<u>100</u>
8	Total.....		\$	1,260,842

9 Any unexpended balance remaining in the appropriation for Buildings (fund 0615,  
10 appropriation 25800) at the close of the fiscal year 2019 is hereby reappropriated for expenditure  
11 during the fiscal year 2020.

*24 - Commission on Uniform State Laws*

(WV Code Chapter 29)

Fund 0214 FY 2020 Org 0217

1	Current Expenses .....	13000	\$	45,550
2	To pay expenses for members of the commission on uniform state laws.			

*25 - West Virginia Public Employees Grievance Board*

(WV Code Chapter 6C)

Fund 0220 FY 2020 Org 0219

1	Personal Services and Employee Benefits.....	00100	\$	969,627
2	Unclassified .....	09900		1,000
3	Current Expenses .....	13000		143,754
4	Equipment.....	07000		50
5	BRIM Premium.....	91300		<u>10,281</u>
6	Total.....		\$	1,124,712

*26 - Ethics Commission*

## (WV Code Chapter 6B)

Fund 0223 FY 2020 Org 0220

1	Personal Services and Employee Benefits.....	00100	\$	606,969
2	Unclassified .....	09900		2,200
3	Current Expenses .....	13000		104,501
4	Repairs and Alterations.....	06400		500
5	Other Assets .....	69000		100
6	BRIM Premium.....	91300		<u>5,574</u>
7	Total.....		\$	719,844

*27 - Public Defender Services*

## (WV Code Chapter 29)

Fund 0226 FY 2020 Org 0221

1	Personal Services and Employee Benefits.....	00100	\$	1,711,081
2	Unclassified .....	09900		314,700
3	Current Expenses .....	13000		12,740
4	Public Defender Corporations .....	35200		19,538,435
5	Appointed Counsel Fees (R).....	78800		12,898,115
6	BRIM Premium.....	91300		<u>10,575</u>
7	Total.....		\$	34,485,646

8 Any unexpended balance remaining in the above appropriation for Appointed Counsel  
9 Fees (fund 0226, appropriation 78800) at the close of the fiscal year 2019 is hereby  
10 reapportioned for expenditure during the fiscal year 2020.

11 The director shall have the authority to transfer funds from the appropriation to Public  
12 Defender Corporations (fund 0226, appropriation 35200) to Appointed Counsel Fees (fund 0226,  
13 appropriation 78800).

*28 - Committee for the Purchase of**Commodities and Services from the Handicapped*

## (WV Code Chapter 5A)

Fund 0233 FY 2020 Org 0224

1	Personal Services and Employee Benefits.....	00100	\$	3,187
2	Current Expenses .....	13000		<u>868</u>
3	Total.....		\$	4,055

*29 - Public Employees Insurance Agency*

(WV Code Chapter 5)

Fund 0200 FY 2020 Org 0225

1	PEIA Subsidy .....	80100	\$	21,000,000
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2           The Division of Highways, Division of Motor Vehicles, Public Service Commission and  
3 other departments, bureaus, divisions, or commissions operating from special revenue funds  
4 and/or federal funds shall pay their proportionate share of the public employees health insurance  
5 cost for their respective divisions.

6           The above appropriation for PEIA Subsidy (fund 0200, appropriation 80100) may be  
7 transferred to a special revenue fund and shall be utilized by the West Virginia Public Employees  
8 Insurance Agency for the purposes of offsetting benefit changes to offset the aggregate premium  
9 cost-sharing percentage requirements between employers and employees. Such amount shall  
10 not be included in the calculation of the plan year aggregate premium cost-sharing percentages  
11 between employers and employees.

*30 - West Virginia Prosecuting Attorneys Institute*

(WV Code Chapter 7)

Fund 0557 FY 2020 Org 0228

1	Forensic Medical Examinations (R).....	68300	\$	141,579
2	Federal Funds/Grant Match (R) .....	74900		<u>105,074</u>
3	Total.....		\$	246,653

4           Any unexpended balances remaining in the appropriations for Forensic Medical  
5 Examinations (fund 0557, appropriation 68300) and Federal Funds/Grant Match (fund 0557,  
6 appropriation 74900) at the close of the fiscal year 2019 are hereby reappropriated for expenditure  
7 during the fiscal year 2020.

*31 - Real Estate Division*

(WV Code Chapter 5A)

Fund 0610 FY 2020 Org 0233

1	Personal Services and Employee Benefits.....	00100	\$	681,101
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2	Unclassified .....	09900		1,000
3	Current Expenses .....	13000		138,631
4	Repairs and Alterations.....	06400		100
5	Equipment.....	07000		2,500
6	BRIM Premium.....	91300		<u>8,534</u>
7	Total .....		\$	831,866

**DEPARTMENT OF COMMERCE**

*32 - West Virginia Tourism Office*

(WV Code Chapter 5B)

Fund 0246 FY 2020 Org 0304

1	Tourism – Brand Promotion .....	61803	\$	5,000,000
2	Tourism – Public Relations .....	61804		750,000
3	Tourism – Events and Sponsorships.....	61805		250,000
4	Tourism – Industry Development .....	61806		250,000
5	State Parks and Recreation Advertising.....	61900		<u>750,000</u>
6	Total .....		\$	7,000,000

7           The Executive Director of the West Virginia Tourism Office, with approval from the  
8 Secretary of Commerce, shall have the authority to transfer between the above items of  
9 appropriation.

*33 - Division of Forestry*

(WV Code Chapter 19)

Fund 0250 FY 2020 Org 0305

1	Personal Services and Employee Benefits.....	00100	\$	2,881,455
2	Unclassified .....	09900		21,435
3	Current Expenses .....	13000		338,953
4	Repairs and Alterations.....	06400		80,000
5	Equipment (R).....	07000		2,061

6	BRIM Premium.....	91300	<u>98,754</u>
7	Total.....		\$ 3,422,658

8 Any unexpended balance remaining in the appropriation for Equipment (fund 0250,  
9 appropriation 07000) at the close of the fiscal year 2019 is hereby reappropriated for expenditure  
10 during the fiscal year 2020.

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

*34 - Geological and Economic Survey*

(WV Code Chapter 29)

Fund 0253 FY 2020 Org 0306

1	Personal Services and Employee Benefits.....	00100	\$ 1,678,448
2	Unclassified .....	09900	27,678
3	Current Expenses .....	13000	51,524
4	Repairs and Alterations.....	06400	968
5	Mineral Mapping System (R).....	20700	1,134,143
6	BRIM Premium.....	91300	<u>24,486</u>
7	Total.....		\$ 2,917,247

8 Any unexpended balance remaining in the appropriation for Mineral Mapping System  
9 (fund 0253, appropriation 20700) at the close of the fiscal year 2019 is hereby reappropriated for  
10 expenditure during the fiscal year 2020.

11 The above Unclassified and Current Expense appropriations include funding to secure  
12 federal and other contracts and may be transferred to a special revolving fund (fund 3105) for the  
13 purpose of providing advance funding for such contracts.

*35 - West Virginia Development Office*

(WV Code Chapter 5B)

Fund 0256 FY 2020 Org 0307

1	Personal Services and Employee Benefits.....	00100	\$ 4,400,420
2	Unclassified .....	09900	108,055
3	Current Expenses .....	13000	3,765,277
4	National Youth Science Camp .....	13200	241,570

5	Local Economic Development Partnerships (R) .....	13300	1,250,000
6	ARC Assessment.....	13600	152,585
7	Guaranteed Work Force Grant (R).....	24200	976,579
8	Mainstreet Program .....	79400	167,467
9	BRIM Premium.....	91300	3,157
10	Hatfield McCoy Recreational Trail.....	96000	<u>198,415</u>
11	Total.....		\$ 11,263,525

12 Any unexpended balances remaining in the appropriations for Sales and Marketing  
 13 Enhancement – Surplus (fund 0256, appropriation 05099), Unclassified – Surplus (fund 0256,  
 14 appropriation 09700), Partnership Grants (fund 0256, appropriation 13100), Local Economic  
 15 Development Partnerships (fund 0256, appropriation 13300), Guaranteed Work Force Grant  
 16 (fund 0256, appropriation 24200), Industrial Park Assistance (fund 0256, appropriation 48000),  
 17 and Local Economic Development Assistance (fund 0256, appropriation 81900) at the close of  
 18 the fiscal year 2019 are hereby reappropriated for expenditure during the fiscal year 2020.

19 .....

20 The above appropriation to Local Economic Development Partnerships (fund 0256,  
 21 appropriation 13300) shall be used by the West Virginia Development Office for the award of  
 22 funding assistance to county and regional economic development corporations or authorities  
 23 participating in the Certified Development Community Program developed under the provisions  
 24 of W.Va. Code §5B-2-14. The West Virginia Development Office shall award the funding  
 25 assistance through a matching grant program, based upon a formula whereby funding assistance  
 26 may not exceed \$34,000 per county served by an economic development or redevelopment  
 27 corporation or authority.

*36 - Division of Labor*

(WV Code Chapters 21 and 47)

Fund 0260 FY 2020 Org 0308

1	Personal Services and Employee Benefits.....	00100	\$ 1,564,676
2	Current Expenses .....	13000	227,000
3	Repairs and Alterations.....	06400	28,000
4	Equipment.....	07000	15,000
5	BRIM Premium.....	91300	<u>8,500</u>
6	Total.....		\$ 1,843,176

*37 - Division of Natural Resources*



## (WV Code Chapter 20)

Fund 0265 FY 2020 Org 0310

1	Personal Services and Employee Benefits.....	00100	\$	16,956,925
2	Unclassified .....	09900		184,711
3	Current Expenses .....	13000		196,302
4	Repairs and Alterations.....	06400		100
5	Equipment.....	07000		100
6	Buildings .....	25800		100
7	Capital Outlay – Parks (R) .....	28800		3,000,000
8	Litter Control Conservation Officers .....	56400		146,986
9	Upper Mud River Flood Control.....	65400		164,791
10	Other Assets .....	69000		100
11	Land (R).....	73000		100
12	Law Enforcement.....	80600		2,552,994
13	BRIM Premium.....	91300		<u>45,141</u>
14	Total.....		\$	23,248,350

15 Any unexpended balances remaining in the appropriations for Buildings (fund 0265,  
 16 appropriation 25800), Capital Outlay – Parks (fund 0265, appropriation 28800), Land (fund 0265,  
 17 appropriation 73000), and State Park Improvements – Surplus (fund 0265, appropriation 76300)  
 18 at the close of the fiscal year 2019 are hereby reappropriated for expenditure during the fiscal  
 19 year 2020.

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

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

## (WV Code Chapter 22)

Fund 0277 FY 2020 Org 0314

1	Personal Services and Employee Benefits.....	00100	\$	9,550,243
2	Unclassified .....	09900		111,016

3	Current Expenses .....	13000	1,396,141
4	Coal Dust and Rock Dust Sampling .....	27000	487,752
5	BRIM Premium.....	91300	<u>80,668</u>
6	Total.....		\$ 11,625,820

7 Included in the above appropriation for Current Expenses (fund 0277, appropriation  
8 13000) is \$500,000 to be used for coal mine training activities at an established mine training  
9 facility in southern West Virginia.

*39 - Board of Coal Mine Health and Safety*

(WV Code Chapter 22)

Fund 0280 FY 2020 Org 0319

1	Personal Services and Employee Benefits.....	00100	\$ 233,981
2	Unclassified .....	09900	3,480
3	Current Expenses .....	13000	<u>118,138</u>
4	Total.....		\$ 355,599

5 Included in the above appropriation for Current Expenses (fund 0280, appropriation  
6 13000) up to \$29,000 shall be used for the Coal Mine Safety and Technical Review Committee.

*40 - WorkForce West Virginia*

(WV Code Chapter 23)

Fund 0572 FY 2020 Org 0323

1	Personal Services and Employee Benefits.....	00100	\$ 51,433
2	Unclassified .....	09900	593
3	Current Expenses .....	13000	<u>7,337</u>
4	Total.....		\$ 59,363

*41 - Department of Commerce –*

*Office of the Secretary*

(WV Code Chapter 19)

Fund 0606 FY 2020 Org 0327

1	Personal Services and Employee Benefits.....	00100	\$ 588,872
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2	Unclassified .....	09900	501,490
3	Current Expenses .....	13000	<u>17,099</u>
4	Total .....		\$ 1,107,461

5 From the above appropriation for Unclassified (fund 0606, appropriation 09900), \$500,000  
6 shall be transferred to the Broadband Enhancement Fund (fund 3013).

*42 - Office of Energy*

(WV Code Chapter 5B)

Fund 0612 FY 2020 Org 0328

1	Personal Services and Employee Benefits.....	00100	\$ 198,299
2	Unclassified .....	09900	12,395
3	Current Expenses .....	13000	1,029,679
4	BRIM Premium.....	91300	<u>3,894</u>
5	Total .....		\$ 1,244,267

6 From the above appropriation for Current Expenses (fund 0612, appropriation 13000)  
7 \$558,247 is for West Virginia University and \$308,247 is for Southern West Virginia Community  
8 and Technical College for the Mine Training and Energy Technologies Academy.

*43 - State Board of Rehabilitation –*

*Division of Rehabilitation Services*

(WV Code Chapter 18)

Fund 0310 FY 2020 Org 0932

1	Personal Services and Employee Benefits.....	00100	\$ 11,459,977
2	Independent Living Services .....	00900	429,418
3	Current Expenses .....	13000	558,815
4	Workshop Development.....	16300	1,817,427
5	Supported Employment Extended Services .....	20600	77,960
6	Ron Yost Personal Assistance Fund.....	40700	333,828
7	Employment Attendant Care Program.....	59800	131,575
8	BRIM Premium.....	91300	<u>77,464</u>

9 Total..... \$ 14,886,464

10 From the above appropriation for Workshop Development (fund 0310, appropriation  
 11 16300), fund shall be used exclusively with the private nonprofit community rehabilitation program  
 12 organizations known as work centers or sheltered workshops. The appropriation shall also be  
 13 used to continue the support of the program, services, and individuals with disabilities currently in  
 14 place at those organizations.

### DEPARTMENT OF EDUCATION

#### 44 - State Board of Education –

##### School Lunch Program

(WV Code Chapters 18 and 18A)

#### Fund 0303 FY 2020 Org 0402

1	Personal Services and Employee Benefits.....	00100	\$	348,042
2	Current Expenses .....	13000		<u>2,118,865</u>
3	Total .....		\$	2,466,907

#### 45 - State Board of Education –

##### State Department of Education

(WV Code Chapters 18 and 18A)

#### Fund 0313 FY 2020 Org 0402

1	Personal Services and Employee Benefits.....	00100	\$	4,598,523
2	Teachers' Retirement Savings Realized.....	09500		42,954,000
3	Unclassified (R).....	09900		420,000
4	Current Expenses (R) .....	13000		2,572,000
5	Equipment.....	07000		5,000
6	Center for Professional Development (R).....	11500		150,000
7	Increased Enrollment .....	14000		3,060,000
8	Safe Schools.....	14300		4,781,026
9	National Teacher Certification (R) .....	16100		300,000
10	Jim's Dream – Childhood Drug Prevention Education.....	21901		5,000,000

11	Buildings (R) .....	25800	1,000
12	Allowance for County Transfer .....	26400	476,348
13	Technology Repair and Modernization .....	29800	951,003
14	HVAC Technicians .....	35500	516,791
15	Early Retirement Notification Incentive .....	36600	300,000
16	MATH Program .....	36800	336,532
17	Assessment Programs .....	39600	1,339,588
18	Benedum Professional Development Collaborative .....	42700	429,775
19	Governor's Honors Academy .....	47800	1,059,270
20	21 <sup>st</sup> Century Fellows .....	50700	274,899
21	English as a Second Language .....	52800	96,000
22	Teacher Reimbursement .....	57300	297,188
23	Hospitality Training .....	60000	272,775
24	Hi-Y Youth in Government .....	61600	100,000
25	High Acuity Special Needs (R) .....	63400	1,500,000
26	Foreign Student Education .....	63600	100,294
27	State Board of Education Administrative Costs .....	68400	277,403
28	Other Assets .....	69000	1,000
29	IT Academy (R) .....	72100	500,000
30	Land (R) .....	73000	1,000
31	Early Literacy Program .....	75600	5,705,624
32	School Based Truancy Prevention (R) .....	78101	2,032,238
33	Mastery Based Education .....	#####	125,000
34	Communities in Schools (R) .....	78103	400,000
35	21 <sup>st</sup> Century Learners (R) .....	88600	1,756,470
36	BRIM Premium .....	91300	342,859

37	21 <sup>st</sup> Century Assessment and Professional Development .....	93100	2,006,978
38	21 <sup>st</sup> Century Technology Infrastructure Network		
39	Tools and Support .....	93300	7,636,586
40	Special Olympic Games .....	96600	25,000
41	Educational Program Allowance .....	99600	<u>516,250</u>
42	Total .....		\$ 93,218,420

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

45           Any unexpended balances remaining in the appropriations for Unclassified (fund 0313,  
46 appropriation 09900), Current Expenses (fund 0313, appropriation 13000), Center for  
47 Professional Development (fund 0313, appropriation 11500), National Teacher Certification (fund  
48 0313, appropriation 16100), Buildings (fund 0313, appropriation 25800), Benedum Professional  
49 Development Collaborative (fund 0313, appropriation 42700), Governor's Honors Academy (fund  
50 0313, appropriation 47800), High Acuity Special Needs (fund 0313, appropriation 63400), IT  
51 Academy (fund 0313, appropriation 72100), Land (fund 0313, appropriation 73000), School  
52 Based Truancy Prevention (fund 0313, appropriation 78101), Communities in Schools (fund 0313,  
53 appropriation 78103), and 21<sup>st</sup> Century Learners (fund 0313, appropriation 88600) at the close of  
54 the fiscal year 2019 are hereby reappropriated for expenditure during the fiscal year 2020.

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

58           From the above appropriation for Unclassified (fund 0313, appropriation 09900), \$120,000  
59 shall be for assisting low income students with AP exam fees.

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

64           From the above appropriation for Educational Program Allowance (fund 0313,  
65 appropriation 99600), \$100,000 shall be expended for Webster County Board of Education for  
66 Hacker Valley; \$150,000 shall be for the Randolph County Board of Education for Pickens School;  
67 \$100,000 shall be for the Preston County Board of Education for the Aurora School; \$100,000  
68 shall be for the Fayette County Board of Education for Meadow Bridge; and \$66,250 is for Project  
69 Based Learning in STEM fields.

*46 - State Board of Education –*

*Aid for Exceptional Children*

(WV Code Chapters 18 and 18A)

Fund 0314 FY 2020 Org 0402

1	Special Education – Counties .....	15900	\$	7,271,757
2	Special Education – Institutions .....	16000		3,968,631
3	Education of Juveniles Held in Predispositional			
4	Juvenile Detention Centers.....	30200		649,758
5	Education of Institutionalized Juveniles and Adults (R) .....	47200		<u>20,474,233</u>
6	Total.....		\$	32,364,379

7           Any unexpended balance remaining in the appropriation for Education of Institutionalized  
8 Juveniles and Adults (fund 0314, appropriation 47200) at the close of the fiscal year 2019 is  
9 hereby reappropriated for expenditure during the fiscal year 2020.

10           From the above appropriations, the superintendent shall have authority to expend funds  
11 for the costs of special education for those children residing in out-of-state placements.

*47 - State Board of Education –**State Aid to Schools*

(WV Code Chapters 18 and 18A)

Fund 0317 FY 2020 Org 0402

1	Other Current Expenses .....	02200	\$	156,065,940
2	Advanced Placement .....	05300		644,087
3	Professional Educators .....	15100		901,230,362
4	Service Personnel.....	15200		304,858,302
5	Fixed Charges.....	15300		106,085,858
6	Transportation.....	15400		75,457,864
7	Professional Student Support Services .....	65500		40,513,635
8	Improved Instructional Programs .....	15600		51,527,411
9	21 <sup>st</sup> Century Strategic Technology Learning Growth .....	93600		25,549,588
10	Teacher and Leader Induction .....	93601		<u>4,584,707</u>
11	Basic Foundation Allowances .....			1,666,517,754
12	Less Local Share .....			(478,449,993)

13	Adjustments .....		<u>(2,681,318)</u>
14	Total Basic State Aid.....		1,185,386,443
15	Public Employees' Insurance Matching.....	01200	223,979,027
16	Teachers' Retirement System.....	01900	65,201,000
17	School Building Authority .....	45300	24,000,000
18	Retirement Systems – Unfunded Liability.....	77500	<u>345,517,000</u>
19	Total.....		\$ 1,844,083,470

*48 - State Board of Education –*

*Vocational Division*

(WV Code Chapters 18 and 18A)

Fund 0390 FY 2020 Org 0402

1	Personal Services and Employee Benefits.....	00100	\$ 1,339,713
2	Unclassified .....	09900	268,800
3	Current Expenses .....	13000	883,106
4	Wood Products – Forestry Vocational Program.....	14600	78,691
5	Albert Yanni Vocational Program .....	14700	132,123
6	Vocational Aid.....	14800	23,997,756
7	Adult Basic Education .....	14900	5,195,128
8	Jim's Dream.....	14901	6,000,000
9	Program Modernization.....	30500	884,313
10	High School Equivalency Diploma Testing (R) .....	72600	803,397
11	FFA Grant Awards .....	83900	11,496
12	Pre-Engineering Academy Program.....	84000	<u>265,294</u>
13	Total.....		\$ 39,859,817

14 Any unexpended balance remaining in the appropriation for High School Equivalency  
 15 Diploma Testing (fund 0390, appropriation 72600) at the close of the fiscal year 2019 is hereby  
 16 reappropriated for expenditure during the fiscal year 2020.....



*49 - State Board of Education –  
West Virginia Schools for the Deaf and the Blind*

(WV Code Chapters 18 and 18A)

Fund 0320 FY 2020 Org 0403

1	Personal Services and Employee Benefits.....	00100	\$	11,379,675
2	Unclassified .....	09900		110,000
3	Current Expenses .....	13000		2,240,696
4	Repairs and Alterations.....	06400		164,675
5	Equipment.....	07000		77,000
6	Buildings (R) .....	25800		45,000
7	Capital Outlay and Maintenance (R) .....	75500		520,000
8	BRIM Premium.....	91300		<u>140,842</u>
9	Total.....		\$	14,677,888

10 Any unexpended balances remaining in the appropriations for Buildings (fund 0320,  
11 appropriation 25800) and Capital Outlay and Maintenance (fund 0320, appropriation 75500) at  
12 the close of the fiscal year 2019 are hereby reappropriated for expenditure during the fiscal year  
13 2020.

**DEPARTMENT OF ARTS, CULTURE, AND HISTORY**

*50 - Division of Culture and History*

(WV Code Chapter 29)

Fund 0293 FY 2020 Org 0432

1	Personal Services and Employee Benefits.....	00100	\$	3,463,493
2	Current Expenses .....	13000		610,843
3	Repairs and Alterations.....	06400		1,000
4	Equipment.....	07000		1
5	Unclassified (R).....	09900		28,483
6	WV Humanities Council .....	16800		250,000
7	Buildings (R) .....	25800		1

8	Other Assets .....	69000	1
9	Educational Enhancements.....	69500	573,500
10	Land (R).....	73000	1
11	Culture and History Programming .....	73200	231,573
12	Capital Outlay and Maintenance (R) .....	75500	19,600
13	Historical Highway Marker Program .....	84400	57,548
14	BRIM Premium.....	91300	<u>39,337</u>
15	Total.....		\$ 5,275,381

16 Any unexpended balances remaining in the appropriations for Unclassified (fund 0293,  
 17 appropriation 09900), Buildings (fund 0293, appropriation 25800), Capital Outlay, Repairs and  
 18 Equipment (fund 0293, appropriation 58900), Capital Improvements – Surplus (fund 0293,  
 19 appropriation 66100), Capital Outlay, Repairs and Equipment – Surplus (fund 0293, appropriation  
 20 67700), Land (fund 0293, appropriation 73000), and Capital Outlay and Maintenance (fund 0293,  
 21 appropriation 75500) at the close of the fiscal year 2019 are hereby reappropriated for expenditure  
 22 during the fiscal year 2020.

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

27 From the above appropriation for Educational Enhancements (fund 0293, appropriation  
 28 69500), \$500,000 shall be used for Save the Children and \$73,500 shall be used for the Clay  
 29 Center.

*51 - Library Commission*

(WV Code Chapter 10)

Fund 0296 FY 2020 Org 0433

1	Personal Services and Employee Benefits.....	00100	\$ 1,314,744
2	Current Expenses .....	13000	139,624
3	Repairs and Alterations.....	06400	6,500
4	Services to Blind & Handicapped .....	18100	161,717
5	BRIM Premium.....	91300	<u>18,205</u>
6	Total.....		\$ 1,640,790

*52 - Educational Broadcasting Authority*

## (WV Code Chapter 10)

Fund 0300 FY 2020 Org 0439

1	Personal Services and Employee Benefits.....	00100	\$	1,840,433
2	Current Expenses .....	13000		1,591,805
3	Mountain Stage.....	24900		300,000
4	Capital Outlay and Maintenance (R) .....	75500		50,000
5	BRIM Premium.....	91300		<u>48,453</u>
6	Total.....		\$	3,830,691

7 Any unexpended balance remaining in the appropriation for Capital Outlay and  
 8 Maintenance (fund 0300, appropriation 75500) at the close of the fiscal year 2019 is hereby  
 9 reappropriated for expenditure during the fiscal year 2020.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION***53 - Environmental Quality Board*

## (WV Code Chapter 20)

Fund 0270 FY 2020 Org 0311

1	Personal Services and Employee Benefits.....	00100	\$	82,539
2	Current Expenses .....	13000		28,453
3	Repairs and Alterations.....	06400		800
4	Equipment.....	07000		500
5	Other Assets .....	69000		400
6	BRIM Premium.....	91300		<u>791</u>
7	Total.....		\$	113,483

*54 - Division of Environmental Protection*

## (WV Code Chapter 22)

Fund 0273 FY 2020 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$	4,196,400
2	Water Resources Protection and Management.....	06800		576,278

3	Current Expenses .....	13000	96,916
4	Repairs and Alterations.....	06400	1,500
5	Unclassified .....	09900	14,825
6	Dam Safety .....	60700	237,824
7	West Virginia Stream Partners Program.....	63700	77,396
8	Meth Lab Cleanup.....	65600	139,000
9	WV Contributions to River Commissions.....	77600	148,485
10	Office of Water Resources Non-Enforcement Activity .....	85500	<u>1,009,855</u>
11	Total.....		\$ 6,498,479

12 A portion of the appropriations for Current Expense (fund 0273, appropriation 13000) and  
 13 Dam Safety (fund 0273, appropriation 60700) may be transferred to the special revenue fund  
 14 Dam Safety Rehabilitation Revolving Fund (fund 3025) for the state deficient dams rehabilitation  
 15 assistance program.

*55 - Air Quality Board*

(WV Code Chapter 16)

Fund 0550 FY 2020 Org 0325

1	Personal Services and Employee Benefits.....	00100	\$ 60,737
2	Current Expenses .....	13000	11,612
3	Repairs and Alterations.....	06400	800
4	Equipment.....	07000	400
5	Other Assets .....	69000	200
6	BRIM Premium.....	91300	<u>2,304</u>
7	Total.....		\$ 76,053

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

*56 - Department of Health and Human Resources –*

*Office of the Secretary*

(WV Code Chapter 5F)

Fund 0400 FY 2020 Org 0501

1	Personal Services and Employee Benefits.....	00100	\$	384,638
2	Unclassified .....	09900		6,459
3	Current Expenses .....	13000		50,613
4	Commission for the Deaf and Hard of Hearing.....	70400		<u>225,534</u>
5	Total.....		\$	667,244

6 Any unexpended balance remaining in the appropriation for the Women's Commission  
7 (fund 0400, appropriation 19100) at the close of the fiscal year 2019 is hereby reappropriated for  
8 expenditure during the fiscal year 2020.

*57 - Division of Health –*

*Central Office*

(WV Code Chapter 16)

Fund 0407 FY 2020 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$	12,946,328
2	Chief Medical Examiner .....	04500		9,666,347
3	Unclassified .....	09900		671,795
4	Current Expenses .....	13000		4,877,059
5	State Aid for Local and Basic Public Health Services.....	18400		14,160,490
6	Safe Drinking Water Program (R).....	18700		2,211,323
7	Women, Infants and Children.....	21000		38,621
8	Early Intervention .....	22300		8,134,060
9	Cancer Registry .....	22500		206,306
10	Office of Drug Control Policy (R) .....	35401		567,953
11	Statewide EMS Program Support (R).....	38300		1,845,271
12	Office of Medical Cannabis .....	42001		2,380,489
13	Black Lung Clinics.....	46700		170,885
14	Vaccine for Children.....	55100		338,235
15	Tuberculosis Control.....	55300		379,256

16	Maternal and Child Health Clinics, Clinicians		
17	Medical Contracts and Fees (R) .....	57500	6,342,707
18	Epidemiology Support.....	62600	1,547,192
19	Primary Care Support .....	62800	4,263,706
20	Sexual Assault Intervention and Prevention .....	72300	125,000
21	Health Right Free Clinics .....	72700	3,750,000
22	Capital Outlay and Maintenance (R) .....	75500	100,000
23	Healthy Lifestyles.....	77800	1,000,000
24	Maternal Mortality Review .....	83400	49,933
25	Diabetes Education and Prevention .....	87300	97,125
26	BRIM Premium.....	91300	169,791
27	State Trauma and Emergency Care System .....	91800	2,021,322
28	WVU Charleston Poison Control Hotline .....	91800	<u>712,942</u>
29	Total.....		\$ 78,774,136

30 Any unexpended balances remaining in the appropriations for Safe Drinking Water  
31 Program (fund 0407, appropriation 18700), Office of Drug Control Policy (fund 0407, appropriation  
32 35401), Office of Drug Control Policy – Surplus (fund 0407, appropriation 35402), Statewide EMS  
33 Program Support (fund 0407, appropriation 38300), Maternal and Child Health Clinics, Clinicians  
34 and Medical Contracts and Fees (fund 0407, appropriation 57500), Capital Outlay and  
35 Maintenance (fund 0407, appropriation 75500), Emergency Response Entities – Special Projects  
36 (fund 0407, appropriation 82200), and Tobacco Education Program (fund 0407, appropriation  
37 90600) at the close of the fiscal year 2019 are hereby reappropriated for expenditure during the  
38 fiscal year 2020.

39 From the above appropriation for Current Expenses (fund 0407, appropriation 13000), an  
40 amount not less than \$100,000 is for the West Virginia Cancer Coalition; \$50,000 shall be  
41 expended for the West Virginia Aids Coalition; \$100,000 is for Adolescent Immunization  
42 Education; \$73,065 is for informal dispute resolution relating to nursing home administrative  
43 appeals; \$50,000 is for Hospital Hospitality House of Huntington; and \$200,000 is for Potomac  
44 Center Inc. of Romney, West Virginia.

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

## (WV Code Chapter 16)

Fund 0525 FY 2020 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$	1,632,588
2	Current Expenses .....	13000		14,113
3	Behavioral Health Program (R) .....	21900		71,843,953
4	Jim's Dream.....	14901		9,000,000
5	Family Support Act.....	22100		251,226
6	Institutional Facilities Operations (R).....	33500		137,929,180
7	Substance Abuse Continuum of Care (R) .....	35400		5,000,000
8	Capital Outlay and Maintenance (R) .....	75500		950,000
9	Renaissance Program.....	80400		165,996
10	BRIM Premium.....	91300		<u>1,296,098</u>
11	Total.....		\$	228,083,154

12 Any unexpended balances remaining in the appropriations for Behavioral Health Program  
 13 (fund 0525, appropriation 21900), Institutional Facilities Operations (fund 0525, appropriation  
 14 33500), Substance Abuse Continuum of Care (fund 0525, appropriation 35400), and Capital  
 15 Outlay and Maintenance (fund 0525, appropriation 75500) at the close of the fiscal year 2019 are  
 16 hereby reappropriated for expenditure during the fiscal year 2020.

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

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

25 The above appropriation for Institutional Facilities Operations (fund 0525, appropriation  
 26 33500) contains prior year salary increases due to the Hartley court order in the amount of  
 27 \$2,202,013 for William R. Sharpe Jr. Hospital, and \$2,067,984 for Mildred Mitchel-Bateman  
 28 Hospital.

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

32 Additional funds have been appropriated in fund 5156, fiscal year 2020, organization 0506,  
 33 for the operation of the institutional facilities. The secretary of the Department of Health and  
 34 Human Resources is authorized to utilize up to ten percent of the funds from the Institutional  
 35 Facilities Operations appropriation to facilitate cost effective and cost saving services at the  
 36 community level.

*59 - Division of Health –*

*West Virginia Drinking Water Treatment*

(WV Code Chapter 16)

Fund 0561 FY 2020 Org 0506

1 West Virginia Drinking Water Treatment

2 Revolving Fund-Transfer ..... 68900 \$ 647,500

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

*60 - Human Rights Commission*

(WV Code Chapter 5)

Fund 0416 FY 2020 Org 0510

1 Personal Services and Employee Benefits..... 00100 \$ 1,073,553

2 Unclassified ..... 09900 4,024

3 Current Expenses ..... 13000 331,304

4 BRIM Premium..... 91300 10,764

5 Total ..... \$ 1,419,645

*61 - Division of Human Services*

(WV Code Chapters 9, 48 and 49)

Fund 0403 FY 2020 Org 0511

1 Personal Services and Employee Benefits..... 00100 \$ 48,078,212

2 Unclassified ..... 09900 5,688,944

3 Current Expenses ..... 13000 11,404,008

4 Child Care Development..... 14400 4,102,718



5	Medical Services.....	18900	456,659,803
6	Social Services .....	19500	196,114,014
7	Family Preservation Program.....	19600	1,565,000
8	Family Resource Networks .....	27400	1,762,464
9	Domestic Violence Legal Services Fund .....	38400	400,000
10	James "Tiger" Morton Catastrophic Illness Fund.....	45500	105,695
11	I/DD Waiver .....	46600	88,753,483
12	Child Protective Services Case Workers.....	46800	24,917,075
13	OSCAR and RAPIDS.....	51500	6,493,207
14	Title XIX Waiver for Seniors .....	53300	13,593,620
15	WV Teaching Hospitals Tertiary/Safety Net .....	54700	6,356,000
16	Child Welfare System.....	60300	1,334,615
17	In-Home Family Education.....	68800	1,000,000
18	WV Works Separate State Program.....	69800	935,000
19	Child Support Enforcement .....	70500	6,758,806
20	Temporary Assistance for Needy Families/ Maintenance of Effort .....	70700	25,819,096
22	Child Care – Maintenance of Effort Match.....	70800	5,693,743
23	Grants for Licensed Domestic Violence Programs and Statewide Prevention .....	75000	2,500,000
25	Capital Outlay and Maintenance (R) .....	75500	11,875
26	Community Based Services and Pilot Programs for Youth.....	75900	1,000,000
27	Medical Services Administrative Costs.....	78900	38,234,761
28	Traumatic Brain Injury Waiver .....	83500	800,000
29	Indigent Burials (R) .....	85100	2,050,000
30	BRIM Premium.....	91300	892,642

31	Rural Hospitals Under 150 Beds .....	94000	2,596,000
32	Children's Trust Fund – Transfer.....	95100	<u>220,000</u>
33	Total.....		\$ 955,840,781

34 Any unexpended balances remaining in the appropriations for Capital Outlay and  
 35 Maintenance (fund 0403, appropriation 75500) and Indigent Burials (fund 0403, appropriation  
 36 85100) at the close of the fiscal year 2019 are hereby reappropriated for expenditure during the  
 37 fiscal year 2020.

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

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

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

48 The above appropriation for Domestic Violence Legal Services Fund (fund 0403,  
 49 appropriation 38400) shall be transferred to the Domestic Violence Legal Services Fund (fund  
 50 5455).

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

54 The above appropriation for WV Works Separate State Program (fund 0403, appropriation  
 55 69800), shall be transferred to the WV Works Separate State College Program Fund (fund 5467),  
 56 and the WV Works Separate State Two-Parent Program Fund (fund 5468) as determined by the  
 57 secretary of the Department of Health and Human Resources.

58 From the above appropriation for Child Support Enforcement (fund 0403, appropriation  
 59 70500) an amount not to exceed \$300,000 may be transferred to a local banking depository to be  
 60 utilized to offset funds determined to be uncollectible.

61 From the above appropriation for the Grants for Licensed Domestic Violence Programs  
 62 and Statewide Prevention (fund 0403, appropriation 75000), 50% of the total shall be divided  
 63 equally and distributed among the fourteen (14) licensed programs and the West Virginia Coalition  
 64 Against Domestic Violence (WVCADV). The balance remaining in the appropriation for Grants for  
 65 Licensed Domestic Violence Programs and Statewide Prevention (fund 0403, appropriation  
 66 75000), shall be distributed according to the formula established by the Family Protection  
 67 Services Board.

68 The above appropriation for Children's Trust Fund – Transfer (fund 0403, appropriation  
 69 95100) shall be transferred to the Children's Trust Fund (fund 5469, org 0511).

**DEPARTMENT OF MILITARY AFFAIRS  
AND PUBLIC SAFETY**

*62 - Department of Military Affairs and Public Safety –*

*Office of the Secretary*

(WV Code Chapter 5F)

Fund 0430 FY 2020 Org 0601

1	Personal Services and Employee Benefits.....	00100	\$	672,826
2	Unclassified (R).....	09900		18,949
3	Current Expenses .....	13000		137,480
4	Repairs and Alterations.....	06400		1,500
5	Equipment.....	07000		1,500
6	Fusion Center (R) .....	46900		553,678
7	Other Assets .....	69000		2,500
8	Directed Transfer .....	70000		32,000
9	BRIM Premium.....	91300		18,190
10	WV Fire and EMS Survivor Benefit (R) .....	93900		200,000
11	Homeland State Security Administrative Agency (R).....	95300		<u>315,220</u>
12	Total.....		\$	1,953,843

13 Any unexpended balances remaining in the appropriations for Unclassified (fund 0430,  
14 appropriation 09900), Fusion Center (fund 0430, appropriation 46900), Justice Reinvestment  
15 Training – Surplus (fund 0430, appropriation 69900), WV Fire and EMS Survivor Benefit (fund  
16 0430, appropriation 93900), and Homeland State Security Administrative Agency (fund 0430,  
17 appropriation 95300) at the close of the fiscal year 2019 are hereby reappropriated for expenditure  
18 during the fiscal year 2020.

19 The above appropriation for Directed Transfer (fund 0430, appropriation 70000) shall be  
20 transferred to the Law-Enforcement, Safety and Emergency Worker Funeral Expense Payment  
21 Fund (fund 6003).

*63 - Adjutant General –*

*State Militia*

(WV Code Chapter 15)

Fund 0433 FY 2020 Org 0603

1	Unclassified (R).....	09900	\$	106,798
2	College Education Fund.....	23200		4,000,000
3	Civil Air Patrol .....	23400		249,664
4	Mountaineer ChalleNGe Academy.....	70900		1,500,000
5	Armory Board Transfer.....	70015		2,317,555
6	Military Authority (R).....	74800		6,260,251
7	Drug Enforcement and Support.....	74801		<u>1,500,000</u>
8	Total.....		\$	15,934,268

9 Any unexpended balances remaining in the appropriations for Unclassified (fund 0433,  
10 appropriation 09900), Military Authority (fund 0433, appropriation 74800), and Military Authority –  
11 Surplus (fund 0433, appropriation 74899) at the close of the fiscal year 2019 is hereby  
12 reappropriated for expenditure during the fiscal year 2020.

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

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

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

*64 - Adjutant General –**Military Fund*

(WV Code Chapter 15)

Fund 0605 FY 2020 Org 0603

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

*65 - West Virginia Parole Board*

(WV Code Chapter 62)

Fund 0440 FY 2020 Org 0605

1	Personal Services and Employee Benefits.....	00100	\$	405,066
2	Current Expenses .....	13000		355,234
3	Unclassified .....	09900		10,000
4	Salaries of Members of West Virginia Parole Board.....	22700		609,833
5	BRIM Premium.....	91300		<u>6,149</u>
6	Total.....		\$	1,386,282

7 The above appropriation for Salaries of Members of West Virginia Parole Board (fund  
8 0440, appropriation 22700) includes funding for salary, annual increment (as provided for in W.Va.  
9 Code §5-5-1), and related employee benefits of board members.

*66 - Division of Homeland Security and*

*Emergency Management*

(WV Code Chapter 15)

Fund 0443 FY 2020 Org 0606

1	Personal Services and Employee Benefits.....	00100	\$	1,572,931
2	Unclassified .....	09900		25,022
3	Current Expenses .....	13000		57,314
4	Repairs and Alterations.....	06400		600
5	Radiological Emergency Preparedness .....	55400		17,052
6	SIRN.....	55401		600,000
7	Federal Funds/Grant Match (R) .....	74900		1,009,145
8	Mine and Industrial Accident Rapid			
9	Response Call Center .....	78100		469,911
10	Early Warning Flood System (R).....	87700		484,448
11	BRIM Premium.....	91300		<u>96,529</u>
12	Total.....		\$	4,332,952

13 Any unexpended balances remaining in the appropriations for Federal Funds/Grant Match  
14 (fund 0443, appropriation 74900), Early Warning Flood System (fund 0443, appropriation 87700),  
15 and Disaster Mitigation (fund 0443, appropriation 95200) at the close of the fiscal year 2019 are  
16 hereby reappropriated for expenditure during the fiscal year 2020.

*67 - Division of Corrections and Rehabilitation –**Central Office*

(WV Code Chapter 15A)

Fund 0446 FY 2020 Org 0608

1	Personal Services and Employee Benefits.....	00100	\$	559,966
2	Current Expenses .....	13000		<u>2,400</u>
3	Total.....		\$	562,366

*68 - Division of Corrections and Rehabilitation –**Correctional Units*

(WV Code Chapter 15A)

Fund 0450 FY 2020 Org 0608

1	Employee Benefits .....	01000	\$	1,258,136
2	Children's Protection Act (R).....	09000		838,437
3	Unclassified .....	09900		1,578,800
4	Current Expenses (R) .....	13000		52,016,936
5	Facilities Planning and Administration (R).....	38600		1,274,200
6	Charleston Correctional Center .....	45600		3,281,752
7	Beckley Correctional Center.....	49000		2,228,700
8	Anthony Correctional Center.....	50400		5,909,312
9	Huttonsville Correctional Center.....	51400		22,397,941
10	Northern Correctional Center .....	53400		7,769,520
11	Inmate Medical Expenses (R) .....	53500		21,226,064
12	Pruntytown Correctional Center .....	54300		8,303,659
13	Corrections Academy.....	56900		1,776,147
14	Information Technology Services .....	59901		2,259,052
15	Martinsburg Correctional Center .....	66300		4,201,864

16	Parole Services.....	68600	5,641,740
17	Special Services .....	68700	6,230,985
18	Investigative Services .....	71600	3,301,523
19	Capital Outlay and Maintenance (R) .....	75500	7,000,000
20	Salem Correctional Center .....	77400	11,108,923
21	McDowell County Correctional Center .....	79000	2,542,590
22	Stevens Correctional Center .....	79100	7,863,195
23	Parkersburg Correctional Center.....	82800	3,742,751
24	St. Mary's Correctional Center .....	88100	14,006,323
25	Denmar Correctional Center .....	88200	5,039,544
26	Ohio County Correctional Center .....	88300	2,003,675
27	Mt. Olive Correctional Complex.....	88800	21,709,603
28	Lakin Correctional Center .....	89600	10,346,422
29	BRIM Premium.....	91300	<u>2,527,657</u>
30	Total.....		\$ 239,385,451

31 Any unexpended balances remaining in the appropriations for Children's Protection Act  
32 (fund 0450, appropriation 09000), Unclassified – Surplus (fund 0450, appropriation 09700),  
33 Current Expenses (fund 0450, appropriation 13000), Facilities Planning and Administration (fund  
34 0450, appropriation 38600), Inmate Medical Expenses (fund 0450, appropriation 53500), Capital  
35 Improvements – Surplus (fund 0450, appropriation 66100), Capital Outlay, Repairs and  
36 Equipment – Surplus (fund 0450, appropriation 67700), Capital Outlay and Maintenance (fund  
37 0450, appropriation 75500), Security System Improvements – Surplus (fund 0450, appropriation  
38 75501), and Roof Repairs and Mechanical System Upgrades (fund 0450, appropriation 75502) at  
39 the close of the fiscal year 2019 are hereby reappropriated for expenditure during the fiscal year  
40 2020.

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

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

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

## 69 - Division of Corrections and Rehabilitation –

*Bureau of Juvenile Services*

(WV Code Chapter 15A)

Fund 0570 FY 2020 Org 0608

1	Statewide Reporting Centers .....	26200	\$	7,233,094
2	Robert L. Shell Juvenile Center.....	26700		2,417,029
3	Resident Medical Expenses (R) .....	53501		3,604,999
4	Central Office .....	70100		2,086,638
5	Capital Outlay and Maintenance (R) .....	75500		250,000
6	Gene Spadaro Juvenile Center .....	79300		2,595,691
7	BRIM Premium.....	91300		115,967
8	Kenneth Honey Rubenstein Juvenile Center (R) .....	98000		5,654,445
9	Vicki Douglas Juvenile Center.....	98100		2,292,201
10	Northern Regional Juvenile Center .....	98200		2,876,302
11	Lorrie Yeager Jr. Juvenile Center.....	98300		2,330,333
12	Sam Perdue Juvenile Center .....	98400		2,455,085
13	Tiger Morton Center .....	98500		2,545,259
14	Donald R. Kuhn Juvenile Center .....	98600		4,877,936
15	J.M. "Chick" Buckbee Juvenile Center .....	98700		<u>2,439,816</u>
16	Total.....		\$	43,774,795

17 Any unexpended balances remaining in the appropriations for Resident Medical Expenses  
 18 (fund 0570, appropriation 53501), Capital Outlay and Maintenance (fund 0570, appropriation  
 19 75500), Roof Repairs and Mechanical System Upgrades (fund 0570, appropriation 75502), and  
 20 Kenneth Honey Rubenstein Juvenile Center (fund 0570, appropriation 98000) at the close of the  
 21 fiscal year 2019 are hereby reappropriated for expenditure during the fiscal year 2020.

22 The Director of Juvenile Services shall have the authority to transfer between  
 23 appropriations to the individual juvenile centers above including statewide reporting centers and  
 24 central office and may transfer funds from the individual juvenile centers to Resident Medical  
 25 Expenses (fund 0570, appropriation 53501).

70 - West Virginia State Police



## (WV Code Chapter 15)

Fund 0453 FY 2020 Org 0612

1	Personal Services and Employee Benefits.....	00100	\$	62,755,235
2	Children's Protection Act.....	09000		1,009,529
3	Current Expenses .....	13000		10,384,394
4	Repairs and Alterations.....	06400		450,523
5	Trooper Class (R) .....	52100		3,207,832
6	Barracks Lease Payments .....	55600		237,898
7	Communications and Other Equipment (R).....	55800		570,968
8	Trooper Retirement Fund.....	60500		7,004,590
9	Handgun Administration Expense .....	74700		77,892
10	Capital Outlay and Maintenance (R) .....	75500		250,000
11	Retirement Systems – Unfunded Liability.....	77500		13,187,000
12	Automated Fingerprint Identification System .....	89800		2,211,693
13	BRIM Premium.....	91300		<u>5,743,921</u>
14	Total.....		\$	107,091,475

15 Any unexpended balances remaining in the appropriations for Trooper Class (fund 0453,  
 16 appropriation 52100), Communications and Other Equipment (fund 0453, appropriation 55800),  
 17 and Capital Outlay and Maintenance (fund 0453, appropriation 75500) at the close of the fiscal  
 18 year 2019 are hereby reappropriated for expenditure during the fiscal year 2020.

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

*71 - Fire Commission*

## (WV Code Chapter 29)

Fund 0436 FY 2020 Org 0619

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

## (WV Code Chapter 15)

Fund 0546 FY 2020 Org 0620

1	Personal Services and Employee Benefits.....	00100	\$	570,979
2	Current Expenses .....	13000		133,360
3	Repairs and Alterations.....	06400		1,804
4	Child Advocacy Centers (R).....	45800		2,206,954
5	Community Corrections (R).....	56100		6,927,323
6	Statistical Analysis Program.....	59700		49,819
7	Sexual Assault Forensic Examination Commission (R).....	71400		77,525
8	Qualitative Analysis and Training for Youth Services (R) .....	76200		332,446
9	Law Enforcement Professional Standards.....	83800		164,272
10	BRIM Premium.....	91300		<u>2,123</u>
11	Total.....		\$	10,466,605

12 Any unexpended balances remaining in the appropriations for Child Advocacy Centers  
 13 (fund 0546, appropriation 45800), Community Corrections (fund 0546, appropriation 56100),  
 14 Sexual Assault Forensic Examination Commission (fund 0546 appropriation 71400), Qualitative  
 15 Analysis and Training for Youth Services (fund 0546, appropriation 76200), and Law Enforcement  
 16 Professional Standards – Surplus (fund 0546, appropriation 83899) at the close of the fiscal year  
 17 2019 are hereby reappropriated for expenditure during the fiscal year 2020.

18 From the above appropriation for Child Advocacy Centers (fund 0546, appropriation  
 19 45800), the division may retain an amount not to exceed four percent of the appropriation for  
 20 administrative purposes.

*73 - Division of Protective Services*

(WV Code Chapter 5F)

Fund 0585 FY 2020 Org 0622

1	Personal Services and Employee Benefits.....	00100	\$	3,029,459
2	Unclassified (R).....	09900		21,991
3	Current Expenses .....	13000		443,357
4	Repairs and Alterations.....	06400		8,500
5	Equipment (R).....	07000		64,171
6	BRIM Premium.....	91300		<u>12,226</u>

7 Total..... \$ 3,579,704

8 Any unexpended balances remaining in the appropriations for Equipment (fund 0585,  
9 appropriation 07000), and Unclassified (fund 0585, appropriation 09900) at the close of the fiscal  
10 year 2019 are hereby reappropriated for expenditure during the fiscal year 2020.

*74 - Division of Administrative Services*

(WV Code Chapter 15A)

Fund 0619 FY 2020 Org 0623

1	Personal Services and Employee Benefits.....	00100	\$	2,306,255
2	Current Expenses .....	13000		<u>30,000</u>
3	Total.....		\$	2,336,255

**DEPARTMENT OF REVENUE**

*75 - Office of the Secretary*

(WV Code Chapter 11)

Fund 0465 FY 2020 Org 0701

1	Personal Services and Employee Benefits.....	00100	\$	516,906
2	Unclassified (R).....	09900		5,837
3	Current Expenses .....	13000		81,594
4	Repairs and Alterations.....	06400		1,262
5	Equipment.....	07000		8,000
6	Other Assets .....	69000		<u>500</u>
7	Total.....		\$	614,099

8 Any unexpended balance remaining in the appropriation for Unclassified – Total (fund  
9 0465, appropriation 09900) at the close of the fiscal year 2019 is hereby reappropriated for  
10 expenditure during the fiscal year 2020.

*76 - Tax Division*

(WV Code Chapter 11)

Fund 0470 FY 2020 Org 0702

1	Personal Services and Employee Benefits (R).....	00100	\$	19,272,541
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2	Unclassified (R).....	09900	224,578
3	Current Expenses (R) .....	13000	5,888,635
4	Repairs and Alterations.....	06400	10,150
5	Equipment.....	07000	154,850
6	Tax Technology Upgrade.....	09400	3,700,000
7	Multi State Tax Commission.....	65300	77,958
8	Other Assets .....	69000	10,000
9	BRIM Premium.....	91300	<u>15,579</u>
10	Total.....		\$ 29,354,291

11 Any unexpended balances remaining in the appropriations for Personal Services and  
 12 Employee Benefits (fund 0470, appropriation 00100), Unclassified (fund 0470, appropriation  
 13 09900), Current Expenses (fund 0470, appropriation 13000), and Integrated Tax Assessment  
 14 System (fund 0470, appropriation 29200) at the close of the fiscal year 2019 are hereby  
 15 reappropriated for expenditure during the fiscal year 2020.

*77 - State Budget Office*

(WV Code Chapter 11B)

Fund 0595 FY 2020 Org 0703

1	Personal Services and Employee Benefits.....	00100	\$ 694,942
2	Unclassified (R).....	09900	<u>1,199</u>
3	Total.....		\$ 696,141

4 Any unexpended balance remaining in the appropriation for Unclassified (fund 0595,  
 5 appropriation 09900) at the close of the fiscal year 2019 is hereby reappropriated for expenditure  
 6 during the fiscal year 2020.

*78 - West Virginia Office of Tax Appeals*

(WV Code Chapter 11)

Fund 0593 FY 2020 Org 0709

1	Personal Services and Employee Benefits.....	00100	\$ 452,106
2	Current Expenses (R) .....	13000	93,022
3	Unclassified .....	09900	5,255

4	BRIM Premium.....	91300	<u>3,062</u>
5	Total.....		\$ 553,445

6 Any unexpended balance remaining in the appropriation for Current Expenses (fund 0593,  
7 appropriation 13000) at the close of the fiscal year 2019 is hereby reappropriated for expenditure  
8 during the fiscal year 2020.

*79 - Division of Professional and Occupational Licenses –*

*State Athletic Commission*

(WV Code Chapter 29)

Fund 0523 FY 2020 Org 0933

1	Personal Services and Employee Benefits.....	00100	\$ 7,200
2	Current Expenses .....	13000	<u>29,611</u>
3	Total.....		\$ 36,811

**DEPARTMENT OF TRANSPORTATION**

*80 - State Rail Authority*

(WV Code Chapter 29)

Fund 0506 FY 2020 Org 0804

1	Personal Services and Employee Benefits.....	00100	\$ 328,369
2	Current Expenses .....	13000	287,707
3	Other Assets (R) .....	69000	1,303,277
4	BRIM Premium.....	91300	<u>201,541</u>
5	Total.....		\$ 2,120,894

6 Any unexpended balance remaining in the appropriation Other Assets (fund 0506,  
7 appropriation 69000) at the close of the fiscal year 2019 is hereby reappropriated for expenditure  
8 during the fiscal year 2020.

*81 - Division of Public Transit*

(WV Code Chapter 17)

Fund 0510 FY 2020 Org 0805

1	Equipment (R).....	07000	\$ 89,710
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2	Current Expenses (R) .....	13000	<u>2,173,279</u>
3	Total .....		\$ 2,262,989

4 Any unexpended balances remaining in the appropriations for Equipment (fund 0510,  
5 appropriation 07000), Current Expenses (fund 0510, appropriation 13000), Buildings (fund 0510,  
6 appropriation 25800), and Other Assets (fund 0510, appropriation 69000) at the close of the fiscal  
7 year 2019 are hereby reappropriated for expenditure during the fiscal year 2020.

*82 - Aeronautics Commission*

(WV Code Chapter 29)

Fund 0582 FY 2020 Org 0807

1	Personal Services and Employee Benefits.....	00100	\$ 178,740
2	Current Expenses (R) .....	13000	591,839
3	Repairs and Alterations.....	06400	100
4	BRIM Premium.....	91300	<u>4,438</u>
5	Total .....		\$ 775,117

6 Any unexpended balances remaining in the appropriations for Unclassified (fund 0582,  
7 appropriation 09900) and Current Expenses (fund 0582, appropriation 13000) at the close of the  
8 fiscal year 2019 are hereby reappropriated for expenditure during the fiscal year 2020.

**DEPARTMENT OF VETERANS' ASSISTANCE**

*83 - Department of Veterans' Assistance*

(WV Code Chapter 9A)

Fund 0456 FY 2020 Org 0613

1	Personal Services and Employee Benefits.....	00100	\$ 1,987,212
2	Unclassified .....	09900	20,000
3	Current Expenses .....	13000	427,767
4	Repairs and Alterations.....	06400	5,000
5	Veterans' Field Offices.....	22800	292,206
6	Veterans' Nursing Home (R) .....	28600	6,801,772
7	Veterans' Toll Free Assistance Line.....	32800	2,015
8	Veterans' Reeducation Assistance (R).....	32900	29,502

9	Veterans' Grant Program (R) .....	34200	560,000
10	Veterans' Grave Markers .....	47300	10,254
11	Veterans Outreach Programs.....	61700	175,190
12	Memorial Day Patriotic Exercise .....	69700	20,000
13	Veterans Cemetery .....	80800	391,646
14	BRIM Premium.....	91300	<u>25,530</u>
15	Total.....		\$ 10,748,094

16 Any unexpended balances remaining in the appropriations for Veterans' Nursing Home  
 17 (fund 0456, appropriation 28600), Veterans' Reeducation Assistance (fund 0456, appropriation  
 18 32900), Veterans' Grant Program (fund 0456, appropriation 34200), Veterans' Bonus – Surplus  
 19 (fund 0456, appropriation 34400), and Educational Opportunities for Children of Deceased  
 20 Veterans (fund 0456, appropriation 85400) at the close of the fiscal year 2019 are hereby  
 21 reappropriated for expenditure during the fiscal year 2020.

*84 - Department of Veterans' Assistance –*

*Veterans' Home*

(WV Code Chapter 9A)

Fund 0460 FY 2020 Org 0618

1	Personal Services and Employee Benefits.....	00100	\$ 1,217,096
2	Current Expenses .....	13000	<u>46,759</u>
3	Total.....		\$ 1,263,855

**BUREAU OF SENIOR SERVICES**

*85 - Bureau of Senior Services*

(WV Code Chapter 29)

Fund 0420 FY 2020 Org 0508

1	Transfer to Division of Human Services for Health Care		
2	and Title XIX Waiver for Senior Citizens.....	53900	\$ 29,950,955

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

7 The above appropriation is in addition to funding provided in fund 5405 for this program.

**WEST VIRGINIA COUNCIL FOR COMMUNITY  
AND TECHNICAL COLLEGE EDUCATION**

*86 - West Virginia Council for*

*Community and Technical College Education –*

*Control Account*

(WV Code Chapter 18B)

Fund 0596 FY 2020 Org 0420

1	West Virginia Council for Community			
2	and Technical Education (R) .....	39200	\$	738,955
3	Transit Training Partnership .....	78300		34,293
4	Community College Workforce Development (R) .....	87800		2,786,925
5	College Transition Program.....	88700		278,222
6	West Virginia Advance Workforce Development (R) .....	89300		3,118,960
7	Technical Program Development (R) .....	89400		1,800,735
8	WV Invests Grant Program .....	#####		<u>10,034,748</u>
9	Total.....		\$	18,792,838

10 Any unexpended balances remaining in the appropriations for West Virginia Council for  
11 Community and Technical Education (fund 0596, appropriation 39200), Capital Improvements –  
12 Surplus (fund 0596, appropriation 66100), Community College Workforce Development (fund  
13 0596, appropriation 87800), West Virginia Advance Workforce Development (fund 0596,  
14 appropriation 89300), and Technical Program Development (fund 0596, appropriation 89400) at  
15 the close of the fiscal year 2019 are hereby reappropriated for expenditure during the fiscal year  
16 2020.

17 From the above appropriation for the Community College Workforce Development (fund  
18 0596, appropriation 87800), \$200,000 shall be expended on the Mine Training Program in  
19 Southern West Virginia.

20 Included in the above appropriation for West Virginia Advance Workforce Development  
21 (fund 0596, appropriation 89300) is \$200,000 to be used exclusively for advanced manufacturing  
22 and energy industry specific training programs.

*87 - Mountwest Community and Technical College*



(WV Code Chapter 18B)

Fund 0599 FY 2020 Org 0444

1	Mountwest Community and Technical College.....	48700	\$	6,489,307
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*88 - New River Community and Technical College*

(WV Code Chapter 18B)

Fund 0600 FY 2020 Org 0445

1	New River Community and Technical College.....	35800	\$	5,864,886
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*89 - Pierpont Community and Technical College*

(WV Code Chapter 18B)

Fund 0597 FY 2020 Org 0446

1	Pierpont Community and Technical College.....	93000	\$	7,820,129
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*90 - Blue Ridge Community and Technical College*

(WV Code Chapter 18B)

Fund 0601 FY 2020 Org 0447

1	Blue Ridge Community and Technical College.....	88500	\$	7,830,842
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*91 - West Virginia University at Parkersburg*

(WV Code Chapter 18B)

Fund 0351 FY 2020 Org 0464

1	West Virginia University – Parkersburg .....	47100	\$	10,319,284
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*92 - Southern West Virginia Community and Technical College*

(WV Code Chapter 18B)

Fund 0380 FY 2020 Org 0487

1	Southern West Virginia Community and Technical College.....	44600	\$	8,241,823
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*93 - West Virginia Northern Community and Technical College*

(WV Code Chapter 18B)

Fund 0383 FY 2020 Org 0489

1	West Virginia Northern Community and Technical College .....	44700	\$	7,285,825
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*94 - Eastern West Virginia Community and Technical College*

(WV Code Chapter 18B)

Fund 0587 FY 2020 Org 0492

1	Eastern West Virginia Community and Technical College .....	41200	\$	2,179,912
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*95 - BridgeValley Community and Technical College*

(WV Code Chapter 18B)

Fund 0618 FY 2020 Org 0493

1	BridgeValley Community and Technical College .....	71700	\$	8,098,811
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### HIGHER EDUCATION POLICY COMMISSION

*96 - Higher Education Policy Commission –*

*Administration –*

*Control Account*

(WV Code Chapter 18B)

Fund 0589 FY 2020 Org 0441

1	Personal Services and Employee Benefits .....	00100	\$	2,708,695
2	Current Expenses .....	13000		1,113,606
3	Higher Education Grant Program .....	16400		40,619,864
4	Tuition Contract Program (R) .....	16500		1,225,120
5	Underwood-Smith Scholarship Program-Student Awards .....	16700		328,349
6	Facilities Planning and Administration .....	38600		1,760,254
7	Higher Education System Initiatives .....	48801		1,630,000
8	PROMISE Scholarship – Transfer .....	80000		18,500,000
9	HEAPS Grant Program (R) .....	86700		5,014,728
10	Health Professionals' Student Loan Program .....	#####		182,000
11	BRIM Premium .....	91300		<u>17,817</u>

12 Total..... \$ 73,100,433

13 Any unexpended balances remaining in the appropriations for Unclassified – Surplus (fund  
 14 0589, appropriation 09700), Tuition Contract Program (fund 0589, appropriation 16500), Capital  
 15 Improvements – Surplus (fund 0589, appropriation 66100), Capital Outlay and Maintenance (fund  
 16 0589, appropriation 75500), and HEAPS Grant Program (fund 0589, appropriation 86700) at the  
 17 close of the fiscal year 2019 are hereby reappropriated for expenditure during the fiscal year 2020.

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

21 The above appropriation for Higher Education Grant Program (fund 0589, appropriation  
 22 16400) shall be transferred to the Higher Education Grant Fund (fund 4933, org 0441) established  
 23 by W.Va. Code §18C-5-3.

24 The above appropriation for Underwood-Smith Scholarship Program-Student Awards  
 25 (fund 0589, appropriation 16700) shall be transferred to the Underwood-Smith Teacher  
 26 Scholarship and Loan Assistance Fund (fund 4922, org 0441) established by W.Va. Code §18C-  
 27 4-1.

28 The above appropriation for PROMISE Scholarship – Transfer (fund 0589, appropriation  
 29 80000) shall be transferred to the PROMISE Scholarship Fund (fund 4296, org 0441) established  
 30 by W.Va. Code §18C-7-7.

*97 - Higher Education Policy Commission –*

*Administration -*

*West Virginia Network for Educational Telecomputing (WVNET)*

(WV Code Chapter 18B9)

Fund 0551 FY 2020 Org 0495

1 WVNET..... 16900 \$ 1,747,826

*98 - West Virginia University –*

*School of Medicine*

*Medical School Fund*

(WV Code Chapter 18B)

Fund 0343 FY 2020 Org 0463

1 WVU School of Health Science – Eastern Division ..... 05600 \$ 2,235,352

2 WVU – School of Health Sciences ..... 17400 15,056,370

3 WVU – School of Health Sciences – Charleston Division ..... 17500 2,286,711

4	Rural Health Outreach Programs .....	37700	164,517
5	West Virginia University School of Medicine		
6	BRIM Subsidy .....	46000	<u>1,203,087</u>
7	Total .....		\$ 20,946,037

8           The above appropriation for Rural Health Outreach Programs (fund 0343, appropriation  
9 37700) includes rural health activities and programs; rural residency development and education;  
10 and rural outreach activities.

11           The above appropriation for West Virginia University School of Medicine BRIM Subsidy  
12 (fund 0343, appropriation 46000) shall be paid to the Board of Risk and Insurance Management  
13 as a general revenue subsidy against the "Total Premium Billed" to the institution as part of the  
14 full cost of their malpractice insurance coverage.

*99 - West Virginia University –*

*General Administrative Fund*

(WV Code Chapter 18B)

Fund 0344 FY 2020 Org 0463

1	West Virginia University .....	45900	\$ 97,017,960
2	Jackson's Mill.....	46100	491,458
3	West Virginia University Institute of Technology.....	47900	8,020,938
4	State Priorities – Brownfield Professional Development.....	53100	316,556
5	Energy Express.....	86100	382,935
6	West Virginia University – Potomac State .....	99400	<u>4,512,711</u>
7	Total .....		\$ 110,742,558

8           From the above appropriation for Jackson's Mill (fund 0344, appropriation 46100)  
9 \$250,000 shall be used for the West Virginia State Fire Training Academy.

*100 - Marshall University –*

*School of Medicine*

(WV Code Chapter 18B)

Fund 0347 FY 2020 Org 0471

1	Marshall Medical School .....	17300	\$ 12,235,068
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2	Rural Health Outreach Programs (R) .....	37700	156,022
3	Forensic Lab .....	37701	227,415
4	Center for Rural Health .....	37702	157,096
5	Marshall University Medical School BRIM Subsidy .....	44900	<u>872,612</u>
6	Total .....		\$ 13,648,213

7 Any unexpended balance remaining in the appropriation for Rural Health Outreach  
8 Program (fund 0347, appropriation 37700) at the close of the fiscal year 2019 is hereby  
9 reappropriated for expenditure during the fiscal year 2020.

10 The above appropriation for Rural Health Outreach Programs (fund 0347, appropriation  
11 37700) includes rural health activities and programs; rural residency development and education;  
12 and rural outreach activities.

13 The above appropriation for Marshall University Medical School BRIM Subsidy (fund 0347,  
14 appropriation 44900) shall be paid to the Board of Risk and Insurance Management as a general  
15 revenue subsidy against the "Total Premium Billed" to the institution as part of the full cost of their  
16 malpractice insurance coverage.

*101 - Marshall University –*

*General Administration Fund*

(WV Code Chapter 18B)

Fund 0348 FY 2020 Org 0471

1	Marshall University .....	44800	\$ 46,761,199
2	Luke Lee Listening Language and Learning Lab .....	44801	99,015
3	Vista E-Learning (R) .....	51900	229,019
4	State Priorities – Brownfield Professional Development (R) ....	53100	309,606
5	Marshall University Graduate College Writing Project (R) .....	80700	25,412
6	WV Autism Training Center (R) .....	93200	<u>1,808,381</u>
7	Total .....		\$ 49,232,632

8 Any unexpended balances remaining in the appropriations for Vista E-Learning (fund  
9 0348, appropriation 51900), State Priorities – Brownfield Professional Development (fund 0348,  
10 appropriation 53100), Marshall University Graduate College Writing Project (fund 0348,  
11 appropriation 80700), and WV Autism Training Center (fund 0348, appropriation 93200) at the  
12 close of the fiscal year 2019 are hereby reappropriated for expenditure during the fiscal year 2020.

*102 - West Virginia School of Osteopathic Medicine*

(WV Code Chapter 18B)

Fund 0336 FY 2020 Org 0476

1	West Virginia School of Osteopathic Medicine .....	17200	\$	8,879,296
2	Rural Health Outreach Programs (R) .....	37700		166,111
3	West Virginia School of Osteopathic Medicine			
4	BRIM Subsidy .....	40300		153,405
5	Rural Health Initiative – Medical Schools Support .....	58100		<u>397,592</u>
6	Total .....		\$	9,596,404

7           Any unexpended balance remaining in the appropriation for Rural Health Outreach  
8 Programs (fund 0336, appropriation 37700) at the close of fiscal year 2019 is hereby  
9 reappropriated for expenditure during the fiscal year 2020.

10           The above appropriation for Rural Health Outreach Programs (fund 0336, appropriation  
11 37700) includes rural health activities and programs; rural residency development and education;  
12 and rural outreach activities.

13           The above appropriation for West Virginia School of Osteopathic Medicine BRIM Subsidy  
14 (fund 0336, appropriation 40300) shall be paid to the Board of Risk and Insurance Management  
15 as a general revenue subsidy against the “Total Premium Billed” to the institution as part of the  
16 full cost of their malpractice insurance coverage.

*103 - Bluefield State College*

(WV Code Chapter 18B)

Fund 0354 FY 2020 Org 0482

1	Bluefield State College.....	40800	\$	6,383,221
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*104 - Concord University*

(WV Code Chapter 18B)

Fund 0357 FY 2020 Org 0483

1	Concord University.....	41000	\$	10,476,415
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*105 - Fairmont State University*

(WV Code Chapter 18B)

Fund 0360 FY 2020 Org 0484

1	Fairmont State University.....	41400	\$	18,600,341
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*106 - Glenville State College*

(WV Code Chapter 18B)

Fund 0363 FY 2020 Org 0485

1 Glenville State College..... 42800 \$ 6,446,942

*107 - Shepherd University*

(WV Code Chapter 18B)

Fund 0366 FY 2020 Org 0486

1 Shepherd University..... 43200 \$ 12,683,829

*108 - West Liberty University*

(WV Code Chapter 18B)

Fund 0370 FY 2020 Org 0488

1 West Liberty University ..... 43900 \$ 9,102,662

*109 - West Virginia State University*

(WV Code Chapter 18B)

Fund 0373 FY 2020 Org 0490

1 West Virginia State University ..... 44100 \$ 11,342,512

2 West Virginia State University Land Grant Match..... 95600 2,950,192

3 Total..... \$ 14,292,704

4 From the above appropriation for West Virginia State University (fund 0373, appropriation  
5 44100), \$300,000 shall be for the Healthy Grandfamilies program.

6 Total TITLE II, Section 1 – General Revenue

7 (Including claims against the state)..... \$ 4,635,887,842

1 **Sec. 2. Appropriations from state road fund.** — From the state road fund there are  
2 hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2,  
3 Chapter 11B of the Code the following amounts, as itemized, for expenditure during the fiscal  
4 year 2020.

**DEPARTMENT OF TRANSPORTATION**

*110 - Division of Motor Vehicles*

(WV Code Chapters 17, 17A, 17B, 17C, 17D, 20 and 24A)

Fund 9007 FY 2020 Org 0802

		<b>State</b>
	<b>Appro-</b>	<b>Road</b>
	<b>priation</b>	<b>Fund</b>
1 Personal Services and Employee Benefits.....	00100	\$ 25,977,939
2 Current Expenses .....	13000	16,187,194
3 Repairs and Alterations.....	06400	144,000
4 Equipment.....	07000	1,080,000
5 Buildings .....	25800	10,000
6 Other Assets .....	69000	2,600,000
7 BRIM Premium.....	91300	<u>78,586</u>
8 Total .....		\$ 46,077,719

*111 - Division of Highways*

(WV Code Chapters 17 and 17C)

Fund 9017 FY 2020 Org 0803

1 Debt Service .....	04000	\$ 89,000,000
2 Maintenance .....	23700	336,386,000
3 Nonfederal Improvements.....	23701	224,046,854
4 Inventory Revolving .....	27500	4,000,000
5 Equipment Revolving .....	27600	22,500,000
6 General Operations.....	27700	91,663,229
7 Interstate Construction.....	27800	90,000,000
8 Other Federal Aid Programs .....	27900	370,000,000
9 Appalachian Programs.....	28000	100,000,000
10 Highway Litter Control.....	28200	1,719,000



11	Courtesy Patrol .....	28201	<u>5,000,000</u>
12	Total .....		\$ 1,334,315,083

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

15 The Commissioner of Highways shall have the authority to operate revolving funds within  
 16 the State Road Fund for the operation and purchase of various types of equipment used directly  
 17 and indirectly in the construction and maintenance of roads and for the purchase of inventories  
 18 and materials and supplies.

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

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

*112 - Office of Administrative Hearings*

(WV Code Chapter 17C)

Fund 9027 FY 2020 Org 0808

1	Personal Services and Employee Benefits.....	00100	\$ 1,698,752
2	Current Expenses .....	13000	338,278
3	Repairs and Alterations.....	06400	3,000
4	Equipment.....	07000	15,500
5	BRIM Premium.....	91300	<u>10,000</u>
6	Total.....		\$ 2,065,530
7	Total TITLE II, Section 2 – State Road Fund		
8	(Including claims against the state).....		<u>\$ 1,384,161,478</u>

1 **Sec. 3. Appropriations from other funds.** — From the funds designated there are  
 2 hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2,  
 3 Chapter 11B of the Code the following amounts, as itemized, for expenditure during the fiscal  
 4 year 2020.

**LEGISLATIVE**

*113 - Crime Victims Compensation Fund*

(WV Code Chapter 14)

Fund 1731 FY 2020 Org 2300

	<b>Appro-</b>		<b>Other</b>
	<b>priation</b>		<b>Funds</b>
1 Personal Services and Employee Benefits.....	00100	\$	498,020
2 Current Expenses .....	13000		133,903
3 Repairs and Alterations.....	06400		1,000
4 Economic Loss Claim Payment Fund.....	33400		2,000,000
5 Other Assets .....	69000		<u>3,700</u>
6 Total .....		\$	2,636,623

**JUDICIAL**

*114 - Supreme Court –*

*Family Court Fund*

(WV Code Chapter 51)

Fund 1763 FY 2020 Org 2400

1 Current Expenses .....	13000	\$	1,050,000
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*115 - Supreme Court –*

*Court Advanced Technology Subscription Fund*

(WV Code Chapter 51)

Fund 1704 FY 2020 Org 2400

1 Current Expenses .....	13000	\$	100,000
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*116 - Supreme Court –*

*Adult Drug Court Participation Fund*

(WV Code Chapter 62)

Fund 1705 FY 2020 Org 2400

1	Current Expenses .....	13000	\$	200,000
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**EXECUTIVE**

*117 - Governor's Office –*

*Minority Affairs Fund*

(WV Code Chapter 5)

Fund 1058 FY 2020 Org 0100

1	Personal Services and Employee Benefits.....	00100	\$	177,737
2	Current Expenses .....	13000		503,200
3	Martin Luther King, Jr. Holiday Celebration .....	03100		8,926
4	Total .....		\$	689,863

*118 - Auditor's Office –*

*Land Operating Fund*

(WV Code Chapters 11A, 12 and 36)

Fund 1206 FY 2020 Org 1200

1	Personal Services and Employee Benefits.....	00100	\$	799,211
2	Unclassified .....	09900		15,139
3	Current Expenses .....	13000		715,291
4	Repairs and Alterations.....	06400		2,600
5	Equipment.....	07000		426,741
6	Cost of Delinquent Land Sales.....	76800		1,341,168
7	Total .....		\$	3,300,150

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

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

*119 - Auditor's Office –*

*Local Government Purchasing Card Expenditure Fund*

(WV Code Chapter 6)

Fund 1224 FY 2020 Org 1200

1	Personal Services and Employee Benefits.....	00100	\$	627,779
2	Current Expenses .....	13000		282,030
3	Repairs and Alterations.....	06400		6,000
4	Equipment.....	07000		10,805
5	Other Assets .....	69000		50,000
6	Statutory Revenue Distribution.....	74100		<u>3,500,000</u>
7	Total.....		\$	4,476,614

8           There is hereby appropriated from this fund, in addition to the above appropriations if  
9 needed, the amount necessary to meet the transfer of revenue distribution requirements to  
10 provide a proportionate share of rebates back to the general fund of local governments based on  
11 utilization of the program in accordance with W.Va. Code §6-9-2b.

*120 - Auditor's Office –**Securities Regulation Fund*

(WV Code Chapter 32)

Fund 1225 FY 2020 Org 1200

1	Personal Services and Employee Benefits.....	00100	\$	2,487,017
2	Unclassified .....	09900		31,866
3	Current Expenses .....	13000		1,463,830
4	Repairs and Alterations.....	06400		12,400
5	Equipment.....	07000		394,700
6	Other Assets .....	69000		<u>900,000</u>
7	Total.....		\$	5,289,813

*121 - Auditor's Office – Technology Support and Acquisition Fund*

(WV Code Chapter 12)

Fund 1233 FY 2020 Org 1200

1	Current Expenses .....	13000	\$	10,000
2	Other Assets .....	69000		<u>5,000</u>
3	Total .....		\$	15,000

4 Fifty percent of the deposits made into this fund shall be transferred to the Treasurer's  
 5 Office – Technology Support and Acquisition Fund (fund 1329, org 1300) for expenditure for the  
 6 purposes described in W.Va. Code §12-3-10c.

*122 - Auditor's Office –*

*Purchasing Card Administration Fund*

(WV Code Chapter 12)

Fund 1234 FY 2020 Org 1200

1	Personal Services and Employee Benefits.....	00100	\$	2,824,837
2	Current Expenses .....	13000		2,303,622
3	Repairs and Alterations.....	06400		5,500
4	Equipment.....	07000		650,000
5	Other Assets .....	69000		308,886
6	Statutory Revenue Distribution.....	74100		<u>8,000,000</u>
7	Total .....		\$	14,092,845

8 There is hereby appropriated from this fund, in addition to the above appropriations if  
 9 needed, the amount necessary to meet the transfer and revenue distribution requirements to the  
 10 Purchasing Improvement Fund (fund 2264), the Hatfield-McCoy Regional Recreation Authority,  
 11 and the State Park Operating Fund (fund 3265) per W.Va. Code §12-3-10d.

*123 - Auditor's Office –*

*Chief Inspector's Fund*

(WV Code Chapter 6)

Fund 1235 FY 2020 Org 1200

1	Personal Services and Employee Benefits.....	00100	\$	3,583,096
2	Current Expenses .....	13000		765,915
3	Equipment.....	07000		<u>50,000</u>
4	Total .....		\$	4,399,011

*124 - Auditor's Office –**Volunteer Fire Department Workers'**Compensation Premium Subsidy Fund*

(WV Code Chapters 12 and 33)

Fund 1239 FY 2020 Org 1200

1	Volunteer Fire Department			
2	Workers' Compensation Subsidy.....	83200	\$	2,500,000

*125 - Treasurer's Office**College Prepaid Tuition and Savings Program**Administrative Account*

(WV Code Chapter 18)

Fund 1301 FY 2020 Org 1300

1	Personal Services and Employee Benefits.....	00100	\$	810,372
2	Unclassified .....	09900		14,000
3	Current Expenses .....	13000		<u>619,559</u>
4	Total.....		\$	1,443,931

*126 - Department of Agriculture –**Agriculture Fees Fund*

(WV Code Chapter 19)

Fund 1401 FY 2020 Org 1400

1	Personal Services and Employee Benefits.....	00100	\$	2,425,446
2	Unclassified .....	09900		37,425
3	Current Expenses .....	13000		1,856,184
4	Repairs and Alterations.....	06400		158,500
5	Equipment.....	07000		436,209
6	Other Assets .....	69000		<u>10,000</u>

7 Total..... \$ 4,923,764

*127 - Department of Agriculture –  
West Virginia Rural Rehabilitation Program  
(WV Code Chapter 19)  
Fund 1408 FY 2020 Org 1400*

1	Personal Services and Employee Benefits.....	00100	\$	78,251
2	Unclassified .....	09900		10,476
3	Current Expenses .....	13000		<u>963,404</u>
4	Total.....		\$	1,052,131

*128 - Department of Agriculture –  
General John McCausland Memorial Farm Fund  
(WV Code Chapter 19)  
Fund 1409 FY 2020 Org 1400*

1	Personal Services and Employee Benefits.....	00100	\$	71,937
2	Unclassified .....	09900		2,100
3	Current Expenses .....	13000		89,500
4	Repairs and Alterations.....	06400		36,400
5	Equipment.....	07000		<u>15,000</u>
6	Total.....		\$	214,937

7 The above appropriations shall be expended in accordance with Article 26, Chapter 19 of  
8 the Code.

*129 - Department of Agriculture –  
Farm Operating Fund  
(WV Code Chapter 19)  
Fund 1412 FY 2020 Org 1400*

1	Personal Services and Employee Benefits.....	00100	\$	868,492
2	Unclassified .....	09900		15,173

3	Current Expenses .....	13000		1,367,464
4	Repairs and Alterations.....	06400		388,722
5	Equipment.....	07000		399,393
6	Other Assets .....	69000		<u>20,000</u>
7	Total .....		\$	3,059,244

*130 - Department of Agriculture –*

*Donated Food Fund*

(WV Code Chapter 19)

Fund 1446 FY 2020 Org 1400

1	Personal Services and Employee Benefits.....	00100	\$	1,030,451
2	Unclassified .....	09900		45,807
3	Current Expenses .....	13000		3,410,542
4	Repairs and Alterations.....	06400		128,500
5	Equipment.....	07000		10,000
6	Other Assets .....	69000		27,000
7	Land .....	73000		<u>250,000</u>
8	Total .....		\$	4,902,300

*131 - Department of Agriculture –*

*Integrated Predation Management Fund*

(WV Code Chapter 7)

Fund 1465 FY 2020 Org 1400

1	Current Expenses .....	13000	\$	112,500
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*132 - Department of Agriculture –*

*West Virginia Spay Neuter Assistance Fund*

(WV Code Chapter 19)

Fund 1481 FY 2020 Org 1400



1	Current Expenses .....	13000	\$	500,000
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*133 - Department of Agriculture –  
Veterans and Warriors to Agriculture Fund  
(WV Code Chapter 19)  
Fund 1483 FY 2020 Org 1400*

1	Current Expenses .....	13000	\$	7,500
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*134 - Department of Agriculture –  
State FFA-FHA Camp and Conference Center  
(WV Code Chapters 18 and 18A)  
Fund 1484 FY 2020 Org 1400*

1	Personal Services and Employee Benefits.....	00100	\$	1,218,564
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2	Unclassified .....	09900		17,000
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3	Current Expenses .....	13000		1,143,306
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4	Repairs and Alterations.....	06400		82,500
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5	Equipment.....	07000		76,000
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6	Buildings .....	25800		1,000
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7	Other Assets .....	69000		10,000
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8	Land .....	73000		<u>1,000</u>
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9	Total.....		\$	2,549,370
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*135 - Attorney General –  
Antitrust Enforcement Fund  
(WV Code Chapter 47)  
Fund 1507 FY 2020 Org 1500*

1	Personal Services and Employee Benefits.....	00100	\$	363,466
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2	Current Expenses .....	13000		148,803
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3	Repairs and Alterations.....	06400		1,000
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4	Equipment.....	07000	<u>1,000</u>
5	Total.....		\$ 514,269

*136 - Attorney General –*

*Preneed Burial Contract Regulation Fund*

(WV Code Chapter 47)

Fund 1513 FY 2020 Org 1500

1	Personal Services and Employee Benefits.....	00100	\$ 222,569
2	Current Expenses .....	13000	54,615
3	Repairs and Alterations.....	06400	1,000
4	Equipment.....	07000	<u>1,000</u>
5	Total.....		\$ 279,184

*137 - Attorney General –*

*Preneed Funeral Guarantee Fund*

(WV Code Chapter 47)

Fund 1514 FY 2020 Org 1500

1	Current Expenses .....	13000	\$ 901,135
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*138 - Secretary of State –*

*Service Fees and Collection Account*

(WV Code Chapters 3, 5, and 59)

Fund 1612 FY 2020 Org 1600

1	Personal Services and Employee Benefits.....	00100	\$ 1,065,106
2	Unclassified .....	09900	4,524
3	Current Expenses .....	13000	<u>8,036</u>
4	Total.....		\$ 1,077,666

*139 - Secretary of State –*

*General Administrative Fees Account*

(WV Code Chapters 3, 5, and 59)

Fund 1617 FY 2020 Org 1600

1	Personal Services and Employee Benefits.....	00100	\$	2,947,630
2	Unclassified .....	09900		25,529
3	Current Expenses .....	13000		976,716
4	Technology Improvements.....	59900		<u>570,000</u>
5	Total.....		\$	4,519,875

**DEPARTMENT OF ADMINISTRATION**

*140 - Department of Administration –*

*Office of the Secretary –*

*Tobacco Settlement Fund*

(WV Code Chapter 4)

Fund 2041 FY 2020 Org 0201

1	Tobacco Settlement Securitization Trustee Pass Thru .....	65000	\$	80,000,000
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*141 - Department of Administration –*

*Office of the Secretary –*

*Employee Pension and Health Care Benefit Fund*

(WV Code Chapter 18)

Fund 2044 FY 2020 Org 0201

1	Current Expenses .....	13000	\$	42,954,000
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2           The above appropriation for Current Expenses (fund 2044, appropriation 13000) shall be  
 3 transferred to the Consolidated Public Retirement Board – Teachers’ Accumulation Fund (fund  
 4 2600).

*142 - Department of Administration –*

*Division of Finance –*

*Shared Services Section Fund*

(WV Code Chapter 5A)

Fund 2020 FY 2020 Org 0209

1	Personal Services and Employee Benefits.....	00100	\$	1,500,000
2	Current Expenses .....	13000		<u>500,000</u>
3	Total .....		\$	2,000,000

*143 - Division of Information Services and Communications*

(WV Code Chapter 5A)

Fund 2220 FY 2020 Org 0210

1	Personal Services and Employee Benefits.....	00100	\$	22,464,463
2	Unclassified .....	09900		382,354
3	Current Expenses .....	13000		13,378,766
4	Repairs and Alterations.....	06400		1,000
5	Equipment.....	07000		2,050,000
6	Other Assets .....	69000		<u>1,045,000</u>
7	Total .....		\$	39,321,583

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

10 Each spending unit operating from the General Revenue Fund, from special revenue  
11 funds or receiving reimbursement for postage from the federal government shall be charged  
12 monthly for all postage meter service and shall reimburse the revolving fund monthly for all such  
13 amounts.

*144 - Division of Purchasing –**Vendor Fee Fund*

(WV Code Chapter 5A)

Fund 2263 FY 2020 Org 0213

1	Personal Services and Employee Benefits.....	00100	\$	741,589
2	Unclassified .....	09900		2,382
3	Current Expenses .....	13000		208,115
4	Repairs and Alterations.....	06400		5,000

5	Equipment.....	07000		2,500
6	Other Assets .....	69000		2,500
7	BRIM Premium.....	91300		<u>810</u>
8	Total .....		\$	962,896

145 - Division of Purchasing –  
Purchasing Improvement Fund  
(WV Code Chapter 5A)  
Fund 2264 FY 2020 Org 0213

1	Personal Services and Employee Benefits.....	00100	\$	778,176
2	Unclassified .....	09900		5,562
3	Current Expenses .....	13000		393,066
4	Repairs and Alterations.....	06400		500
5	Equipment.....	07000		500
6	Other Assets .....	69000		500
7	BRIM Premium.....	91300		<u>850</u>
8	Total .....		\$	1,179,154

146 - Travel Management –  
Aviation Fund  
(WV Code Chapter 5A)  
Fund 2302 FY 2020 Org 0215

1	Unclassified .....	09900	\$	1,000
2	Current Expenses .....	13000		149,700
3	Repairs and Alterations.....	06400		1,175,237
4	Equipment.....	07000		1,000
5	Buildings .....	25800		100
6	Other Assets .....	69000		100

7	Land .....	73000	<u>100</u>
8	Total .....		\$ 1,327,237

*147 - Fleet Management Division Fund*

(WV Code Chapter 5A)

Fund 2301 FY 2020 Org 0216

1	Personal Services and Employee Benefits.....	00100	\$ 757,145
2	Unclassified .....	09900	4,000
3	Current Expenses .....	13000	8,130,614
4	Repairs and Alterations.....	06400	12,000
5	Equipment.....	07000	800,000
6	Other Assets .....	69000	<u>2,000</u>
7	Total .....		\$ 9,705,759

*148 - Division of Personnel*

(WV Code Chapter 29)

Fund 2440 FY 2020 Org 0222

1	Personal Services and Employee Benefits.....	00100	\$ 4,760,683
2	Unclassified .....	09900	51,418
3	Current Expenses .....	13000	1,262,813
4	Repairs and Alterations.....	06400	5,000
5	Equipment.....	07000	20,000
6	Other Assets .....	69000	<u>60,000</u>
7	Total .....		\$ 6,159,914

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

*149 - West Virginia Prosecuting Attorneys Institute*

(WV Code Chapter 7)

Fund 2521 FY 2020 Org 0228

1	Personal Services and Employee Benefits.....	00100	\$	251,663
2	Unclassified .....	09900		4,023
3	Current Expenses .....	13000		297,528
4	Repairs and Alterations.....	06400		600
5	Equipment.....	07000		500
6	Other Assets .....	69000		<u>500</u>
7	Total.....		\$	554,814

*150 - Office of Technology –*

*Chief Technology Officer Administration Fund*

(WV Code Chapter 5A)

Fund 2531 FY 2020 Org 0231

1	Personal Services and Employee Benefits.....	00100	\$	414,722
2	Unclassified .....	09900		6,949
3	Current Expenses .....	13000		227,116
4	Repairs and Alterations.....	06400		1,000
5	Equipment.....	07000		50,000
6	Other Assets .....	69000		<u>10,000</u>
7	Total.....		\$	709,787

8 From the above fund, the provisions of W.Va. Code §11B-2-18 shall not operate to permit  
9 expenditures in excess of the funds authorized for expenditure herein.

**DEPARTMENT OF COMMERCE**

*151 - Division of Forestry*

(WV Code Chapter 19)

Fund 3081 FY 2020 Org 0305

1	Personal Services and Employee Benefits.....	00100	\$	1,574,177
2	Current Expenses .....	13000		282,202
3	Repairs and Alterations.....	06400		53,000

4	Equipment.....	07000	<u>300,000</u>
5	Total.....		\$ 2,209,379

*152 - Division of Forestry –*

*Timbering Operations Enforcement Fund*

(WV Code Chapter 19)

Fund 3082 FY 2020 Org 0305

1	Personal Services and Employee Benefits.....	00100	\$ 239,244
2	Current Expenses .....	13000	87,036
3	Repairs and Alterations.....	06400	<u>11,250</u>
4	Total.....		\$ 337,530

*153 - Division of Forestry –*

*Severance Tax Operations*

(WV Code Chapter 11)

Fund 3084 FY 2020 Org 0305

1	Personal Services and Employee Benefits.....	00100	\$ 859,626
2	Current Expenses .....	13000	<u>435,339</u>
3	Total.....		\$ 1,294,965

*154 - Geological and Economic Survey –*

*Geological and Analytical Services Fund*

(WV Code Chapter 29)

Fund 3100 FY 2020 Org 0306

1	Personal Services and Employee Benefits.....	00100	\$ 37,966
2	Unclassified .....	09900	2,182
3	Current Expenses .....	13000	141,631
4	Repairs and Alterations.....	06400	50,000
5	Equipment.....	07000	20,000



6	Other Assets .....	69000	<u>10,000</u>
7	Total .....		\$ 261,779

8           The above appropriations shall be used in accordance with W.Va. Code §29-2-4.

*155 - West Virginia Development Office –*

*Department of Commerce –*

*Marketing and Communications Operating Fund*

(WV Code Chapter 5B)

Fund 3002 FY 2020 Org 0307

1	Personal Services and Employee Benefits.....	00100	\$ 1,592,400
2	Equipment.....	07000	36,000
3	Unclassified .....	09900	30,000
4	Current Expenses .....	13000	<u>1,446,760</u>
5	Total .....		\$ 3,105,160

*156 - West Virginia Development Office –*

*Office of Coalfield Community Development*

(WV Code Chapter 5B)

Fund 3162 FY 2020 Org 0307

1	Personal Services and Employee Benefits.....	00100	\$ 435,661
2	Unclassified .....	09900	8,300
3	Current Expenses .....	13000	<u>399,191</u>
4	Total .....		\$ 843,152

*157 - West Virginia Development Office*

*Entrepreneurship and Innovation Investment Fund*

(WV Code Chapter 5B)

Fund 3014 FY 2020 Org 0307

1	Entrepreneurship and Innovation Investment Fund.....	#####	\$ 500,000
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*158 - Division of Labor –**HVAC Fund*

(WV Code Chapter 21)

Fund 3186 FY 2020 Org 0308

1	Personal Services and Employee Benefits.....	00100	\$	300,000
2	Unclassified .....	09900		4,000
3	Current Expenses .....	13000		85,000
4	Repairs and Alterations.....	06400		1,500
5	Buildings .....	25800		1,000
6	BRIM Premium.....	91300		<u>8,500</u>
7	Total .....		\$	400,000

*159 - Division of Labor –**Contractor Licensing Board Fund*

(WV Code Chapter 21)

Fund 3187 FY 2020 Org 0308

1	Personal Services and Employee Benefits.....	00100	\$	3,182,000
2	Unclassified .....	09900		21,589
3	Current Expenses .....	13000		597,995
4	Repairs and Alterations.....	06400		15,000
5	Buildings .....	25800		5,000
6	BRIM Premium.....	91300		<u>8,500</u>
7	Total .....		\$	3,830,084

*160 - Division of Labor –**Elevator Safety Fund*

(WV Code Chapter 21)

Fund 3188 FY 2020 Org 0308

1	Personal Services and Employee Benefits.....	00100	\$	397,862
2	Unclassified .....	09900		2,261
3	Current Expenses .....	13000		44,112
4	Repairs and Alterations.....	06400		2,000
5	Buildings .....	25800		1,000
6	BRIM Premium.....	91300		<u>8,500</u>
7	Total.....		\$	455,735

*161 - Division of Labor –*

*Steam Boiler Fund*

(WV Code Chapter 21)

Fund 3189 FY 2020 Org 0308

1	Personal Services and Employee Benefits.....	00100	\$	82,716
2	Unclassified .....	09900		1,000
3	Current Expenses .....	13000		15,000
4	Repairs and Alterations.....	06400		2,000
5	Buildings .....	25800		1,000
6	BRIM Premium.....	91300		<u>1,000</u>
7	Total.....		\$	102,716

*162 - Division of Labor –*

*Crane Operator Certification Fund*

(WV Code Chapter 21)

Fund 3191 FY 2020 Org 0308

1	Personal Services and Employee Benefits.....	00100	\$	191,899
2	Unclassified .....	09900		1,380
3	Current Expenses .....	13000		49,765
4	Repairs and Alterations.....	06400		1,500

5	Buildings .....	25800		1,000
6	BRIM Premium.....	91300		<u>8,500</u>
7	Total .....		\$	254,044

*163 - Division of Labor –*

*Amusement Rides and Amusement Attraction Safety Fund*

(WV Code Chapter 21)

Fund 3192 FY 2020 Org 0308

1	Personal Services and Employee Benefits.....	00100	\$	187,462
2	Unclassified .....	09900		1,281
3	Current Expenses .....	13000		44,520
4	Repairs and Alterations.....	06400		2,000
5	Buildings .....	25800		1,000
6	BRIM Premium.....	91300		<u>8,500</u>
7	Total .....		\$	244,763

*164 - Division of Labor –*

*State Manufactured Housing Administration Fund*

(WV Code Chapter 21)

Fund 3195 FY 2020 Org 0308

1	Personal Services and Employee Benefits.....	00100	\$	289,199
2	Unclassified .....	09900		1,847
3	Current Expenses .....	13000		43,700
4	Repairs and Alterations.....	06400		1,000
5	Buildings .....	25800		1,000
6	BRIM Premium.....	91300		<u>3,404</u>
7	Total .....		\$	340,150

*165 - Division of Labor –*

*Weights and Measures Fund*

(WV Code Chapter 47)

Fund 3196 FY 2020 Org 0308

1	Personal Services and Employee Benefits.....	00100	\$	1,500,000
2	Current Expenses .....	13000		227,000
3	Repairs and Alterations.....	06400		28,000
4	Equipment.....	07000		15,000
5	BRIM Premium.....	91300		<u>8,500</u>
6	Total.....		\$	1,778,500

*166 - Division of Labor –*

*Bedding and Upholstery Fund*

(WV Code Chapter 21)

Fund 3198 FY 2020 Org 0308

1	Personal Services and Employee Benefits.....	00100	\$	150,000
2	Unclassified .....	09900		2,000
3	Current Expenses .....	13000		43,000
4	Repairs and Alterations.....	06400		2,000
5	Buildings .....	25800		1,000
6	BRIM Premium.....	91300		<u>2,000</u>
7	Total.....		\$	200,000

*167 - Division of Labor –*

*Psychophysiological Examiners Fund*

(WV Code Chapter 21)

Fund 3199 FY 2020 Org 0308

1	Current Expenses .....	13000	\$	4,000
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*168 - Division of Natural Resources –*

*License Fund – Wildlife Resources*

(WV Code Chapter 20)

Fund 3200 FY 2020 Org 0310

1	Wildlife Resources .....	02300	\$	7,090,036
2	Administration .....	15500		1,694,974
3	Capital Improvements and Land Purchase (R).....	24800		1,695,961
4	Law Enforcement .....	80600		<u>7,027,929</u>
5	Total.....		\$	17,508,900

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

8 Any unexpended balance remaining in the appropriation for Capital Improvements and  
9 Land Purchase (fund 3200, appropriation 24800) at the close of the fiscal year 2019 is hereby  
10 reappropriated for expenditure during the fiscal year 2020.

*169 - Division of Natural Resources –**Natural Resources Game Fish and Aquatic Life Fund*

(WV Code Chapter 22)

Fund 3202 FY 2020 Org 0310

1	Current Expenses .....	13000	\$	125,000
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*170 - Division of Natural Resources –**Nongame Fund*

(WV Code Chapter 20)

Fund 3203 FY 2020 Org 0310

1	Personal Services and Employee Benefits.....	00100	\$	688,103
2	Current Expenses .....	13000		201,810
3	Equipment.....	07000		<u>106,615</u>
4	Total.....		\$	996,528

*171 - Division of Natural Resources –**Planning and Development Division*

## (WV Code Chapter 20)

Fund 3205 FY 2020 Org 0310

1	Personal Services and Employee Benefits.....	00100	\$	457,738
2	Current Expenses .....	13000		157,864
3	Repairs and Alterations.....	06400		15,016
4	Equipment.....	07000		8,300
5	Buildings .....	25800		8,300
6	Other Assets .....	69000		2,000,000
7	Land .....	73000		<u>31,700</u>
8	Total.....		\$	2,678,918

*172 - Division of Natural Resources –**Whitewater Study and Improvement Fund*

## (WV Code Chapter 20)

Fund 3253 FY 2020 Org 0310

1	Personal Services and Employee Benefits.....	00100	\$	67,641
2	Current Expenses .....	13000		64,778
3	Equipment.....	07000		1,297
4	Buildings .....	25800		<u>6,969</u>
5	Total.....		\$	140,685

*173 - Division of Natural Resources –**Whitewater Advertising and Promotion Fund*

## (WV Code Chapter 20)

Fund 3256 FY 2020 Org 0310

1	Unclassified .....	09900	\$	200
2	Current Expenses .....	13000		<u>19,800</u>
3	Total.....		\$	20,000

*174 - Division of Miners' Health, Safety and Training –**Special Health, Safety and Training Fund*

(WV Code Chapter 22A)

Fund 3355 FY 2020 Org 0314

1	Personal Services and Employee Benefits.....	00100	\$	501,228
2	WV Mining Extension Service .....	02600		150,000
3	Unclassified .....	09900		40,985
4	Current Expenses .....	13000		1,954,557
5	Buildings .....	25800		481,358
6	Directed Transfer .....	70000		1,300,000
7	Land .....	73000		<u>1,000,000</u>
8	Total.....		\$	5,428,128

9 From the above appropriation for Directed Transfer (Fund 3355, appropriation 70000),  
 10 \$1,100,000 shall be transferred to the State Rail Authority – Commuter Rail Access Fund (fund  
 11 8402) and \$200,000 shall be transferred to the Department of Health and Human Resources,  
 12 Division of Human Services – Medical Services Trust Fund (Fund 5185).

*175 - Department of Commerce –**Office of the Secretary –**Broadband Enhancement Fund*Fund 3013 FY 2020 Org 0327

1	Current Expenses .....	13000	\$	1,780,000
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*176 - Office of Energy –**Energy Assistance*

(WV Code Chapter 5B)

Fund 3010 FY 2020 Org 0328

1	Energy Assistance – Total .....	64700	\$	7,211
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*177 - State Board of Rehabilitation –**Division of Rehabilitation Services –*



*West Virginia Rehabilitation Center Special Account*

(WV Code Chapter 18)

Fund 8664 FY 2020 Org 0932

1	Personal Services and Employee Benefits.....	00100	\$	119,738
2	Current Expenses .....	13000		2,180,122
3	Repairs and Alterations.....	06400		85,500
4	Equipment.....	07000		220,000
5	Buildings .....	25800		150,000
6	Other Assets .....	69000		<u>150,000</u>
7	Total.....		\$	2,905,360

**DEPARTMENT OF EDUCATION**

*178 - State Board of Education –*

*Strategic Staff Development*

(WV Code Chapter 18)

Fund 3937 FY 2020 Org 0402

1	Personal Services and Employee Benefits.....	00100	\$	134,000
2	Unclassified .....	09900		1,000
3	Current Expenses .....	13000		<u>765,000</u>
4	Total.....		\$	900,000

*179 - State Board of Education –*

*School Construction Fund*

(WV Code Chapters 18 and 18A)

Fund 3951 FY 2020 Org 0402

1	SBA Construction Grants .....	24000	\$	35,845,818
2	Directed Transfer .....	70000		<u>1,371,182</u>
3	Total.....		\$	37,217,000

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

*180 - School Building Authority*

(WV Code Chapter 18)

Fund 3959 FY 2020 Org 0402

1	Personal Services and Employee Benefits.....	00100	\$	1,134,522
2	Current Expenses .....	13000		244,100
3	Repairs and Alterations.....	06400		13,150
4	Equipment.....	07000		<u>26,000</u>
5	Total.....		\$	1,417,772

**DEPARTMENT OF ARTS, CULTURE, AND HISTORY**

*181 - Division of Culture and History –*

*Public Records and Preservation Revenue Account*

(WV Code Chapter 5A)

Fund 3542 FY 2020 Org 0432

1	Personal Services and Employee Benefits.....	00100	\$	226,624
2	Current Expenses .....	13000		862,241
3	Equipment.....	07000		75,000
4	Buildings .....	25800		1,000
5	Other Assets .....	69000		52,328
6	Land .....	73000		<u>1,000</u>
7	Total.....		\$	1,218,193

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

*182 - Solid Waste Management Board*

(WV Code Chapter 22C)

Fund 3288 FY 2020 Org 0312

1	Personal Services and Employee Benefits.....	00100	\$	842,305
2	Current Expenses .....	13000		2,060,457
3	Repairs and Alterations.....	06400		1,000
4	Equipment.....	07000		5,000
5	Other Assets .....	69000		<u>4,403</u>
6	Total.....		\$	2,913,165

*183 - Division of Environmental Protection –*

*Hazardous Waste Management Fund*

(WV Code Chapter 22)

Fund 3023 FY 2020 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$	779,766
2	Current Expenses .....	13000		155,969
3	Repairs and Alterations.....	06400		500
4	Equipment.....	07000		1,505
5	Unclassified .....	09900		8,072
6	Other Assets .....	69000		<u>2,000</u>
7	Total.....		\$	947,812

*184 - Division of Environmental Protection –*

*Air Pollution Education and Environment Fund*

(WV Code Chapter 22)

Fund 3024 FY 2020 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$	950,135
2	Current Expenses .....	13000		1,026,863
3	Repairs and Alterations.....	06400		13,000
4	Equipment.....	07000		53,105
5	Unclassified .....	09900		14,647

6	Other Assets .....	69000	<u>20,000</u>
7	Total .....		\$ 2,077,750

*185 - Division of Environmental Protection –*

*Special Reclamation Fund*

(WV Code Chapter 22)

Fund 3321 FY 2020 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$ 1,627,573
2	Current Expenses .....	13000	16,185,006
3	Repairs and Alterations.....	06400	79,950
4	Equipment.....	07000	130,192
5	Other Assets .....	69000	<u>32,000</u>
6	Total .....		\$ 18,054,721

*186 - Division of Environmental Protection –*

*Oil and Gas Reclamation Fund*

(WV Code Chapter 22)

Fund 3322 FY 2020 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$ 143,906
2	Current Expenses .....	13000	<u>356,094</u>
3	Total .....		\$ 500,000

*187 - Division of Environmental Protection –*

*Oil and Gas Operating Permit and Processing Fund*

(WV Code Chapter 22)

Fund 3323 FY 2020 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$ 3,498,896
2	Current Expenses .....	13000	1,237,758
3	Repairs and Alterations.....	06400	40,600

4	Equipment.....	07000	8,000
5	Unclassified .....	09900	44,700
6	Other Assets .....	69000	<u>15,000</u>
7	Total .....		\$ 4,844,954

*188 - Division of Environmental Protection –*

*Mining and Reclamation Operations Fund*

(WV Code Chapter 22)

Fund 3324 FY 2020 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$ 3,566,280
2	Current Expenses .....	13000	2,202,231
3	Repairs and Alterations.....	06400	60,260
4	Equipment.....	07000	83,000
5	Unclassified .....	09900	920
6	Other Assets .....	69000	<u>57,500</u>
7	Total .....		\$ 5,970,191

*189 - Division of Environmental Protection –*

*Underground Storage Tank*

*Administrative Fund*

(WV Code Chapter 22)

Fund 3325 FY 2020 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$ 476,417
2	Current Expenses .....	13000	318,420
3	Repairs and Alterations.....	06400	5,350
4	Equipment.....	07000	3,610
5	Unclassified .....	09900	7,520
6	Other Assets .....	69000	<u>3,500</u>

7	Total .....		\$	814,817
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*190 - Division of Environmental Protection –*

*Hazardous Waste Emergency Response Fund*

(WV Code Chapter 22)

Fund 3331 FY 2020 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$	598,154
2	Current Expenses .....	13000		767,905
3	Repairs and Alterations.....	06400		7,014
4	Equipment.....	07000		9,000
5	Unclassified .....	09900		10,616
6	Other Assets .....	69000		<u>3,500</u>
7	Total .....		\$	1,396,189

*191 - Division of Environmental Protection –*

*Solid Waste Reclamation and*

*Environmental Response Fund*

(WV Code Chapter 22)

Fund 3332 FY 2020 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$	825,811
2	Current Expenses .....	13000		3,604,737
3	Repairs and Alterations.....	06400		25,000
4	Equipment.....	07000		31,500
5	Unclassified .....	09900		22,900
6	Buildings.....	25800		500
7	Other Assets .....	69000		<u>1,000</u>
8	Total .....		\$	4,511,448

*192 - Division of Environmental Protection –*

*Solid Waste Enforcement Fund*

(WV Code Chapter 22)

Fund 3333 FY 2020 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$	3,238,054
2	Current Expenses .....	13000		970,229
3	Repairs and Alterations.....	06400		30,930
4	Equipment.....	07000		23,356
5	Unclassified .....	09900		37,145
6	Other Assets .....	69000		<u>25,554</u>
7	Total.....		\$	4,325,268

*193 - Division of Environmental Protection –**Air Pollution Control Fund*

(WV Code Chapter 22)

Fund 3336 FY 2020 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$	5,934,859
2	Current Expenses .....	13000		1,469,467
3	Repairs and Alterations.....	06400		84,045
4	Equipment.....	07000		103,601
5	Unclassified .....	09900		70,572
6	Other Assets .....	69000		<u>52,951</u>
7	Total.....		\$	7,715,495

*194 - Division of Environmental Protection –**Environmental Laboratory**Certification Fund*

(WV Code Chapter 22)

Fund 3340 FY 2020 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$	344,792
2	Current Expenses .....	13000		208,188
3	Repairs and Alterations.....	06400		1,000
4	Equipment.....	07000		1,000
5	Unclassified .....	09900		1,120
6	Other Assets .....	69000		<u>163,000</u>
7	Total.....		\$	719,100

*195 - Division of Environmental Protection –*

*Stream Restoration Fund*

(WV Code Chapter 22)

Fund 3349 FY 2020 Org 0313

1	Current Expenses .....	13000	\$	5,182,076
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*196 - Division of Environmental Protection –*

*Litter Control Fund*

(WV Code Chapter 22)

Fund 3486 FY 2020 Org 0313

1	Current Expenses .....	13000	\$	60,000
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*197 - Division of Environmental Protection –*

*Recycling Assistance Fund*

(WV Code Chapter 22)

Fund 3487 FY 2020 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$	679,721
2	Current Expenses .....	13000		2,735,112
3	Repairs and Alterations.....	06400		800
4	Equipment.....	07000		500
5	Unclassified .....	09900		400



6	Other Assets .....	69000	<u>2,500</u>
7	Total .....		\$ 3,419,033

*198 - Division of Environmental Protection –*

*Mountaintop Removal Fund*

(WV Code Chapter 22)

Fund 3490 FY 2020 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$ 1,250,562
2	Current Expenses .....	13000	642,934
3	Repairs and Alterations.....	06400	30,112
4	Equipment.....	07000	23,500
5	Unclassified .....	09900	1,180
6	Other Assets .....	69000	<u>11,520</u>
7	Total .....		\$ 1,959,808

*199 - Oil and Gas Conservation Commission –*

*Special Oil and Gas Conservation Fund*

(WV Code Chapter 22C)

Fund 3371 FY 2020 Org 0315

1	Personal Services and Employee Benefits.....	00100	\$ 162,161
2	Current Expenses .....	13000	161,225
3	Repairs and Alterations.....	06400	1,000
4	Equipment.....	07000	9,481
5	Other Assets .....	69000	<u>1,500</u>
6	Total .....		\$ 335,367

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

*200 - Division of Health –*

*Ryan Brown Addiction Prevention and Recovery Fund*

(WV Code Chapter 19)

Fund 5111 FY 2020 Org 0506

1	Current Expenses .....	13000	\$	13,588,654
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*201 - Division of Health –**The Vital Statistics Account*

(WV Code Chapter 16)

Fund 5144 FY 2020 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$	938,484
2	Unclassified .....	09900		15,500
3	Current Expenses .....	13000		<u>2,757,788</u>
4	Total .....		\$	3,711,772

*202 - Division of Health –**Hospital Services Revenue Account**Special Fund**Capital Improvement, Renovation and Operations*

(WV Code Chapter 16)

Fund 5156 FY 2020 Org 0506

1	Institutional Facilities Operations.....	33500	\$	35,555,221
2	Medical Services Trust Fund – Transfer.....	51200		<u>27,800,000</u>
3	Total .....		\$	63,355,221

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

7           Additional funds have been appropriated in fund 0525, fiscal year 2020, organization 0506,  
8 for the operation of the institutional facilities. The Secretary of the Department of Health and  
9 Human Resources is authorized to utilize up to ten percent of the funds from the appropriation for  
10 Institutional Facilities Operations to facilitate cost effective and cost saving services at the  
11 community level.

12           Necessary funds from the above appropriation may be used for medical facilities  
13 operations, either in connection with this fund or in connection with the appropriation designated

14 Institutional Facilities Operations in the Consolidated Medical Service Fund (fund 0525,  
 15 organization 0506).

*203 - Division of Health –*

*Laboratory Services Fund*

(WV Code Chapter 16)

Fund 5163 FY 2020 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$	936,712
2	Unclassified .....	09900		18,114
3	Current Expenses .....	13000		<u>1,803,327</u>
4	Total.....		\$	2,758,153

*204 - Division of Health –*

*The Health Facility Licensing Account*

(WV Code Chapter 16)

Fund 5172 FY 2020 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$	645,446
2	Unclassified .....	09900		7,113
3	Current Expenses .....	13000		<u>98,247</u>
4	Total.....		\$	750,806

*205 - Division of Health –*

*Hepatitis B Vaccine*

(WV Code Chapter 16)

Fund 5183 FY 2020 Org 0506

1	Current Expenses .....	13000	\$	9,740
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*206 - Division of Health –*

*Lead Abatement Account*

(WV Code Chapter 16)

Fund 5204 FY 2020 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$	19,100
2	Unclassified .....	09900		373
3	Current Expenses .....	13000		<u>17,875</u>
4	Total .....		\$	37,348

*207 - Division of Health –*

*West Virginia Birth-to-Three Fund*

(WV Code Chapter 16)

Fund 5214 FY 2020 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$	691,978
2	Unclassified .....	09900		223,999
3	Current Expenses .....	13000		<u>28,053,549</u>
4	Total .....		\$	28,969,526

*208 - Division of Health –*

*Tobacco Control Special Fund*

(WV Code Chapter 16)

Fund 5218 FY 2020 Org 0506

1	Current Expenses .....	13000	\$	7,579
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*209 - Division of Health –*

*Medical Cannabis Program Fund*

(WV Code Chapter 16A)

Fund 5420 FY 2020 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$	509,658
2	Current Expenses .....	13000		1,151,040
3	Other Assets .....	69000		<u>895,000</u>
4	Total .....		\$	2,555,698

*210 - West Virginia Health Care Authority –*

*Health Care Cost Review Fund*

(WV Code Chapter 16)

Fund 5375 FY 2020 Org 0507

1	Personal Services and Employee Benefits.....	00100	\$	1,345,380
2	Hospital Assistance.....	02500		50,000
3	Unclassified .....	09900		100
4	Current Expenses .....	13000		754,645
5	Repairs and Alterations.....	06400		500
6	Equipment.....	07000		<u>300</u>
7	Total.....		\$	2,150,925

8           The above appropriation is to be expended in accordance with and pursuant to the  
9 provisions of W.Va. Code §16-29B and from the special revolving fund designated Health Care  
10 Cost Review Fund.

*211 - West Virginia Health Care Authority –**Certificate of Need Program Fund*

(WV Code Chapter 16)

Fund 5377 FY 2020 Org 0507

1	Personal Services and Employee Benefits.....	00100	\$	829,798
2	Current Expenses .....	13000		<u>474,967</u>
3	Total.....		\$	1,304,765

*212 - Division of Human Services –**Health Care Provider Tax –**Medicaid State Share Fund*

(WV Code Chapter 11)

Fund 5090 FY 2020 Org 0511

1	Medical Services.....	18900	\$	213,594,315
2	Medical Services Administrative Costs.....	78900		<u>242,287</u>

3 Total..... \$ 213,836,602

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

*213 - Division of Human Services –*

*Child Support Enforcement Fund*

(WV Code Chapter 48A)

Fund 5094 FY 2020 Org 0511

1	Personal Services and Employee Benefits.....	00100	\$ 24,809,509
2	Unclassified .....	09900	380,000
3	Current Expenses .....	13000	<u>12,810,491</u>
4	Total.....		\$ 38,000,000

*214 - Division of Human Services –*

*Medical Services Trust Fund*

(WV Code Chapter 9)

Fund 5185 FY 2020 Org 0511

1	Medical Services.....	18900	\$ 82,227,707
2	Medical Services Administrative Costs.....	78900	<u>602,486</u>
3	Total.....		\$ 82,830,193

4 The above appropriation to Medical Services shall be used to provide state match of  
 5 Medicaid expenditures as defined and authorized in subsection (c) of W.Va. Code §9-4A-2a.  
 6 Expenditures from the fund are limited to the following: payment of backlogged billings, funding  
 7 for services to future federally mandated population groups and payment of the required state  
 8 match for Medicaid disproportionate share payments. The remainder of all moneys deposited in  
 9 the fund shall be transferred to the Division of Human Services accounts.

*215 - Division of Human Services –*

*James “Tiger” Morton Catastrophic Illness Fund*

(WV Code Chapter 16)

Fund 5454 FY 2020 Org 0511

1	Unclassified .....	09900	\$	7,000
2	Current Expenses .....	13000		693,000
3	Total .....		\$	700,000

*216 - Division of Human Services –  
Domestic Violence Legal Services Fund  
(WV Code Chapter 48)*

*Fund 5455 FY 2020 Org 0511*

1	Current Expenses .....	13000	\$	900,000
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*217 - Division of Human Services –  
West Virginia Works Separate State College Program Fund  
(WV Code Chapter 9)*

*Fund 5467 FY 2020 Org 0511*

1	Current Expenses .....	13000	\$	500,000
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*218 - Division of Human Services –  
West Virginia Works Separate State Two-Parent Program Fund  
(WV Code Chapter 9)*

*Fund 5468 FY 2020 Org 0511*

1	Current Expenses .....	13000	\$	1,500,000
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*219 - Division of Human Services –  
Marriage Education Fund  
(WV Code Chapter 9)*

*Fund 5490 FY 2020 Org 0511*

1	Personal Services and Employee Benefits.....	00100	\$	10,000
2	Current Expenses .....	13000		25,000
3	Total .....		\$	35,000

**DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY**

*220 - Department of Military Affairs and Public Safety –*

*Office of the Secretary –*

*Law-Enforcement, Safety and Emergency Worker*

*Funeral Expense Payment Fund*

(WV Code Chapter 15)

Fund 6003 FY 2020 Org 0601

1	Current Expenses .....	13000	\$	32,000
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*221 - State Armory Board –*

*General Armory Fund*

(WV Code Chapter 15)

Fund 6057 FY 2020 Org 0603

1	Personal Services and Employee Benefits.....	00100	\$	1,681,247
2	Current Expenses .....	13000		650,000
3	Repairs and Alterations.....	06400		385,652
4	Equipment.....	07000		250,000
5	Buildings .....	25800		770,820
6	Other Assets .....	69000		100,000
7	Land .....	73000		<u>200,000</u>
8	Total.....		\$	4,037,719

9 From the above appropriations, the Adjutant General may receive and expend funds to  
 10 conduct operations and activities to include functions of the Military Authority. The Adjutant  
 11 General may transfer funds between appropriations, except no funds may be transferred to  
 12 Personal Services and Employee Benefits (fund 6057, appropriation 00100).

*222 - Division of Homeland Security*

*And Emergency Management –*

*Statewide Interoperable Radio Network Account*

(WV Code Chapter 15)

Fund 6208 FY 2020 Org 0606



1	Current Expenses .....	13000	\$	80,000
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*223 - Division of Homeland Security and  
Emergency Management –  
West Virginia Interoperable Radio Project  
(WV Code Chapter 24)  
Fund 6295 FY 2020 Org 0606*

1	Current Expenses .....	13000	\$	2,000,000
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2           Any unexpended balance remaining in the appropriation for Unclassified – Total (fund  
3 6295, appropriation 09600) at the close of fiscal year 2019 is hereby reappropriated for  
4 expenditure during the fiscal year 2020.

*224 - Division of Corrections and Rehabilitation –  
Parolee Supervision Fees  
(WV Code Chapter 15A)  
Fund 6362 FY 2020 Org 0608*

1	Personal Services and Employee Benefits.....	00100	\$	1,087,848
2	Unclassified .....	09900		9,804
3	Current Expenses .....	13000		758,480
4	Equipment.....	07000		30,000
5	Other Assets .....	69000		<u>40,129</u>
6	Total .....		\$	1,926,261

*225 - Division of Corrections and Rehabilitation –  
Regional Jail and Correctional Facility Authority  
(WV Code Chapter 15A)  
Fund 6675 FY 2020 Org 0608*

1	Personal Services and Employee Benefits.....	00100	\$	506,450
2	Debt Service .....	04000		9,000,000
3	Current Expenses .....	13000		<u>245,852</u>

4 Total..... \$ 9,752,302

*226 - West Virginia State Police –*

*Motor Vehicle Inspection Fund*

(WV Code Chapter 17C)

Fund 6501 FY 2020 Org 0612

1	Personal Services and Employee Benefits.....	00100	\$ 1,907,726
2	Current Expenses .....	13000	1,488,211
3	Repairs and Alterations.....	06400	204,500
4	Equipment.....	07000	3,770,751
5	Buildings .....	25800	534,000
6	Other Assets .....	69000	5,000
7	BRIM Premium.....	91300	<u>302,432</u>
8	Total.....		\$ 8,212,620

9 The total amount of these appropriations shall be paid from the special revenue fund out  
10 of fees collected for inspection stickers as provided by law.

*227 - West Virginia State Police –*

*Forensic Laboratory Fund*

(WV Code Chapter 15)

Fund 6511 FY 2020 Org 0612

1	Personal Services and Employee Benefits.....	00100	\$ 600,000
2	Current Expenses .....	13000	90,000
3	Repairs and Alterations.....	06400	5,000
4	Equipment.....	07000	<u>545,000</u>
5	Total.....		\$ 1,240,000

*228 - West Virginia State Police –*

*Drunk Driving Prevention Fund*

(WV Code Chapter 15)

Fund 6513 FY 2020 Org 0612

1	Current Expenses .....	13000	\$	1,327,000
2	Equipment.....	07000		3,491,895
3	BRIM Premium.....	91300		<u>154,452</u>
4	Total.....		\$	4,973,347

5           The total amount of these appropriations shall be paid from the special revenue fund out  
6 of receipts collected pursuant to W.Va. Code §11-15-9a and 16 and paid into a revolving fund  
7 account in the State Treasury.

*229 - West Virginia State Police –**Surplus Real Property Proceeds Fund*

(WV Code Chapter 15)

Fund 6516 FY 2020 Org 0612

1	Buildings .....	25800	\$	1,022,778
2	Land .....	73000		1,000
3	BRIM Premium.....	91300		<u>77,222</u>
4	Total.....		\$	1,101,000

*230 - West Virginia State Police –**Surplus Transfer Account*

(WV Code Chapter 15)

Fund 6519 FY 2020 Org 0612

1	Current Expenses .....	13000	\$	225,000
2	Repairs and Alterations.....	06400		20,000
3	Equipment.....	07000		250,000
4	Buildings .....	25800		40,000
5	Other Assets .....	69000		45,000
6	BRIM Premium.....	91300		<u>5,000</u>
7	Total.....		\$	585,000

*231 - West Virginia State Police –**Central Abuse Registry Fund*

(WV Code Chapter 15)

Fund 6527 FY 2020 Org 0612

1	Personal Services and Employee Benefits.....	00100	\$	256,629
2	Current Expenses .....	13000		51,443
3	Repairs and Alterations.....	06400		500
4	Equipment.....	07000		300,500
5	Other Assets .....	69000		300,500
6	BRIM Premium.....	91300		<u>18,524</u>
7	Total .....		\$	928,096

*232 - West Virginia State Police –**Bail Bond Enforcer Account*

(WV Code Chapter 15)

Fund 6532 FY 2020 Org 0612

1	Current Expenses .....	13000	\$	8,300
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*233 - West Virginia State Police –**State Police Academy Post Exchange*

(WV Code Chapter 15)

Fund 6544 FY 2020 Org 0612

1	Current Expenses .....	13000	\$	160,000
2	Repairs and Alterations.....	06400		<u>40,000</u>
3	Total .....		\$	200,000

*234 - Fire Commission –**Fire Marshal Fees*

(WV Code Chapter 29)

Fund 6152 FY 2020 Org 0619

1	Personal Services and Employee Benefits.....	00100	\$	3,480,533
2	Unclassified .....	09900		3,800
3	Current Expenses .....	13000		1,249,550
4	Repairs and Alterations.....	06400		58,500
5	Equipment.....	07000		140,800
6	BRIM Premium.....	91300		<u>62,000</u>
7	Total.....		\$	4,995,183

*235 - Division of Justice and Community Services –**WV Community Corrections Fund*

(WV Code Chapter 62)

Fund 6386 FY 2020 Org 0620

1	Personal Services and Employee Benefits.....	00100	\$	161,923
2	Unclassified .....	09900		750
3	Current Expenses .....	13000		1,846,250
4	Repairs and Alterations.....	06400		<u>1,000</u>
5	Total.....		\$	2,009,923

*236 - Division of Justice and Community Services –**Court Security Fund*

(WV Code Chapter 51)

Fund 6804 FY 2020 Org 0620

1	Personal Services and Employee Benefits.....	00100	\$	23,840
2	Current Expenses .....	13000		<u>1,478,135</u>
3	Total.....		\$	1,501,975

*237 - Division of Justice and Community Services –**Second Chance Driver's License Program Account*

(WV Code Chapter 17B)

Fund 6810 FY 2020 Org 0620

1	Current Expenses .....	13000	\$	25,000
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**DEPARTMENT OF REVENUE**

*238 - Division of Financial Institutions*

(WV Code Chapter 31A)

Fund 3041 FY 2020 Org 0303

1	Personal Services and Employee Benefits.....	00100	\$	2,703,057
2	Current Expenses .....	13000		614,775
3	Equipment.....	07000		44,200
4	Total .....		\$	3,362,032

*239 - Office of the Secretary –*

*State Debt Reduction Fund*

(WV Code Chapter 29)

Fund 7007 FY 2020 Org 0701

1	Directed Transfer .....	70000	\$	20,000,000
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2           The above appropriation for Directed Transfer shall be transferred to the Consolidated  
 3 Public Retirement Board – West Virginia Public Employees Retirement System Employers  
 4 Accumulation Fund (fund 2510).

*240 - Tax Division –*

*Cemetery Company Account*

(WV Code Chapter 35)

Fund 7071 FY 2020 Org 0702

1	Personal Services and Employee Benefits.....	00100	\$	25,928
2	Current Expenses .....	13000		7,717
3	Total .....		\$	33,645

*241 - Tax Division –*

*Special Audit and Investigative Unit*

(WV Code Chapter 11)

Fund 7073 FY 2020 Org 0702

1	Personal Services and Employee Benefits.....	00100	\$	696,428
2	Unclassified .....	09900		9,500
3	Current Expenses .....	13000		273,297
4	Repairs and Alterations.....	06400		7,000
5	Equipment.....	07000		<u>5,000</u>
6	Total.....		\$	991,225

*242 - Tax Division –*

*Wine Tax Administration Fund*

(WV Code Chapter 60)

Fund 7087 FY 2020 Org 0702

1	Personal Services and Employee Benefits.....	00100	\$	268,973
2	Current Expenses .....	13000		<u>5,406</u>
3	Total.....		\$	274,379

*243 - Tax Division –*

*Reduced Cigarette Ignition Propensity*

*Standard and Fire Prevention Act Fund*

(WV Code Chapter 47)

Fund 7092 FY 2020 Org 0702

1	Current Expenses .....	13000	\$	35,000
2	Equipment.....	07000		<u>15,000</u>
3	Total.....		\$	50,000

*244 - Tax Division –*

*Local Sales Tax and Excise Tax*

*Administration Fund*

(WV Code Chapter 11)

Fund 7099 FY 2020 Org 0702

1	Personal Services and Employee Benefits.....	00100	\$	1,543,527
2	Unclassified .....	09900		10,000
3	Current Expenses .....	13000		784,563
4	Repairs and Alterations.....	06400		1,000
5	Equipment.....	07000		<u>5,000</u>
6	Total.....		\$	2,344,090

*245 - State Budget Office –*

*Public Employees Insurance Reserve Fund*

(WV Code Chapter 11B)

Fund 7400 FY 2020 Org 0703

1	Public Employees Insurance Reserve Fund – Transfer.....	90300	\$	6,800,000
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2           The above appropriation for Public Employees Insurance Reserve Fund – Transfer shall  
3 be transferred to the Medical Services Trust Fund (fund 5185, org 0511) for expenditure.

*246 - State Budget Office –*

*Public Employees Insurance Agency Financial Stability Fund*

(WV Code Chapter 11B)

Fund 7401 FY 2020 Org 0703

1	Retiree Premium Offset.....	80101	\$	5,000,000
2	PEIA Reserve .....	80102		<u>10,000,000</u>
3	Total.....		\$	15,000,000

4           The above appropriation shall be transferred to special revenue funds to be utilized by the  
5 West Virginia Public Employees Insurance Agency for the purposes of permitting the PEIA  
6 Finance Board to offset \$5 million in retiree premium increases. Additionally, \$10 million will be  
7 put into a reserve fund to stabilize and preserve the future solvency of PEIA. Such amount shall  
8 not be included in the calculation of the plan year aggregate premium cost-sharing percentages  
9 between employers and employees.



*247 - Insurance Commissioner –**Examination Revolving Fund*

(WV Code Chapter 33)

Fund 7150 FY 2020 Org 0704

1	Personal Services and Employee Benefits.....	00100	\$	748,764
2	Current Expenses .....	13000		1,357,201
3	Repairs and Alterations.....	06400		3,000
4	Equipment.....	07000		81,374
5	Buildings .....	25800		8,289
6	Other Assets .....	69000		<u>11,426</u>
7	Total .....		\$	2,210,054

*248 - Insurance Commissioner –**Consumer Advocate*

(WV Code Chapter 33)

Fund 7151 FY 2020 Org 0704

1	Personal Services and Employee Benefits.....	00100	\$	571,976
2	Current Expenses .....	13000		202,152
3	Repairs and Alterations.....	06400		5,000
4	Equipment.....	07000		34,225
5	Buildings .....	25800		4,865
6	Other Assets .....	69000		<u>19,460</u>
7	Total .....		\$	837,678

*249 - Insurance Commissioner –**Insurance Commission Fund*

(WV Code Chapter 33)

Fund 7152 FY 2020 Org 0704

1	Personal Services and Employee Benefits.....	00100	\$	24,169,021
2	Current Expenses .....	13000		8,797,758
3	Repairs and Alterations.....	06400		68,614
4	Equipment.....	07000		1,728,240
5	Buildings .....	25800		25,000
6	Other Assets .....	69000		<u>340,661</u>
7	Total.....		\$	35,129,294

*250 - Insurance Commissioner –*

*Workers' Compensation Old Fund*

(WV Code Chapter 23)

Fund 7162 FY 2020 Org 0704

1	Employee Benefits .....	01000	\$	50,000
2	Current Expenses .....	13000		<u>250,500,000</u>
3	Total.....		\$	250,550,000

*251 - Insurance Commissioner –*

*Workers' Compensation Uninsured Employers' Fund*

(WV Code Chapter 23)

Fund 7163 FY 2020 Org 0704

1	Current Expenses .....	13000	\$	15,000,000
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*252 - Insurance Commissioner –*

*Self-Insured Employer Guaranty Risk Pool*

(WV Code Chapter 23)

Fund 7164 FY 2020 Org 0704

1	Current Expenses .....	13000	\$	9,000,000
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*253 - Insurance Commissioner –*

*Self-Insured Employer Security Risk Pool*

(WV Code Chapter 23)

Fund 7165 FY 2020 Org 0704

1	Current Expenses .....	13000	\$	14,000,000
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*254 - Municipal Bond Commission*

(WV Code Chapter 13)

Fund 7253 FY 2020 Org 0706

1	Personal Services and Employee Benefits.....	00100	\$	282,589
2	Current Expenses .....	13000		144,844
3	Equipment.....	07000		100
4	Total.....		\$	427,533

*255 - Racing Commission –*

*Relief Fund*

(WV Code Chapter 19)

Fund 7300 FY 2020 Org 0707

1	Medical Expenses – Total .....	24500	\$	57,000
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2           The total amount of this appropriation shall be paid from the special revenue fund out of  
3 collections of license fees and fines as provided by law.

4           No expenditures shall be made from this fund except for hospitalization, medical care  
5 and/or funeral expenses for persons contributing to this fund.

*256 - Racing Commission –*

*Administration and Promotion Account*

(WV Code Chapter 19)

Fund 7304 FY 2020 Org 0707

1	Personal Services and Employee Benefits.....	00100	\$	264,564
2	Current Expenses .....	13000		93,335
3	Other Assets .....	69000		5,000
4	Total.....		\$	362,899

*257 - Racing Commission –**General Administration*

(WV Code Chapter 19)

Fund 7305 FY 2020 Org 0707

1	Personal Services and Employee Benefits.....	00100	\$	2,352,306
2	Current Expenses .....	13000		566,248
3	Repairs and Alterations.....	06400		7,000
4	Other Assets .....	69000		<u>50,000</u>
5	Total.....		\$	2,975,554

*258 - Racing Commission –**Administration, Promotion, Education, Capital Improvement  
and Greyhound Adoption Programs**to include Spaying and Neutering Account*

(WV Code Chapter 19)

Fund 7307 FY 2020 Org 0707

1	Personal Services and Employee Benefits.....	00100	\$	918,781
2	Current Expenses .....	13000		214,406
3	Other Assets .....	69000		<u>200,000</u>
4	Total.....		\$	1,333,187

*259 - Alcohol Beverage Control Administration –**Wine License Special Fund*

(WV Code Chapter 60)

Fund 7351 FY 2020 Org 0708

1	Personal Services and Employee Benefits.....	00100	\$	132,213
2	Current Expenses .....	13000		69,186
3	Repairs and Alterations.....	06400		7,263

4	Equipment.....	07000	10,000
5	Buildings .....	25800	100,000
6	Other Assets .....	69000	<u>100</u>
7	Total .....		\$ 318,762

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

*260 - Alcohol Beverage Control Administration*

(WV Code Chapter 60)

Fund 7352 FY 2020 Org 0708

1	Personal Services and Employee Benefits.....	00100	\$ 5,790,574
2	Current Expenses .....	13000	2,890,577
3	Repairs and Alterations.....	06400	91,000
4	Equipment.....	07000	108,000
5	Buildings .....	25800	375,100
6	Purchase of Supplies for Resale .....	41900	72,500,000
7	Transfer Liquor Profits and Taxes .....	42500	20,800,000
8	Other Assets .....	69000	125,100
9	Land .....	73000	<u>100</u>
10	Total .....		\$ 102,680,451

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

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

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

16 There is hereby appropriated from liquor revenues, in addition to the above appropriations  
17 as needed, the necessary amount for the purchase of liquor as provided by law and the remittance  
18 of profits and taxes to the General Revenue Fund.

*261 - State Athletic Commission Fund*

(WV Code Chapter 29)

Fund 7009 FY 2020 Org 0933

1	Personal Services and Employee Benefits.....	00100	\$	2,900
2	Current Expenses .....	13000		<u>37,100</u>
3	Total .....		\$	40,000

**DEPARTMENT OF TRANSPORTATION**

*262 - Division of Motor Vehicles –*

*Dealer Recovery Fund*

(WV Code Chapter 17)

Fund 8220 FY 2020 Org 0802

1	Current Expenses .....	13000	\$	189,000
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*263 - Division of Motor Vehicles –*

*Motor Vehicle Fees Fund*

(WV Code Chapter 17B)

Fund 8223 FY 2020 Org 0802

1	Personal Services and Employee Benefits.....	00100	\$	3,733,074
2	Current Expenses .....	13000		4,362,975
3	Repairs and Alterations.....	06400		16,000
4	Equipment.....	07000		75,000
5	Other Assets .....	69000		10,000
6	BRIM Premium.....	91300		<u>84,737</u>
7	Total .....		\$	8,281,786

*264 - Division of Highways –*

*A. James Manchin Fund*

(WV Code Chapter 22)

Fund 8319 FY 2020 Org 0803

1	Current Expenses .....	13000	\$	1,650,000
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*265 - State Rail Authority –*

*West Virginia Commuter Rail Access Fund*

(WV Code Chapter 29)

Fund 8402 FY 2020 Org 0804

1	Current Expenses .....	13000	\$	1,100,000
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**DEPARTMENT OF VETERANS' ASSISTANCE**

*266 - Veterans' Facilities Support Fund*

(WV Code Chapter 9A)

Fund 6703 FY 2020 Org 0613

1	Current Expenses .....	13000	\$	1,654,234
2	Other Assets .....	69000		10,000
3	Total .....		\$	1,664,234

*267 - Department of Veterans' Assistance –*

*WV Veterans' Home –*

*Special Revenue Operating Fund*

(WV Code Chapter 9A)

Fund 6754 FY 2020 Org 0618

1	Current Expenses .....	13000	\$	700,000
2	Repairs and Alterations.....	06400		50,000
3	Total .....		\$	750,000

**BUREAU OF SENIOR SERVICES**

*268 - Bureau of Senior Services –*

*Community Based Service Fund*

(WV Code Chapter 22)

Fund 5409 FY 2020 Org 0508

1	Personal Services and Employee Benefits.....	00100	\$	160,883
2	Current Expenses .....	13000		<u>10,348,710</u>
3	Total.....		\$	10,509,593

4           The total amount of these appropriations are funded from annual table game license fees  
5 to enable the aged and disabled citizens of West Virginia to stay in their homes through the  
6 provision of home and community-based services.

### HIGHER EDUCATION POLICY COMMISSION

*269 - Higher Education Policy Commission –*

*System –*

*Tuition Fee Capital Improvement Fund*

*(Capital Improvement and Bond Retirement Fund)*

*Control Account*

*(WV Code Chapters 18 and 18B)*

*Fund 4903 FY 2020 Org 0442*

1	Debt Service .....	04000	\$	27,713,123
2	General Capital Expenditures .....	30600		5,000,000
3	Facilities Planning and Administration.....	38600		<u>441,111</u>
4	Total.....		\$	33,154,234

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

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

*270 - Tuition Fee Revenue Bond Construction Fund*

*(WV Code Chapters 18 and 18B)*

*Fund 4906 FY 2020 Org 0442*

1           Any unexpended balance remaining in the appropriation for Capital Outlay (fund 4906,  
2 appropriation 51100) at the close of the fiscal year 2019 is hereby reappropriated for expenditure  
3 during the fiscal year 2020.



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

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

*271 - Community and Technical College –*

*Capital Improvement Fund*

(WV Code Chapter 18B)

Fund 4908 FY 2020 Org 0442

1 Any unexpended balance remaining in the appropriation for Capital Improvements – Total  
 2 (fund 4908, appropriation 95800) at the close of fiscal year 2019 is hereby reappropriated for  
 3 expenditure during the fiscal year 2020.

4 The total amount of this appropriation shall be paid from the sale of the Series 2017  
 5 Community and Technical College Capital Improvement Refunding Revenue Bonds and  
 6 anticipated interest earnings.

*272 - West Virginia University –*

*West Virginia University Health Sciences Center*

(WV Code Chapters 18 and 18B)

Fund 4179 FY 2020 Org 0463

1	Personal Services and Employee Benefits.....	00100	\$	10,764,347
2	Current Expenses .....	13000		4,524,300
3	Repairs and Alterations.....	06400		425,000
4	Equipment.....	07000		512,000
5	Buildings .....	25800		150,000
6	Other Assets .....	69000		<u>50,000</u>
7	Total.....		\$	16,425,647

**MISCELLANEOUS BOARDS AND COMMISSIONS**

*273 - Board of Barbers and Cosmetologists –*

*Barbers and Beauticians Special Fund*

(WV Code Chapters 16 and 30)

Fund 5425 FY 2020 Org 0505

1	Personal Services and Employee Benefits.....	00100	\$	543,993
2	Current Expenses .....	13000		<u>239,969</u>
3	Total .....		\$	783,962

4           The total amount of these appropriations shall be paid from a special revenue fund out of  
5 collections made by the Board of Barbers and Cosmetologists as provided by law.

*274 - Hospital Finance Authority –*

*Hospital Finance Authority Fund*

(WV Code Chapter 16)

Fund 5475 FY 2020 Org 0509

1	Personal Services and Employee Benefits.....	00100	\$	93,261
2	Unclassified .....	09900		1,450
3	Current Expenses .....	13000		<u>55,397</u>
4	Total .....		\$	150,108

5           The total amount of these appropriations shall be paid from the special revenue fund out  
6 of fees and collections as provided by Article 29A, Chapter 16 of the Code.

*275 - WV State Board of Examiners for Licensed Practical Nurses –*

*Licensed Practical Nurses*

(WV Code Chapter 30)

Fund 8517 FY 2020 Org 0906

1	Personal Services and Employee Benefits.....	00100	\$	495,505
2	Current Expenses .....	13000		<u>107,700</u>
3	Total .....		\$	603,205

*276 - WV Board of Examiners for Registered Professional Nurses –*

*Registered Professional Nurses*

(WV Code Chapter 30)

Fund 8520 FY 2020 Org 0907

1	Personal Services and Employee Benefits.....	00100	\$	1,300,612
2	Current Expenses .....	13000		312,655
3	Repairs and Alterations.....	06400		3,000
4	Equipment.....	07000		25,000
5	Other Assets .....	69000		<u>4,500</u>
6	Total.....		\$	1,645,767

*277 - Public Service Commission*

(WV Code Chapter 24)

Fund 8623 FY 2020 Org 0926

1	Personal Services and Employee Benefits.....	00100	\$	12,481,921
2	Unclassified .....	09900		147,643
3	Current Expenses .....	13000		2,572,202
4	Repairs and Alterations.....	06400		55,000
5	Equipment.....	07000		160,000
6	Buildings .....	25800		10
7	PSC Weight Enforcement .....	34500		4,605,652
8	Debt Payment/Capital Outlay .....	52000		350,000
9	Land .....	73000		10
10	BRIM Premium.....	91300		<u>172,216</u>
11	Total.....		\$	20,544,654

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

14 The Public Service Commission is authorized to transfer up to \$500,000 from this fund to  
 15 meet the expected deficiencies in the Motor Carrier Division (fund 8625, org 0926) due to the  
 16 amendment and reenactment of W.Va. Code §24A-3-1 by Enrolled House Bill Number 2715,  
 17 Regular Session, 1997.

*278 - Public Service Commission –*

*Gas Pipeline Division –**Public Service Commission Pipeline Safety Fund*

(WV Code Chapter 24B)

Fund 8624 FY 2020 Org 0926

1	Personal Services and Employee Benefits.....	00100	\$	294,658
2	Unclassified .....	09900		3,851
3	Current Expenses .....	13000		93,115
4	Repairs and Alterations.....	06400		<u>4,000</u>
5	Total.....		\$	395,624

6 The total amount of these appropriations shall be paid from a special revenue fund out of  
7 receipts collected for or by the Public Service Commission pursuant to and in the exercise of  
8 regulatory authority over pipeline companies as provided by law.

*279 - Public Service Commission –**Motor Carrier Division*

(WV Code Chapter 24A)

Fund 8625 FY 2020 Org 0926

1	Personal Services and Employee Benefits.....	00100	\$	2,377,514
2	Unclassified .....	09900		29,233
3	Current Expenses .....	13000		577,557
4	Repairs and Alterations.....	06400		23,000
5	Equipment.....	07000		<u>50,000</u>
6	Total.....		\$	3,057,304

7 The total amount of these appropriations shall be paid from a special revenue fund out of  
8 receipts collected for or by the Public Service Commission pursuant to and in the exercise of  
9 regulatory authority over motor carriers as provided by law.

*280 - Public Service Commission –**Consumer Advocate Fund*

(WV Code Chapter 24)

Fund 8627 FY 2020 Org 0926

1	Personal Services and Employee Benefits.....	00100	\$	772,994
2	Current Expenses .....	13000		276,472
3	Equipment.....	07000		9,872
4	BRIM Premium.....	91300		<u>4,660</u>
5	Total.....		\$	1,063,998

6 The total amount of these appropriations shall be supported by cash from a special  
7 revenue fund out of collections made by the Public Service Commission.

*281 - Real Estate Commission –*

*Real Estate License Fund*

(WV Code Chapter 30)

Fund 8635 FY 2020 Org 0927

1	Personal Services and Employee Benefits.....	00100	\$	607,098
2	Current Expenses .....	13000		293,122
3	Repairs and Alterations.....	06400		2,500
4	Equipment.....	07000		<u>5,000</u>
5	Total.....		\$	907,720

6 The total amount of these appropriations shall be paid out of collections of license fees as  
7 provided by law.

*282 - WV Board of Examiners for Speech-Language*

*Pathology and Audiology –*

*Speech-Language Pathology and Audiology Operating Fund*

(WV Code Chapter 30)

Fund 8646 FY 2020 Org 0930

1	Personal Services and Employee Benefits.....	00100	\$	80,251
2	Current Expenses .....	13000		<u>63,499</u>
3	Total.....		\$	143,750

## 283 - WV Board of Respiratory Care –

*Board of Respiratory Care Fund*

(WV Code Chapter 30)

Fund 8676 FY 2020 Org 0935

1	Personal Services and Employee Benefits.....	00100	\$	95,160
2	Current Expenses .....	13000		53,027
3	Repairs and Alterations.....	06400		<u>400</u>
4	Total.....		\$	148,587

## 284 - WV Board of Licensed Dietitians –

*Dietitians Licensure Board Fund*

(WV Code Chapter 30)

Fund 8680 FY 2020 Org 0936

1	Personal Services and Employee Benefits.....	00100	\$	20,219
2	Current Expenses .....	13000		<u>20,250</u>
3	Total.....		\$	40,469

## 285 - Massage Therapy Licensure Board –

*Massage Therapist Board Fund*

(WV Code Chapter 30)

Fund 8671 FY 2020 Org 0938

1	Personal Services and Employee Benefits.....	00100	\$	109,355
2	Current Expenses .....	13000		<u>42,648</u>
3	Total.....		\$	152,003

## 286 - Board of Medicine –

*Medical Licensing Board Fund*

(WV Code Chapter 30)

Fund 9070 FY 2020 Org 0945

1	Personal Services and Employee Benefits.....	00100	\$	1,378,807
2	Current Expenses .....	13000		1,108,789
3	Repairs and Alterations.....	06400		<u>8,000</u>
4	Total .....		\$	2,495,596

*287 - West Virginia Enterprise Resource Planning Board –*

*Enterprise Resource Planning System Fund*

(WV Code Chapter 12)

Fund 9080 FY 2020 Org 0947

1	Personal Services and Employee Benefits.....	00100	\$	6,856,239
2	Unclassified .....	09900		232,000
3	Current Expenses .....	13000		15,640,134
4	Repairs and Alterations.....	06400		300
5	Equipment.....	07000		2,213,000
6	Buildings .....	25800		2,000
7	Other Assets .....	69000		<u>199,500</u>
8	Total .....		\$	25,143,173

*288 - Board of Treasury Investments –*

*Board of Treasury Investments Fee Fund*

(WV Code Chapter 12)

Fund 9152 FY 2020 Org 0950

1	Personal Services and Employee Benefits.....	00100	\$	782,889
2	Unclassified .....	09900		14,850
3	Current Expenses .....	13000		650,714
4	BRIM Premium.....	91300		36,547
5	Fees of Custodians, Fund Advisors and Fund Managers .....	93800		<u>3,500,000</u>
6	Total .....		\$	4,985,000

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

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

13 Total TITLE II, Section 3 – Other Funds

14       (Including claims against the state)..... \$ 1,525,022,363

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

5           After first satisfying the requirements for Fund 2252, Fund 3963, and Fund 4908 pursuant  
 6 to W.Va. Code §29-22-18, the Director of the Lottery shall make available from the remaining net  
 7 profits of the lottery any amounts needed to pay debt service for which an appropriation is made  
 8 for Fund 9065, Fund 4297, Fund 3390, Fund 3514, Fund 9067, and Fund 9068 and is authorized  
 9 to transfer any such amounts to Fund 9065, Fund 4297, Fund 3390, Fund 3514, Fund 9067, and  
 10 Fund 9068 for that purpose. Upon receipt of reimbursement of amounts so transferred, the  
 11 Director of the Lottery shall deposit the reimbursement amounts to the following accounts as  
 12 required by this section.

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

*Debt Service Fund*

(WV Code Chapter 5)

Fund 2252 FY 2020 Org 0211

	<b>Appro-</b>		<b>Lottery</b>
	<b>priation</b>		<b>Funds</b>
1 Debt Service – Total .....	31000	\$	10,000,000

*290 - West Virginia Development Office –*

*West Virginia Tourism Office*

(WV Code Chapter 5B)

Fund 3067 FY 2020 Org 0304

1 Tourism – Telemarketing Center .....	46300	\$	82,080
2 Tourism – Advertising (R) .....	61800		2,422,407



3	Tourism – Operations (R).....	66200	<u>4,227,938</u>
4	Total.....		\$ 6,732,425

5 Any unexpended balances remaining in the appropriations for Tourism – Advertising (fund  
6 3067, appropriation 61800), and Tourism – Operations (fund 3067, appropriation 66200) at the  
7 close of the fiscal year 2019 are hereby reappropriated for expenditure during the fiscal year 2020.

*291 - Division of Natural Resources*

(WV Code Chapter 20)

Fund 3267 FY 2020 Org 0310

1	Personal Services and Employee Benefits.....	00100	\$ 2,428,178
2	Current Expenses .....	13000	26,900
3	Pricketts Fort State Park .....	32400	106,560
4	Non-Game Wildlife (R).....	52700	386,935
5	State Parks and Recreation Advertising (R).....	61900	<u>494,578</u>
6	Total.....		\$ 3,443,151

7 Any unexpended balances remaining in the appropriations for Unclassified (fund 3267,  
8 appropriation 09900), Capital Outlay – Parks (fund 3267, appropriation 28800), Non-Game  
9 Wildlife (fund 3267, appropriation 52700), and State Parks and Recreation Advertising (fund 3267,  
10 appropriation 61900) at the close of the fiscal year 2019 are hereby reappropriated for expenditure  
11 during the fiscal year 2020.

*292 - State Board of Education*

(WV Code Chapters 18 and 18A)

Fund 3951 FY 2020 Org 0402

1	FBI Checks .....	37200	\$ 116,548
2	Vocational Education Equipment Replacement.....	39300	800,000
3	Assessment Program (R).....	39600	3,016,444
4	Literacy Project .....	89900	350,000
5	21 <sup>st</sup> Century Technology Infrastructure		
6	Network Tools and Support (R).....	93300	<u>14,600,383</u>
7	Total.....		\$ 18,883,375

8 Any unexpended balances remaining in the appropriations for Unclassified (fund 3951,  
 9 appropriation 09900), Current Expenses (fund 3951, appropriation 13000), Assessment Program  
 10 (fund 3951, appropriation 39600), and 21<sup>st</sup> Century Technology Infrastructure Network Tools and  
 11 Support (fund 3951, appropriation 93300) at the close of the fiscal year 2019 are hereby  
 12 reappropriated for expenditure during the fiscal year 2020.

*293 - State Department of Education –*

*School Building Authority –*

*Debt Service Fund*

(WV Code Chapter 18)

Fund 3963 FY 2020 Org 0402

1	Debt Service – Total .....	31000	\$	15,320,363
2	Directed Transfer .....	70000		<u>2,679,637</u>
3	Total .....		\$	18,000,000

4 The School Building Authority shall have the authority to transfer between the above  
 5 appropriations in accordance with W.Va. Code §29-22-18.

*294 - Division of Culture and History –*

*Lottery Education Fund*

(WV Code Chapter 29)

Fund 3534 FY 2020 Org 0432

1	Huntington Symphony.....	02700	\$	59,058
2	Preservation WV (R) .....	09200		491,921
3	Fairs and Festivals (R) .....	12200		1,346,814
4	Commission for National and Community Service.....	19300		374,980
5	Archeological Curation/Capital Improvements (R).....	24600		36,276
6	Historic Preservation Grants (R) .....	31100		368,428
7	West Virginia Public Theater .....	31200		120,019
8	Greenbrier Valley Theater .....	42300		115,000
9	Theater Arts of West Virginia .....	46400		90,000
10	Marshall Artists Series .....	51800		36,005

11	Grants for Competitive Arts Program (R).....	62400	726,000
12	West Virginia State Fair .....	65700	31,241
13	Save the Music .....	68000	24,000
14	Contemporary American Theater Festival .....	81100	57,281
15	Independence Hall .....	81200	27,277
16	Mountain State Forest Festival.....	86400	38,187
17	WV Symphony .....	90700	59,058
18	Wheeling Symphony .....	90800	59,058
19	Appalachian Children's Chorus .....	91600	<u>54,554</u>
20	Total.....		\$ 4,115,157

21 From the above appropriation for Preservation West Virginia (fund 3534, appropriation  
22 09200) funding shall be provided to the African-American Heritage Family Tree Museum (Fayette)  
23 \$2,673, Aracoma Story (Logan) \$29,703, Arts Monongahela (Monongalia) \$11,881, Barbour  
24 County Arts and Humanities Council \$891, Beckley Main Street (Raleigh) \$2,970, Buffalo Creek  
25 Memorial (Logan) \$2,970, Carnegie Hall (Greenbrier) \$46,899, Ceredo Historical Society  
26 (Wayne) \$1,188, Ceredo Kenova Railroad Museum (Wayne) \$1,188, Ceredo Museum (Wayne)  
27 \$720, Children's Theatre of Charleston (Kanawha) \$3,127, Chuck Mathena Center (Mercer)  
28 \$62,532, Collis P. Huntington Railroad Historical Society (Cabell) \$5,941, Country Music Hall of  
29 Fame and Museum (Marion) \$4,159, First Stage Children's Theater Company \$1,188, Flannigan  
30 Murrell House (Summers) \$3,781, Fort Ashby Fort (Mineral) \$891, Fort New Salem (Harrison)  
31 \$2,198, Fort Randolph (Mason) \$2,970, General Adam Stephen Memorial Foundation (Berkeley)  
32 \$11,006, Grafton Mother's Day Shrine Committee (Taylor) \$5,049, Hardy County Tour and Crafts  
33 Association \$11,881, Heartwood in the Hills (Calhoun) \$5,040, Heritage Farm Museum & Village  
34 (Cabell) \$29,703, Historic Fayette Theater (Fayette) \$3,267, Historic Middleway Conservancy  
35 (Jefferson) \$594, Jefferson County Black History Preservation Society \$2,970, Jefferson County  
36 Historical Landmark Commission \$4,753, Maddie Carroll House (Cabell) \$4,455, Marshall  
37 County Historical Society \$5,049, McCoy Theater (Hardy) \$11,881, Morgantown Theater  
38 Company (Monongalia) \$11,881, Mountaineer Boys' State (Lewis) \$5,941, Nicholas Old Main  
39 Foundation (Nicholas) \$1,188, Norman Dillon Farm Museum (Berkeley) \$5,941, Old Opera  
40 House Theater Company (Jefferson) \$8,911, Parkersburg Arts Center (Wood) \$11,881,  
41 Pocahontas Historic Opera House \$3,564, Raleigh County All Wars Museum \$5,941,  
42 Rhododendron Girl's State (Ohio) \$5,941, Roane County 4-H and FFA Youth Livestock Program  
43 \$2,970, Scottish Heritage Society/N. Central WV (Harrison) \$2,970, Society for the Preservation  
44 of McGrew House (Preston) \$2,079, Southern West Virginia Veterans' Museum \$3,393,  
45 Summers County Historic Landmark Commission \$2,970, Those Who Served War Museum  
46 (Mercer) \$2,376, Three Rivers Avian Center (Summers) \$5,311, Tug Valley Arts Council (Mingo)  
47 \$2,970, Tug Valley Chamber of Commerce Coal House (Mingo) \$1,188, Tunnelton Historical  
48 Society (Preston) \$1,188, Veterans Committee for Civic Improvement of Huntington (Wayne)  
49 \$2,970, West Virginia Museum of Glass (Lewis) \$2,970, West Virginia Music Hall of Fame  
50 (Kanawha) \$20,792, YMCA Camp Horseshoe (Tucker) \$59,406, Youth Museum of Southern  
51 West Virginia (Raleigh) \$7,129, Z.D. Ramsdell House (Wayne) \$720.

52 From the above appropriation for Fairs and Festivals (fund 3534, appropriation  
53 12200) funding shall be provided to the A Princeton 4th (Mercer) \$1,800, African-American  
54 Cultural Heritage Festival (Jefferson) \$2,970, Alderson 4th of July Celebration (Greenbrier)  
55 \$2,970, Allegheny Echo (Pocahontas) \$4,456, Alpine Festival/Leaf Peepers Festival (Tucker)  
56 \$6,683, American Civil War (Grant) \$3,127, American Legion Post 8 Veterans Day Parade  
57 (McDowell) \$1,250, Angus Beef and Cattle Show (Lewis) \$891, Annual Birch River Days  
58 (Nicholas) \$1,296, Annual Don Redman Heritage Concert & Awards (Jefferson) \$938, Annual  
59 Ruddle Park Jamboree (Pendleton) \$4,690, Antique Market Fair (Lewis) \$1,188, Apollo Theater-  
60 Summer Program (Berkeley) \$1,188, Apple Butter Festival (Morgan) \$3,564, Arkansas  
61 Homemaker's Heritage Weekend (Hardy) \$2,079, Armed Forces Day-South Charleston  
62 (Kanawha) \$1,782, Arthurdale Heritage New Deal Festival (Preston) \$2,970, Athens Town Fair  
63 (Mercer) \$1,188, Augusta Fair (Randolph) \$2,970, Autumn Harvest Fest (Monroe) \$2,448,  
64 Barbour County Fair \$14,851, Barboursville Octoberfest (Cabell) \$2,970, Bass Festival  
65 (Pleasants) \$1,099, Battelle District Fair (Monongalia) \$2,970, Battle of Dry Creek (Greenbrier)  
66 \$891, Battle of Point Pleasant Memorial Committee (Mason) \$2,970, Belle Town Fair (Kanawha)  
67 \$2,673, Belleville Homecoming (Wood) \$11,881, Bergoo Down Home Days (Webster) \$1,485,  
68 Berkeley County Youth Fair \$10,990, Black Bear 4K Mountain Bike Race (Kanawha) \$684, Black  
69 Heritage Festival (Harrison) \$3,564, Black Walnut Festival (Roane) \$5,940, Blast from the Past  
70 (Upshur) \$1,440, Blue-Gray Reunion (Barbour) \$2,079, Boone County Fair \$5,940, Boone  
71 County Labor Day Celebration \$2,376, Bradshaw Fall Festival (McDowell) \$1,188, Brandonville  
72 Heritage Day (Preston) \$1,048, Braxton County Fair \$6,832, Braxton County Monster Fest /  
73 West Virginia Autumn Festival \$1,485, Brooke County Fair \$2,079, Bruceton Mills Good  
74 Neighbor Days (Preston) \$1,188, Buckwheat Festival (Preston) \$5,050, Buffalo 4th of July  
75 Celebration (Putnam) \$400, Buffalo October Fest (Putnam) \$3,240, Burlington Apple Harvest  
76 Festival (Mineral) \$17,821, Burlington Pumpkin Harvest Festival (Raleigh) \$2,970, Burnsville  
77 Harvest Festival (Braxton) \$1,407, Cabell County Fair \$5,940, Calhoun County Wood Festival  
78 \$1,188, Campbell's Creek Community Fair (Kanawha) \$1,485, Cape Coalwood Festival  
79 Association (McDowell) \$1,485, Capon Bridge Founders Day Festival (Hampshire) \$1,188,  
80 Capon Springs Ruritan 4th of July (Hampshire) \$684, Cass Homecoming (Pocahontas) \$1,188,  
81 Cedarville Town Festival (Gilmer) \$684, Celebration in the Park (Wood) \$2,376, Celebration of  
82 America (Monongalia) \$3,564, Ceredo Freedom Festival (Wayne) \$700, Chapmanville Apple  
83 Butter Festival (Logan) \$684, Chapmanville Fire Department 4th of July (Logan) \$1,782, Charles  
84 Town Christmas Festival (Jefferson) \$2,970, Charles Town Heritage Festival (Jefferson) \$2,970,  
85 Cherry River Festival (Nicholas) \$3,861, Chester Fireworks (Hancock) \$891, Chester 4th of July  
86 Festivities (Hancock) \$2,970, Chief Logan State Park-Civil War Celebration (Logan) \$4,752,  
87 Chilifest West Virginia State Chili Championship (Cabell) \$1,563, Christmas In Our Town  
88 (Marion) \$3,127, Christmas in Shepherdstown (Jefferson) \$2,376, Christmas in the Park  
89 (Brooke) \$2,970, Christmas in the Park (Logan) \$14,851, City of Dunbar Critter Dinner  
90 (Kanawha) \$5,940, City of Logan Polar Express (Logan) \$4,456, City of New Martinsville Festival  
91 of Memories (Wetzel) \$6,534, Clay County Golden Delicious Apple Festival \$4,158, Clay District  
92 Fair (Monongalia) \$1,080, Coal Field Jamboree (Logan) \$20,792, Coalton Days Fair (Randolph)  
93 \$4,158, Country Roads Festival (Fayette) \$1,188, Cowen Railroad Festival (Webster) \$2,079,  
94 Craigsville Fall Festival (Nicholas) \$2,079, Cruise into Princeton (Mercer) \$2,160, Culturefest  
95 World Music & Arts Festival (Mercer) \$4,690, Delbarton Homecoming (Mingo) \$2,079, Doddridge  
96 County Fair \$4,158, Dorcas Ice Cream Social (Grant) \$3,564, Durbin Days (Pocahontas) \$2,970,  
97 Elbert/Filbert Reunion Festival (McDowell) \$891, Elkins Randolph County 4th of July Car Show  
98 (Randolph) \$1,188, Fairview 4th of July Celebration (Marion) \$684, Farm Safety Day (Preston)  
99 \$1,188, Farmer's Day Festival (Monroe) \$2,330, Farmers' Day Parade (Wyoming) \$720,  
100 Fenwick Mountain Old Time Community Festival (Nicholas) \$2,880, FestivALL Charleston  
101 (Kanawha) \$11,881, Flatwoods Days (Braxton) \$700, Flemington Day Fair and Festival (Taylor)  
102 \$2,079, Follansbee Community Days (Brooke) \$4,900, Fort Gay Mountain Heritage Days

103 (Wayne) \$2,970, Fort Henry Days (Ohio) \$3,148, Fort Henry Living History (Ohio) \$1,563, Fort  
104 New Salem Spirit of Christmas Festival (Harrison) \$2,432, Frankford Autumnfest (Greenbrier)  
105 \$2,970, Franklin Fishing Derby (Pendleton) \$4,456, Freshwater Folk Festival (Greenbrier)  
106 \$2,970, Friends Auxiliary of W.R. Sharpe Hospital (Lewis) \$2,970, Frontier Days (Harrison)  
107 \$1,782, Frontier Fest/Canaan Valley (Taylor) \$1,500, Fund for the Arts-Wine & All that Jazz  
108 Festival (Kanawha) \$1,485, Gassaway Days Celebration (Braxton) \$2,970, Gilbert Elementary  
109 Fall Blast (Mingo) \$2,188, Gilbert Kiwanis Harvest Festival (Mingo) \$2,376, Gilbert Spring Fling  
110 (Mingo) \$3,595, Gilmer County Farm Show \$2,376, Grant County Arts Council \$1,188, Grape  
111 Stomping Wine Festival (Nicholas) \$1,188, Great Greenbrier River Race (Pocahontas) \$5,940,  
112 Greater Quinwood Days (Greenbrier) \$781, Guyandotte Civil War Days (Cabell) \$5,941, Hamlin  
113 4th of July Celebration (Lincoln) \$2,970, Hampshire Civil War Celebration Days (Hampshire)  
114 \$684, Hampshire County 4th of July Celebration \$11,881, Hampshire County Fair \$5,002,  
115 Hampshire Heritage Days (Hampshire) \$2,376, Hancock County Oldtime Fair \$2,970, Hardy  
116 County Commission - 4th of July \$5,940, Hatfield McCoy Matewan Reunion Festival (Mingo)  
117 \$12,330, Hatfield McCoy Trail National ATV and Dirt Bike Weekend (Wyoming) \$2,970, Heat'n  
118 the Hills Chilifest (Lincoln) \$2,970, Heritage Craft Festival (Monroe) \$1,044, Heritage Days  
119 Festival (Roane) \$891, Hilltop Festival (Cabell) \$684, Hilltop Festival of Lights (McDowell)  
120 \$1,188, Hinton Railroad Days (Summers) \$4,347, Holly River Festival (Webster) \$891,  
121 Hometown Mountain Heritage Festival (Fayette) \$2,432, Hundred 4th of July (Wetzel) \$4,307,  
122 Hundred American Legion Earl Kiger Post Bluegrass Festival (Wetzel) \$1,188, Hurricane 4th of  
123 July Celebration (Putnam) \$2,970, Jaeger Town Fair (McDowell) \$891, Irish Heritage Festival of  
124 West Virginia (Raleigh) \$2,970, Irish Spring Festival (Lewis) \$684, Italian Heritage Festival-  
125 Clarksburg (Harrison) \$17,821, Jackson County Fair \$2,970, Jamboree (Pocahontas) \$2,970,  
126 Jane Lew Arts and Crafts Fair (Lewis) \$684, Jefferson County Fair Association \$14,851, Jersey  
127 Mountain Ruritan Pioneer Days (Hampshire) \$684, John Henry Days Festival (Monroe) \$4,698,  
128 Johnnie Johnson Blues and Jazz Festival (Marion) \$2,970, Johnstown Community Fair (Harrison)  
129 \$1,485, Junior Heifer Preview Show (Lewis) \$1,188, Kanawha Coal Riverfest-St. Albans 4th of  
130 July Festival (Kanawha) \$2,970, Keeper of the Mountains-Kayford (Kanawha) \$1,485, Kenova  
131 Autumn Festival (Wayne) \$4,377, Kermit Fall Festival (Mingo) \$1,782, Keystone Reunion Gala  
132 (McDowell) \$1,563, King Coal Festival (Mingo) \$2,970, Kingwood Downtown Street Fair and  
133 Heritage Days (Preston) \$1,188, L.Z. Rainelle West Virginia Veterans Reunion (Greenbrier)  
134 \$2,970, Lady of Agriculture (Preston) \$684, Larry Joe Harless Center Octoberfest Hatfield McCoy  
135 Trail (Mingo) \$5,940, Larry Joe Harless Community Center Spring Middle School Event (Mingo)  
136 \$2,970, Last Blast of Summer (McDowell) \$2,970, Lewis County Fair Association \$2,079,  
137 Lewisburg Shanghai (Greenbrier) \$1,188, Lincoln County Fall Festival \$4,752, Lincoln County  
138 Winterfest \$2,970, Lindsie Veterans' Day Parade (Monroe) \$720, Little Levels Heritage Festival  
139 (Pocahontas) \$1,188, Lost Creek Community Festival (Harrison) \$4,158, Main Street Arts  
140 Festival (Upshur) \$3,127, Main Street Martinsburg Chocolate Fest and Book Fair (Berkeley)  
141 \$2,813, Mannington District Fair (Marion) \$3,564, Maple Syrup Festival (Randolph) \$684, Marion  
142 County FFA Farm Fest \$1,485, Marmet Labor Day Celebration (Kanawha) \$3,078, Marshall  
143 County Antique Power Show \$1,485, Marshall County Fair \$4,456, Mason County Fair \$2,970,  
144 Mason Dixon Festival (Monongalia) \$4,158, Matewan Massacre Reenactment (Mingo) \$5,004,  
145 Matewan-Magnolia Fair (Mingo) \$15,932, McARTS-McDowell County \$11,881, McDowell  
146 County Fair \$1,485, McGrew House History Day (Preston) \$1,188, McNeill's Rangers (Mineral)  
147 \$4,752, Meadow Bridge Hometown Festival (Fayette) \$743, Meadow River Days Festival  
148 (Greenbrier) \$1,782, Mercer Bluestone Valley Fair (Mercer) \$1,188, Mercer County Fair \$1,188,  
149 Mercer County Heritage Festival \$3,474, Mid Ohio Valley Antique Engine Festival (Wood)  
150 \$1,782, Milton Christmas in the Park (Cabell) \$1,485, Milton 4th of July Celebration (Cabell)  
151 \$1,485, Mineral County Fair \$1,040, Mineral County Veterans Day Parade \$891, Molasses  
152 Festival (Calhoun) \$1,188, Monongahfest (Marion) \$3,752, Moon Over Mountwood Fishing  
153 Festival (Wood) \$1,782, Morgan County Fair-History Wagon \$891, Moundsville Bass Festival

154 (Marshall) \$2,376, Moundsville July 4th Celebration (Marshall) \$2,970, Mount Liberty Fall  
155 Festival (Barbour) \$1,485, Mountain Fest (Monongalia) \$11,881, Mountain Festival (Mercer)  
156 \$2,747, Mountain Heritage Arts and Crafts Festival (Jefferson) \$2,970, Mountain Music Festival  
157 (McDowell) \$1,485, Mountain State Apple Harvest Festival (Berkeley) \$4,456, Mountain State  
158 Arts & Crafts Fair Cedar Lakes (Jackson) \$26,732, Mountaineer Hot Air Balloon Festival  
159 (Monongalia) \$2,376, Mullens Dogwood Festival (Wyoming) \$4,158, Multi-Cultural Festival of  
160 West Virginia (Kanawha) \$11,881, Music and Barbecue - Banks District VFD (Upshur) \$1,278,  
161 New Cumberland Christmas Parade (Hancock) \$1,782, New Cumberland 4th of July (Hancock)  
162 \$2,970, New River Bridge Day Festival (Fayette) \$23,762, Newburg Volunteer Fireman's Field  
163 Day (Preston) \$684, Nicholas County Fair \$2,970, Nicholas County Potato Festival \$2,079, Oak  
164 Leaf Festival (Fayette) \$6,253, Oceana Heritage Festival (Wyoming) \$3,564, Oglebay City Park  
165 - Festival of Lights (Ohio) \$47,524, Oglebay Festival (Ohio) \$5,940, Ohio County Country Fair  
166 \$5,346, Ohio River Fest (Jackson) \$4,320, Ohio Valley Beef Association (Wood) \$1,485, Ohio  
167 Valley Black Heritage Festival (Ohio) \$3,267, Old Central City Fair (Cabell) \$2,970, Old Century  
168 City Fair (Barbour) \$1,250, Old Tyme Christmas (Jefferson) \$1,425, Paden City Labor Day  
169 Festival (Wetzel) \$3,861, Parkersburg Homecoming (Wood) \$8,754, Patty Fest (Monongalia)  
170 \$1,188, Paw Paw District Fair (Marion) \$2,079, Pax Reunion Committee (Fayette) \$2,970,  
171 Pendleton County 4-H Weekend \$1,188, Pendleton County Committee for Arts \$8,910,  
172 Pendleton County Fair \$6,253, Pennsboro Country Road Festival (Ritchie) \$1,188, Petersburg  
173 4th of July Celebration (Grant) \$11,881, Petersburg HS Celebration (Grant) \$5,940, Piedmont-  
174 Annual Back Street Festival (Mineral) \$2,376, Pinch Reunion (Kanawha) \$891, Pine Bluff Fall  
175 Festival (Harrison) \$2,376, Pine Grove 4th of July Festival (Wetzel) \$4,158, Pineville Festival  
176 (Wyoming) \$3,564, Pleasants County Agriculture Youth Fair \$2,970, Poca Heritage Days  
177 (Putnam) \$1,782, Pocahontas County Pioneer Days \$4,159, Point Pleasant Stern Wheel  
178 Regatta (Mason) \$2,970, Pratt Fall Festival (Kanawha) \$1,485, Princeton Autumnfest (Mercer)  
179 \$1,563, Princeton Street Fair (Mercer) \$2,970, Putnam County Fair \$2,970, Quartets on Parade  
180 (Hardy) \$2,376, Rainelle Fall Festival (Greenbrier) \$3,127, Rand Community Center Festival  
181 (Kanawha) \$1,485, Randolph County Community Arts Council \$1,782, Randolph County Fair  
182 \$4,158, Randolph County Ramp and Rails \$1,188, Ranson Christmas Festival (Jefferson)  
183 \$2,970, Ranson Festival (Jefferson) \$2,970, Renick Liberty Festival (Greenbrier) \$684, Ripley  
184 4th of July (Jackson) \$8,910, Ritchie County Fair and Exposition \$2,970, Ritchie County Pioneer  
185 Days \$684, River City Festival (Preston) \$684, Roane County Agriculture Field Day \$1,782,  
186 Rock the Park (Kanawha) \$3,240, Rocket Boys Festival (Raleigh) \$1,710, Romney Heritage  
187 Days (Hampshire) \$1,876, Ronceverte River Festival (Greenbrier) \$2,970, Rowlesburg Labor  
188 Day Festival (Preston) \$684, Rupert Country Fling (Greenbrier) \$1,876, Saint Spyridon Greek  
189 Festival (Harrison) \$1,485, Salem Apple Butter Festival (Harrison) \$2,376, Sistersville 4th of July  
190 (Tyler) \$3,267, Skirmish on the River (Mingo) \$1,250, Smoke on the Water (Wetzel) \$1,782,  
191 South Charleston Summerfest (Kanawha) \$5,940, Southern Wayne County Fall Festival \$684,  
192 Spirit of Grafton Celebration (Taylor) \$5,940, Springfield Peach Festival (Hampshire) \$738, St.  
193 Albans City of Lights - December (Kanawha) \$2,970, Sternwheel Festival (Wood) \$1,782, Stoco  
194 Reunion (Raleigh) \$1,485, Stonewall Jackson Heritage Arts & Crafts Jubilee (Lewis) \$6,534,  
195 Stonewall Jackson's Roundhouse Raid (Berkeley) \$7,200, Storytelling Festival (Lewis) \$400,  
196 Strawberry Festival (Upshur) \$17,821, Sylvester Big Coal River Festival (Boone) \$1,944, Tacy  
197 Fair (Barbour) \$684, Taste of Parkersburg (Wood) \$2,970, Taylor County Fair \$3,267, Terra  
198 Alta VFD 4th of July Celebration (Preston) \$684, The Gathering at Sweet Creek (Wood) \$1,782,  
199 Three Rivers Coal Festival (Marion) \$4,604, Thunder on the Tygart - Mothers' Day Celebration  
200 (Taylor) \$7,000, Town of Delbarton 4th of July Celebration (Mingo) \$1,782, Town of Fayetteville  
201 Heritage Festival (Fayette) \$4,456, Town of Matoaka Hog Roast (Mercer) \$684, Town of  
202 Rivesville 4th of July Festival (Marion) \$3,127, Town of Winfield - Putnam County Homecoming  
203 \$3,240, St. Albans Train Fest (Kanawha) \$6,120, Treasure Mountain Festival (Pendleton)  
204 \$14,851, Tri-County Fair (Grant) \$22,548, Tucker County Arts Festival and Celebration \$10,692,

205 Tucker County Fair \$2,821, Tucker County Health Fair \$1,188, Tunnelton Depot Days (Preston)  
 206 \$684, Tunnelton Volunteer Fire Department Festival (Preston) \$684, Turkey Festival (Hardy)  
 207 \$1,782, Tyler County Fair \$3,088, Tyler County 4th of July \$400, Tyler County OctoberFest  
 208 \$720, Union Community Irish Festival (Barbour) \$648, Uniquely West Virginia Festival (Morgan)  
 209 \$1,188, Upper Kanawha Valley Oktoberfest (Kanawha) \$1,485, Upper Ohio Valley Italian Festival  
 210 (Ohio) \$7,128, Upshur County Youth Livestock Show \$1,440, Valley District Fair (Preston)  
 211 \$2,079, Veterans Welcome Home Celebration (Cabell) \$938, Vietnam Veterans of America #  
 212 949 Christmas Party (Cabell) \$684, Volcano Days at Mountwood Park (Wood) \$2,970, War  
 213 Homecoming Fall Festival (McDowell) \$891, Wardensville Fall Festival (Hardy) \$2,970, Wayne  
 214 County Fair \$2,970, Wayne County Fall Festival \$2,970, Webster County Fair \$3,600, Webster  
 215 County Wood Chopping Festival \$8,910, Webster Wild Water Weekend (Webster) \$1,188,  
 216 Weirton July 4th Celebration (Hancock) \$11,881, Welcome Home Family Day (Wayne) \$1,900,  
 217 Wellsburg 4th of July Celebration (Brooke) \$4,456, Wellsburg Apple Festival of Brooke County  
 218 \$2,970, West Virginia Blackberry Festival (Harrison) \$2,970, West Virginia Chestnut Festival  
 219 (Preston) \$684, West Virginia Coal Festival (Boone) \$5,940, West Virginia Coal Show (Mercer)  
 220 \$1,563, West Virginia Dairy Cattle Show (Lewis) \$5,940, West Virginia Dandelion Festival  
 221 (Greenbrier) \$2,970, West Virginia Day at the Railroad Museum (Mercer) \$1,800, West Virginia  
 222 Fair and Exposition (Wood) \$4,812, West Virginia Fireman’s Rodeo (Fayette) \$1,485, West  
 223 Virginia Oil and Gas Festival (Tyler) \$6,534, West Virginia Peach Festival (Hampshire) \$3,240,  
 224 West Virginia Polled Hereford Association (Braxton) \$891, West Virginia Poultry Festival (Hardy)  
 225 \$2,970, West Virginia Pumpkin Festival (Cabell) \$5,940, West Virginia State Folk Festival  
 226 (Gilmer) \$2,970, West Virginia Water Festival - City of Hinton (Summers) \$9,144, Weston VFD  
 227 4th of July Firemen Festival (Lewis) \$1,188, Wetzel County Autumnfest \$3,267, Wetzel County  
 228 Town and Country Days \$10,098, Wheeling Celtic Festival (Ohio) \$1,166, Wheeling City of  
 229 Lights (Ohio) \$4,752, Wheeling Sternwheel Regatta (Ohio) \$5,940, Wheeling Vintage Raceboat  
 230 Regatta (Ohio) \$11,881, Whipple Community Action (Fayette) \$1,485, Wileyville Homecoming  
 231 (Wetzel) \$2,376, Wine Festival and Mountain Music Event (Harrison) \$2,970, Winter Festival of  
 232 the Waters (Berkeley) \$2,970, Wirt County Fair \$1,485, Wirt County Pioneer Days \$1,188,  
 233 Wyoming County Civil War Days \$1,296, Youth Stockman Beef Expo (Lewis) \$1,188,

234 Any unexpended balances remaining in the appropriations for Preservation West Virginia  
 235 (fund 3534, appropriation 09200), Fairs and Festivals (fund 3534, appropriation 12200),  
 236 Archeological Curation/Capital Improvements (fund 3534, appropriation 24600), Historic  
 237 Preservation Grants (fund 3534, appropriation 31100), Grants for Competitive Arts Program (fund  
 238 3534, appropriation 62400), and Project ACCESS (fund 3534, appropriation 86500) at the close  
 239 of the fiscal year 2019 are hereby reappropriated for expenditure during the fiscal year 2020.

240 Any Fairs & Festivals awards shall be funded in addition to, and not in lieu of, individual  
 241 grant allocations derived from the Arts Council and the Cultural Grant Program allocations.

*295 - Library Commission –*

*Lottery Education Fund*

(WV Code Chapter 10)

Fund 3559 FY 2020 Org 0433

1	Books and Films .....	17900	\$	360,784
2	Services to Libraries.....	18000		550,000

3	Grants to Public Libraries .....	18200	9,439,571
4	Digital Resources .....	30900	219,992
5	Infomine Network .....	88400	<u>943,353</u>
6	Total .....		\$ 11,513,700

7 Any unexpended balance remaining in the appropriation for Libraries – Special Projects  
8 (fund 3559, appropriation 62500) at the close of fiscal year 2019 is hereby reappropriated for  
9 expenditure during the fiscal year 2020.

*296 - Bureau of Senior Services –*

*Lottery Senior Citizens Fund*

(WV Code Chapter 29)

Fund 5405 FY 2020 Org 0508

1	Personal Services and Employee Benefits.....	00100	\$ 209,640
2	Current Expenses .....	13000	332,284
3	Repairs and Alterations.....	06400	1,000
4	Local Programs Service Delivery Costs .....	20000	2,435,250
5	Silver Haired Legislature .....	20200	18,500
6	Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens .....	53900	4,615,503
8	Roger Tompkins Alzheimer's Respite Care.....	64300	2,302,016
9	WV Alzheimer's Hotline.....	72400	45,000
10	Regional Aged and Disabled Resource Center .....	76700	425,000
11	Senior Services Medicaid Transfer.....	87100	16,400,070
12	Legislative Initiatives for the Elderly .....	90400	9,671,239
13	Long Term Care Ombudsman.....	90500	297,226
14	BRIM Premium.....	91300	7,718
15	In-Home Services and Nutrition for Senior Citizens.....	91700	<u>6,095,941</u>
16	Total.....		\$ 42,856,387



17 Any unexpended balance remaining in the appropriation for Senior Citizen Centers and  
 18 Programs (fund 5405, appropriation 46200) at the close of the fiscal year 2019 is hereby  
 19 reappropriated for expenditure during the fiscal year 2020.

20 Included in the above appropriation for Current Expenses (fund 5405, appropriation  
 21 13000), is funding to support an in-home direct care workforce registry.

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

*297 - Higher Education Policy Commission –*

*Lottery Education –*

*Higher Education Policy Commission –*

*Control Account*

(WV Code Chapters 18B and 18C)

Fund 4925 FY 2020 Org 0441

1	RHI Program and Site Support (R).....	03600	\$	1,912,491
2	RHI Program and Site Support –			
3	RHEP Program Administration .....	03700		146,653
4	RHI Program and Site Support – Grad Med			
5	Ed and Fiscal Oversight (R).....	03800		88,913
6	Minority Doctoral Fellowship (R) .....	16600		129,604
7	Health Sciences Scholarship (R).....	17600		225,527
8	Vice Chancellor for Health Sciences –			
9	Rural Health Residency Program (R) .....	60100		62,725
10	WV Engineering, Science, and			
11	Technology Scholarship Program.....	86800		<u>452,831</u>
12	Total.....		\$	3,018,744

13 Any unexpended balances remaining in the appropriations for RHI Program and Site  
 14 Support (fund 4925, appropriation 03600), RHI Program and Site Support – Grad Med Ed and  
 15 Fiscal Oversight (fund 4925, appropriation 03800), Minority Doctoral Fellowship (fund 4925,  
 16 appropriation 16600), Health Sciences Scholarship (fund 4925, appropriation 17600), and Vice  
 17 Chancellor for Health Sciences – Rural Health Residency Program (fund 4925, appropriation

18 60100) at the close of fiscal year 2019 are hereby reappropriated for expenditure during the fiscal  
19 year 2020.

20 The above appropriation for WV Engineering, Science, and Technology Scholarship  
21 Program (appropriation 86800) shall be transferred to the West Virginia Engineering, Science and  
22 Technology Scholarship Fund (fund 4928, org 0441) established by W.Va. Code §18C-6-1.

*298 - Community and Technical College –*

*Capital Improvement Fund*

(WV Code Chapter 18B)

Fund 4908 FY 2020 Org 0442

1	Debt Service – Total .....	31000	\$	5,000,000
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2 Any unexpended balance remaining in the appropriation for Capital Outlay and  
3 Improvements – Total (fund 4908, appropriation 84700) at the close of fiscal year 2019 is hereby  
4 reappropriated for expenditure during the fiscal year 2020.

*299 - Higher Education Policy Commission –*

*Lottery Education –*

*West Virginia University – School of Medicine*

(WV Code Chapter 18B)

Fund 4185 FY 2020 Org 0463

1 WVU Health Sciences –

2	RHI Program and Site Support (R) .....	03500	\$	1,181,728
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3 MA Public Health Program and

4	Health Science Technology (R) .....	62300		52,445
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5	Health Sciences Career Opportunities Program (R) .....	86900		336,987
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6	HSTA Program (R) .....	87000		1,761,948
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7	Center for Excellence in Disabilities (R) .....	96700		<u>313,517</u>
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8	Total .....		\$	3,646,625
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9 Any unexpended balances remaining in the appropriations for WVU Health Sciences –  
10 RHI Program and Site Support (fund 4185, appropriation 03500), MA Public Health Program and  
11 Health Science Technology (fund 4185, appropriation 62300), Health Sciences Career  
12 Opportunities Program (fund 4185, appropriation 86900), HSTA Program (fund 4185,  
13 appropriation 87000), and Center for Excellence in Disabilities (fund 4185, appropriation 96700)

14 at the close of fiscal year 2019 are hereby reappropriated for expenditure during the fiscal year  
 15 2020.

*300 - Higher Education Policy Commission –*

*Lottery Education –*

*Marshall University – School of Medicine*

(WV Code Chapter 18B)

Fund 4896 FY 2020 Org 0471

1 Marshall Medical School –

2 RHI Program and Site Support (R) ..... 03300 \$ 427,075

3 Vice Chancellor for Health Sciences –

4 Rural Health Residency Program (R) ..... 60100 171,361

5 Total ..... \$ 598,436

6 Any unexpended balances remaining in the appropriations for Marshall Medical School –  
 7 RHI Program and Site Support (fund 4896, appropriation 03300) and Vice Chancellor for Health  
 8 Sciences – Rural Health Residency Program (fund 4896, appropriation 60100) at the close of  
 9 fiscal year 2019 are hereby reappropriated for expenditure during the fiscal year 2020.

10 Total TITLE II, Section 4 – Lottery Revenue..... \$ 127,808,000

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

5 After first funding the appropriations required by W.Va. Code §29-22-18a, §29-22A-10d,  
 6 §29-22A-10e, §29-22C-27a and §29-25-22b, the Director of the Lottery shall provide funding from  
 7 the State Excess Lottery Revenue Fund for the remaining appropriations in this section to the  
 8 extent that funds are available. In the event that revenues to the State Excess Lottery Revenue  
 9 Fund are sufficient to meet all the appropriations required made pursuant to this section, then the  
 10 Director of the Lottery shall then provide the funds available for fund 5365, appropriation 18900.

*301 - Lottery Commission –*

*Refundable Credit*

Fund 7207 FY 2020 Org 0705

**Excess**  
**Lottery**

**Appro-**

	<b>apropriation</b>		<b>Funds</b>
1 Directed Transfer .....	70000	\$	10,000,000

2           The above appropriation shall be transferred to the General Revenue Fund to provide  
 3 reimbursement for the refundable credit allowable under W.Va. Code §11-21-21. The amount of  
 4 the required transfer shall be determined solely by the State Tax Commissioner and shall be  
 5 completed by the Director of the Lottery upon the commissioner’s request.

*302 - Lottery Commission –*

*General Purpose Account*

Fund 7206 FY 2020 Org 0705

1 General Revenue Fund – Transfer.....	70011	\$	65,000,000
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2           The above appropriation shall be transferred to the General Revenue Fund as determined  
 3 by the Director of the Lottery in accordance with W.Va. Code §29-22-18a.

*303 - Higher Education Policy Commission –*

*Education Improvement Fund*

Fund 4295 FY 2020 Org 0441

1 PROMISE Scholarship – Transfer.....	80000	\$	29,000,000
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2           The above appropriation shall be transferred to the PROMISE Scholarship Fund (fund  
 3 4296, org 0441) established by W.Va. Code §18C-7-7.

4           The Legislature has explicitly set a finite amount of available appropriations and directed  
 5 the administrators of the Program to provide for the award of scholarships within the limits of  
 6 available appropriations.

*304 - Economic Development Authority –*

*Economic Development Project Fund*

Fund 9065 FY 2020 Org 0944

1 Debt Service – Total .....	31000	\$	19,000,000
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2           Pursuant to W.Va. Code §29-22-18a, subsection (f), excess lottery revenues are  
 3 authorized to be transferred to the lottery fund as reimbursement of amounts transferred to the  
 4 economic development project fund pursuant to section four of this title and W.Va. Code §29-22-  
 5 18, subsection (f).

*305 - Department of Education –*

*School Building Authority*

Fund 3514 FY 2020 Org 0402

1	Debt Service – Total .....	31000	\$	19,000,000
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*306 - West Virginia Infrastructure Council –**West Virginia Infrastructure Transfer Fund*Fund 3390 FY 2020 Org 0316

1	Directed Transfer .....	70000	\$	46,000,000
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2           The above appropriation shall be allocated pursuant to W.Va. Code §29-22-18d and §31-  
3 15-9.

*307 - Higher Education Policy Commission –**Higher Education Improvement Fund*Fund 4297 FY 2020 Org 0441

1	Directed Transfer .....	70000	\$	15,000,000
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2           The above appropriation shall be transferred to fund 4903, org 0442 as authorized by  
3 Senate Concurrent Resolution No. 41.

*308 - Division of Natural Resources –**State Park Improvement Fund*Fund 3277 FY 2020 Org 0310

1	Current Expenses (R) .....	13000	\$	23,300
2	Repairs and Alterations (R) .....	06400		161,200
3	Equipment (R) .....	07000		200,000
4	Buildings (R) .....	25800		100,000
5	Other Assets (R) .....	69000		<u>1,020,500</u>
6	Total .....		\$	1,505,000

7           Any unexpended balances remaining in the above appropriations for Repairs and  
8 Alterations (fund 3277, appropriation 06400), Equipment (fund 3277, appropriation 07000),  
9 Unclassified – Total (fund 3277, appropriation 09600), Unclassified (fund 3277, appropriation  
10 09900), Current Expenses (fund 3277, appropriation 13000), Buildings (fund 3277, appropriation  
11 25800), and Other Assets (fund 3277, appropriation 69000) at the close of the fiscal year 2019  
12 are hereby reappropriated for expenditure during the fiscal year 2020.

## 309 - Economic Development Authority –

## Cacapon and Beech Fork State Parks –

## Lottery Revenue Debt Service

Fund 9067 FY 2020 Org 0944

1	Debt Service .....	04000	\$	2,032,000
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## 310 - Economic Development Authority –

## State Parks Lottery Revenue Debt Service Fund

Fund 9068 FY 2020 Org 0944

1	Debt Service .....	04000	\$	4,395,000
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## 311 - Racing Commission –

Fund 7308 FY 2020 Org 0707

1	Special Breeders Compensation			
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2	(WVC §29-22-18a, subsection (l)) .....	21800	\$	2,000,000
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## 312 - Lottery Commission –

## Distributions to Statutory Funds and Purposes

Fund 7213 FY 2020 Org 0705

1	Parking Garage Fund – Transfer.....	70001	\$	500,000
2	2004 Capitol Complex Parking Garage Fund – Transfer .....	70002		216,478
3	Capitol Dome and Improvements Fund – Transfer .....	70003		1,796,256
4	Capitol Renovation and Improvement Fund – Transfer .....	70004		2,381,252
5	Development Office Promotion Fund – Transfer .....	70005		1,298,864
6	Research Challenge Fund – Transfer .....	70006		1,731,820
7	Tourism Promotion Fund – Transfer.....	70007		4,808,142
8	Cultural Facilities and Capitol Resources Matching			
9	Grant Program Fund – Transfer .....	70008		1,250,535
10	State Debt Reduction Fund – Transfer.....	70010		20,000,000

11	General Revenue Fund – Transfer.....	70011	1,167,799
12	West Virginia Racing Commission Racetrack		
13	Video Lottery Account .....	70012	3,463,637
14	Historic Resort Hotel Fund .....	70013	24,010
15	Licensed Racetrack Regular Purse Fund.....	70014	<u>22,383,247</u>
16	Total.....		\$ 61,022,040

*313 - Governor's Office*

(WV Code Chapter 5)

Fund 1046 FY 2020 Org 0100

- 1 Any unexpended balance remaining in the appropriation for Publication of Papers and
- 2 Transition Expenses – Lottery Surplus (fund 1046, appropriation 06600) at the close of the fiscal
- 3 year 2019 is hereby reappropriated for expenditure during the fiscal year 2020.

*314 - West Virginia Development Office*

(WV Code Chapter 5B)

Fund 3170 FY 2020 Org 0307

- 1 Any unexpended balances remaining in the appropriations for Unclassified – Total (fund
- 2 3170, appropriation 09600), Recreational Grants or Economic Development Loans (fund 3170,
- 3 appropriation 25300), and Connectivity Research and Development – Lottery Surplus (fund 3170,
- 4 appropriation 92300) at the close of the fiscal year 2019 are hereby reappropriated for expenditure
- 5 during the fiscal year 2020.

*315 - Higher Education Policy Commission –*

*Administration –*

*Control Account*

(WV Code Chapter 18B)

Fund 4932 FY 2020 Org 0441

- 1 Any unexpended balance remaining in the appropriation for Advanced Technology
- 2 Centers (fund 4932, appropriation 02800) at the close of the fiscal year 2019 is hereby
- 3 reappropriated for expenditure during the fiscal year 2020.

*316 - Division of Human Services*

(WV Code Chapters 9, 48 and 49)

Fund 5365 FY 2020 Org 0511

1	Medical Services.....	18900	\$	16,302,960
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*317 - Division of Corrections and Rehabilitation –*

*Correctional Units*

(WV Code Chapters 15A)

Fund 6283 FY 2020 Org 0608

1 Any unexpended balance remaining in the appropriation for Capital Outlay and  
 2 Maintenance (fund 6283, appropriation 75500) at the close of the fiscal year 2019 is hereby  
 3 reappropriated for expenditure during the fiscal year 2020.

4	Total TITLE II, Section 5 – Excess Lottery Funds.....		\$	<u>290,257,000</u>
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1 **Sec. 6. Appropriations of federal funds.** — In accordance with Article 11, Chapter 4 of  
 2 the Code from federal funds there are hereby appropriated conditionally upon the fulfillment of  
 3 the provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized,  
 4 for expenditure during the fiscal year 2020.

**LEGISLATIVE**

*318 - Crime Victims Compensation Fund*

(WV Code Chapter 14)

Fund 8738 FY 2020 Org 2300

		<b>Appro-</b>		<b>Federal</b>
		<b>priation</b>		<b>Funds</b>
1	Economic Loss Claim Payment Fund.....	33400	\$	2,000,000

**JUDICIAL**

*319 - Supreme Court*

Fund 8867 FY 2020 Org 2400

1	Personal Services and Employee Benefits.....	00100	\$	1,813,000
2	Current Expenses .....	13000		2,057,000
3	Repairs and Alterations.....	06400		100,000



4	Equipment.....	07000	250,000
5	Other Assets .....	69000	<u>280,000</u>
6	Total .....		\$ 4,500,000

**EXECUTIVE***320 - Department of Agriculture*

(WV Code Chapter 19)

Fund 8736 FY 2020 Org 1400

1	Personal Services and Employee Benefits.....	00100	\$ 2,628,780
2	Unclassified .....	09900	50,534
3	Current Expenses .....	13000	3,828,661
4	Repairs and Alterations.....	06400	650,000
5	Equipment.....	07000	910,500
6	Buildings.....	25800	1,000,000
7	Other Assets .....	69000	50,000
8	Land .....	73000	<u>500,000</u>
9	Total .....		\$ 9,618,475

*321 - Department of Agriculture –**Meat Inspection Fund*

(WV Code Chapter 19)

Fund 8737 FY 2020 Org 1400

1	Personal Services and Employee Benefits.....	00100	\$ 658,571
2	Unclassified .....	09900	8,755
3	Current Expenses .....	13000	136,012
4	Repairs and Alterations.....	06400	5,500
5	Equipment.....	07000	<u>114,478</u>
6	Total .....		\$ 923,316

*322 - Department of Agriculture –**State Conservation Committee*

(WV Code Chapter 19)

Fund 8783 FY 2020 Org 1400

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

*323 - Department of Agriculture –**Land Protection Authority*Fund 8896 FY 2020 Org 1400

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

*324 - Secretary of State –**State Election Fund*

(WV Code Chapter 3)

Fund 8854 FY 2020 Org 1600

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

**DEPARTMENT OF COMMERCE***325 - Division of Forestry*

## (WV Code Chapter 19)

Fund 8703 FY 2020 Org 0305

1	Personal Services and Employee Benefits.....	00100	\$	1,640,060
2	Unclassified .....	09900		51,050
3	Current Expenses .....	13000		5,232,560
4	Repairs and Alterations.....	06400		155,795
5	Equipment.....	07000		100,000
6	Other Assets .....	69000		<u>1,808,300</u>
7	Total.....		\$	8,987,765

*326 - Geological and Economic Survey*

## (WV Code Chapter 29)

Fund 8704 FY 2020 Org 0306

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

*327 - West Virginia Development Office*

## (WV Code Chapter 5B)

Fund 8705 FY 2020 Org 0307

1	Personal Services and Employee Benefits.....	00100	\$	789,921
2	Unclassified .....	09900		50,000
3	Current Expenses .....	13000		<u>4,504,019</u>
4	Total.....		\$	5,343,940

## 328 - West Virginia Development Office –

## Office of Economic Opportunity

(WV Code Chapter 5)

Fund 8901 FY 2020 Org 0307

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

## 329 - Division of Labor

(WV Code Chapters 21 and 47)

Fund 8706 FY 2020 Org 0308

1	Personal Services and Employee Benefits.....	00100	\$	409,251
2	Unclassified .....	09900		5,572
3	Current Expenses .....	13000		167,098
4	Repairs and Alterations.....	06400		<u>500</u>
5	Total.....		\$	582,421

## 330 - Division of Natural Resources

(WV Code Chapter 20)

Fund 8707 FY 2020 Org 0310

1	Personal Services and Employee Benefits.....	00100	\$	8,237,073
2	Unclassified .....	09900		107,693
3	Current Expenses .....	13000		5,556,594
4	Repairs and Alterations.....	06400		289,400
5	Equipment.....	07000		1,815,182

6	Buildings .....	25800	951,000
7	Other Assets .....	69000	6,951,000
8	Land .....	73000	<u>6,001,000</u>
9	Total .....		\$ 29,908,942

*331 - Division of Miners' Health,*

*Safety and Training*

(WV Code Chapter 22)

Fund 8709 FY 2020 Org 0314

1	Personal Services and Employee Benefits.....	00100	\$ 642,799
2	Current Expenses .....	13000	<u>150,000</u>
3	Total .....		\$ 792,799

*332 - WorkForce West Virginia*

(WV Code Chapter 23)

Fund 8835 FY 2020 Org 0323

1	Unclassified .....	09900	\$ 5,127
2	Current Expenses .....	13000	507,530
3	Reed Act 2002 – Unemployment Compensation.....	62200	2,850,000
4	Reed Act 2002 – Employment Services .....	63000	<u>1,650,000</u>
5	Total .....		\$ 5,012,657

6 Pursuant to the requirements of 42 U.S.C. 1103, Section 903 of the Social Security Act,  
7 as amended, and the provisions of W.Va. Code §21A-9-9, the above appropriation to Unclassified  
8 and Current Expenses shall be used by WorkForce West Virginia for the specific purpose of  
9 administration of the state's unemployment insurance program or job service activities, subject to  
10 each and every restriction, limitation or obligation imposed on the use of the funds by those federal  
11 and state statutes.

*333 - Office of Energy*

(WV Code Chapter 5B)

Fund 8892 FY 2020 Org 0328

1	Personal Services and Employee Benefits.....	00100	\$	426,385
2	Unclassified .....	09900		7,350
3	Current Expenses .....	13000		<u>2,816,076</u>
4	Total.....		\$	3,249,811

*334 - State Board of Rehabilitation –*

*Division of Rehabilitation Services*

(WV Code Chapter 18)

Fund 8734 FY 2020 Org 0932

1	Personal Services and Employee Benefits.....	00100	\$	11,863,244
2	Current Expenses .....	13000		34,440,940
3	Repairs and Alterations.....	06400		350,400
4	Equipment.....	07000		<u>1,275,870</u>
5	Total.....		\$	47,930,454

*335 - State Board of Rehabilitation –*

*Division of Rehabilitation Services –*

*Disability Determination Services*

(WV Code Chapter 18)

Fund 8890 FY 2020 Org 0932

1	Personal Services and Employee Benefits.....	00100	\$	14,476,122
2	Current Expenses .....	13000		11,383,206
3	Repairs and Alterations.....	06400		1,100
4	Equipment.....	07000		<u>83,350</u>
5	Total.....		\$	25,943,778

**DEPARTMENT OF EDUCATION**

*336 - State Board of Education –*

*State Department of Education*

(WV Code Chapters 18 and 18A)

Fund 8712 FY 2020 Org 0402

1	Personal Services and Employee Benefits.....	00100	\$	5,785,359
2	Unclassified .....	09900		2,000,000
3	Current Expenses .....	13000		212,367,820
4	Repairs and Alterations.....	06400		10,000
5	Equipment.....	07000		10,000
6	Other Assets .....	69000		<u>10,000</u>
7	Total.....		\$	220,183,179

*337 - State Board of Education –*

*School Lunch Program*

(WV Code Chapters 18 and 18A)

Fund 8713 FY 2020 Org 0402

1	Personal Services and Employee Benefits.....	00100	\$	1,881,766
2	Unclassified .....	09900		1,150,500
3	Current Expenses .....	13000		148,281,265
4	Repairs and Alterations.....	06400		20,000
5	Equipment.....	07000		100,000
6	Other Assets .....	69000		<u>25,000</u>
7	Total.....		\$	151,458,531

*338 - State Board of Education –*

*Vocational Division*

(WV Code Chapters 18 and 18A)

Fund 8714 FY 2020 Org 0402

1	Personal Services and Employee Benefits.....	00100	\$	1,896,249
2	Unclassified .....	09900		155,000

3	Current Expenses .....	13000	14,820,081
4	Repairs and Alterations.....	06400	10,000
5	Equipment.....	07000	10,000
6	Other Assets .....	69000	<u>10,000</u>
7	Total.....		\$ 16,901,330

*339 - State Board of Education –*

*Aid for Exceptional Children*

(WV Code Chapters 18 and 18A)

Fund 8715 FY 2020 Org 0402

1	Personal Services and Employee Benefits.....	00100	\$ 3,477,006
2	Unclassified .....	09900	1,000,000
3	Current Expenses .....	13000	113,346,390
4	Repairs and Alterations.....	06400	10,000
5	Equipment.....	07000	10,000
6	Other Assets .....	69000	<u>10,000</u>
7	Total.....		\$ 117,853,396

**DEPARTMENT OF ARTS, CULTURE, AND HISTORY**

*340 - Commission for National and Community Service*

(WV Code Chapter 5F)

Fund 8841 FY 2020 Org 0432

1	Personal Services and Employee Benefits.....	00100	\$ 437,040
2	Current Expenses .....	13000	5,587,325
3	Repairs and Alterations.....	06400	<u>1,000</u>
4	Total.....		\$ 6,025,365

*341 - Division of Culture and History*

(WV Code Chapter 29)



Fund 8718 FY 2020 Org 0432

1	Personal Services and Employee Benefits.....	00100	\$	810,436
2	Current Expenses .....	13000		1,947,372
3	Repairs and Alterations.....	06400		1,000
4	Equipment.....	07000		1,000
5	Buildings .....	25800		1,000
6	Other Assets .....	69000		1,000
7	Land .....	73000		<u>360</u>
8	Total.....		\$	2,762,168

*342 - Library Commission*

(WV Code Chapter 10)

Fund 8720 FY 2020 Org 0433

1	Personal Services and Employee Benefits.....	00100	\$	353,396
2	Current Expenses .....	13000		1,076,162
3	Equipment.....	07000		<u>543,406</u>
4	Total.....		\$	1,972,964

*343 - Educational Broadcasting Authority*

(WV Code Chapter 10)

Fund 8721 FY 2020 Org 0439

1	Equipment.....	07000	\$	200,000
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**DEPARTMENT OF ENVIRONMENTAL PROTECTION***344 - Division of Environmental Protection*

(WV Code Chapter 22)

Fund 8708 FY 2020 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$	31,404,529
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2	Current Expenses .....	13000	154,302,118
3	Repairs and Alterations.....	06400	738,283
4	Equipment.....	07000	1,712,238
5	Unclassified .....	09900	1,923,580
6	Other Assets .....	69000	2,177,261
7	Land .....	73000	<u>100,000</u>
8	Total.....		\$ 192,358,009

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

*345 - Consolidated Medical Service Fund*

(WV Code Chapter 16)

Fund 8723 FY 2020 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$ 1,532,219
2	Unclassified .....	09900	73,307
3	Current Expenses .....	13000	<u>51,583,302</u>
4	Total.....		\$ 53,188,828

*346 - Division of Health –*

*Central Office*

(WV Code Chapter 16)

Fund 8802 FY 2020 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$ 14,610,947
2	Unclassified .....	09900	856,614
3	Current Expenses .....	13000	69,201,885
4	Equipment.....	07000	456,972
5	Buildings .....	25800	155,000
6	Other Assets .....	69000	<u>380,000</u>

7 Total ..... \$ 85,661,418

*347 - Division of Health –*

*West Virginia Safe Drinking Water Treatment*

(WV Code Chapter 16)

Fund 8824 FY 2020 Org 0506

1 West Virginia Drinking Water Treatment

2 Revolving Fund – Transfer ..... 68900 \$ 16,000,000

*348 - Human Rights Commission*

(WV Code Chapter 5)

Fund 8725 FY 2020 Org 0510

1 Personal Services and Employee Benefits..... 00100 \$ 449,874

2 Unclassified ..... 09900 5,050

3 Current Expenses ..... 13000 64,950

4 Total ..... \$ 519,874

*349 - Division of Human Services*

(WV Code Chapters 9, 48, and 49)

Fund 8722 FY 2020 Org 0511

1 Personal Services and Employee Benefits..... 00100 \$ 75,747,114

2 Unclassified ..... 09900 22,855,833

3 Current Expenses ..... 13000 112,085,005

4 Medical Services..... 18900 3,539,265,405

5 Medical Services Administrative Costs..... 78900 132,247,536

6 CHIP Administrative Costs..... 85601 4,539,496

7 CHIP Services..... 85602 47,422,974

8 Federal Economic Stimulus..... 89100 5,000,000

9 Total..... \$ 3,939,163,363

**DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY**

*350 - Office of the Secretary*

(WV Code Chapter 5F)

Fund 8876 FY 2020 Org 0601

1	Unclassified .....	09900	\$	30,000
2	Current Expenses .....	13000		<u>2,970,000</u>
3	Total .....		\$	3,000,000

*351 - Adjutant General –*

*State Militia*

(WV Code Chapter 15)

Fund 8726 FY 2020 Org 0603

1	Unclassified .....	09900	\$	982,705
2	Mountaineer ChalleNGe Academy .....	70900		4,978,680
3	Martinsburg Starbase .....	74200		439,622
4	Charleston Starbase .....	74300		424,685
5	Military Authority .....	74800		<u>93,601,594</u>
6	Total .....		\$	100,427,286

7 The Adjutant General shall have the authority to transfer between appropriations.

*352 - Adjutant General –*

*West Virginia National Guard Counterdrug Forfeiture Fund*

(WV Code Chapter 15)

Fund 8785 FY 2020 Org 0603

1	Personal Services and Employee Benefits.....	00100	\$	1,350,000
2	Current Expenses .....	13000		300,000

3	Equipment.....	07000	<u>350,000</u>
4	Total .....		\$ 2,000,000

*353 - Division of Homeland Security and**Emergency Management*

(WV Code Chapter 15)

Fund 8727 FY 2020 Org 0606

1	Personal Services and Employee Benefits.....	00100	\$ 721,650
2	Current Expenses .....	13000	20,429,281
3	Repairs and Alterations.....	06400	5,000
4	Equipment.....	07000	<u>100,000</u>
5	Total .....		\$ 21,255,931

*354 - Division of Corrections and Rehabilitation*

(WV Code Chapters 15A)

Fund 8836 FY 2020 Org 0608

1	Unclassified .....	09900	\$ 1,100
2	Current Expenses .....	13000	<u>108,900</u>
3	Total .....		\$ 110,000

*355 - West Virginia State Police*

(WV Code Chapter 15)

Fund 8741 FY 2020 Org 0612

1	Personal Services and Employee Benefits.....	00100	\$ 2,480,877
2	Current Expenses .....	13000	2,125,971
3	Repairs and Alterations.....	06400	42,000
4	Equipment.....	07000	2,502,285
5	Buildings .....	25800	750,500

6	Other Assets .....	69000		144,500
7	Land .....	73000		<u>500</u>
8	Total .....		\$	8,046,633

*356 - Fire Commission*

(WV Code Chapter 29)

Fund 8819 FY 2020 Org 0619

1	Current Expenses .....	13000	\$	80,000
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*357 - Division of Justice and Community Services*

(WV Code Chapter 15)

Fund 8803 FY 2020 Org 0620

1	Personal Services and Employee Benefits.....	00100	\$	1,222,258
2	Unclassified .....	09900		25,185
3	Current Expenses .....	13000		25,381,973
4	Repairs and Alterations.....	06400		<u>1,750</u>
5	Total .....		\$	26,631,166

**DEPARTMENT OF REVENUE***358 - Insurance Commissioner*

(WV Code Chapter 33)

Fund 8883 FY 2020 Org 0704

1	Current Expenses .....	13000	\$	3,000,000
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**DEPARTMENT OF TRANSPORTATION***359 - Division of Motor Vehicles*

(WV Code Chapter 17B)

Fund 8787 FY 2020 Org 0802

1	Personal Services and Employee Benefits.....	00100	\$	501,394
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2	Current Expenses .....	13000	6,498,106
3	Repairs and Alterations.....	06400	<u>500</u>
4	Total.....		\$ 7,000,000

*360 - Division of Public Transit*

(WV Code Chapter 17)

Fund 8745 FY 2020 Org 0805

1	Personal Services and Employee Benefits.....	00100	\$ 922,070
2	Current Expenses .....	13000	9,163,149
3	Repairs and Alterations.....	06400	2,500
4	Equipment.....	07000	2,801,714
5	Buildings .....	25800	650,000
6	Other Assets .....	69000	<u>200,000</u>
7	Total.....		\$ 13,739,433

**DEPARTMENT OF VETERANS' ASSISTANCE**

*361 - Department of Veterans' Assistance*

(WV Code Chapter 9A)

Fund 8858 FY 2020 Org 0613

1	Personal Services and Employee Benefits.....	00100	\$ 2,774,248
2	Current Expenses .....	13000	3,270,000
3	Equipment.....	07000	213,000
4	Buildings .....	25800	<u>600,000</u>
5	Total.....		\$ 6,857,248

*362 - Department of Veterans' Assistance –*

*Veterans' Home*

(WV Code Chapter 9A)

Fund 8728 FY 2020 Org 0618

1	Personal Services and Employee Benefits.....	00100	\$	955,426
2	Current Expenses .....	13000		844,092
3	Repairs and Alterations.....	06400		220,000
4	Equipment.....	07000		198,000
5	Buildings .....	25800		296,000
6	Other Assets .....	69000		20,000
7	Land .....	73000		<u>10,000</u>
8	Total.....		\$	2,543,518

**BUREAU OF SENIOR SERVICES***363 - Bureau of Senior Services*

(WV Code Chapter 29)

Fund 8724 FY 2020 Org 0508

1	Personal Services and Employee Benefits.....	00100	\$	767,364
2	Current Expenses .....	13000		13,811,853
3	Repairs and Alterations.....	06400		<u>3,000</u>
4	Total.....		\$	14,582,217

**MISCELLANEOUS BOARDS AND COMMISSIONS***364 - Public Service Commission –**Motor Carrier Division*

(WV Code Chapter 24A)

Fund 8743 FY 2020 Org 0926

1	Personal Services and Employee Benefits.....	00100	\$	1,352,576
2	Current Expenses .....	13000		368,953
3	Repairs and Alterations.....	06400		39,000



4	Equipment.....	07000	<u>1,000</u>
5	Total .....		\$ 1,761,529

*365 - Public Service Commission –*

*Gas Pipeline Division*

(WV Code Chapter 24B)

Fund 8744 FY 2020 Org 0926

1	Personal Services and Employee Benefits.....	00100	\$ 621,039
2	Current Expenses .....	13000	124,628
3	Equipment.....	07000	3,000
4	Unclassified .....	09900	<u>4,072</u>
5	Total .....		\$ 752,739

*366 - National Coal Heritage Area Authority*

(WV Code Chapter 29)

Fund 8869 FY 2020 Org 0941

1	Personal Services and Employee Benefits.....	00100	\$ 163,315
2	Current Expenses .....	13000	633,597
3	Repairs and Alterations.....	06400	5,000
4	Equipment.....	07000	3,000
5	Other Assets .....	69000	<u>2,000</u>
6	Total .....		<u>\$ 806,912</u>
7	Total TITLE II, Section 6 - Federal Funds.....		<u>\$ 5,189,543,394</u>

1           **Sec. 7. Appropriations from federal block grants.** — The following items are hereby  
 2 appropriated from federal block grants to be available for expenditure during the fiscal year 2020.

*367 - West Virginia Development Office –*

*Community Development*

Fund 8746 FY 2020 Org 0307

1	Personal Services and Employee Benefits.....	00100	\$	10,658,978
2	Unclassified .....	09900		2,375,000
3	Current Expenses .....	13000		<u>224,476,883</u>
4	Total .....		\$	237,510,861

*368 - Department of Commerce**West Virginia Development Office –**Office of Economic Opportunity –**Community Services*Fund 8902 FY 2020 Org 0307

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

*369 - WorkForce West Virginia –**Workforce Investment Act*Fund 8749 FY 2020 Org 0323

1	Personal Services and Employee Benefits.....	00100	\$	2,999,497
2	Unclassified .....	09900		23,023
3	Current Expenses .....	13000		39,263,511
4	Repairs and Alterations.....	06400		1,600
5	Equipment.....	07000		500
6	Buildings .....	25800		<u>1,100</u>

7 Total ..... \$ 42,289,231

*370 - Division of Health –*

*Maternal and Child Health*

Fund 8750 FY 2020 Org 0506

1 Personal Services and Employee Benefits..... 00100 \$ 2,268,209

2 Unclassified ..... 09900 81,439

3 Current Expenses ..... 13000 5,794,267

4 Total ..... \$ 8,143,915

*371 - Division of Health –*

*Preventive Health*

Fund 8753 FY 2020 Org 0506

1 Personal Services and Employee Benefits..... 00100 \$ 268,337

2 Unclassified ..... 09900 22,457

3 Current Expenses ..... 13000 1,895,366

4 Equipment..... 07000 165,642

5 Total ..... \$ 2,351,802

*372 - Division of Health –*

*Substance Abuse Prevention and Treatment*

Fund 8793 FY 2020 Org 0506

1 Personal Services and Employee Benefits..... 00100 \$ 657,325

2 Unclassified ..... 09900 115,924

3 Current Expenses ..... 13000 10,853,740

4 Total ..... \$ 11,626,989

*373 - Division of Health –*

*Community Mental Health Services*

Fund 8794 FY 2020 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$	551,368
2	Unclassified .....	09900		33,533
3	Current Expenses .....	13000		<u>4,883,307</u>
4	Total .....		\$	5,468,208

*374 - Division of Human Services –**Energy Assistance*Fund 8755 FY 2020 Org 0511

1	Personal Services and Employee Benefits.....	00100	\$	1,856,844
2	Unclassified .....	09900		350,000
3	Current Expenses .....	13000		<u>33,181,300</u>
4	Total .....		\$	35,388,144

*375 - Division of Human Services –**Social Services*Fund 8757 FY 2020 Org 0511

1	Personal Services and Employee Benefits.....	00100	\$	8,806,005
2	Unclassified .....	09900		171,982
3	Current Expenses .....	13000		<u>8,870,508</u>
4	Total .....		\$	17,848,495

*376 - Division of Human Services –**Temporary Assistance for Needy Families*Fund 8816 FY 2020 Org 0511

1	Personal Services and Employee Benefits.....	00100	\$	19,913,598
2	Unclassified .....	09900		1,250,000
3	Current Expenses .....	13000		<u>105,847,136</u>

4 Total..... \$ 127,010,734

377 - Division of Human Services –  
Child Care and Development

Fund 8817 FY 2020 Org 0511

1	Personal Services and Employee Benefits.....	00100	\$ 2,793,496
2	Unclassified .....	09900	350,000
3	Current Expenses .....	13000	<u>46,999,456</u>
4	Total.....		\$ 50,142,952
5	Total TITLE II, Section 7 – Federal Block Grants .....		<u>\$ 550,281,331</u>

1 **Sec. 8. Awards for claims against the state.** — There are hereby appropriated for fiscal  
2 year 2020, from the fund as designated, in the amounts as specified, general revenue funds in  
3 the amount of \$642,817 special revenue funds in the amount of \$212,743 and state road funds  
4 in the amount of \$1,703,146 for payment of claims against the state.

1 **Sec. 9. Appropriations from general revenue fund surplus accrued.** — The following  
2 item is hereby appropriated from the state fund, general revenue, and is to be available for  
3 expenditure during the fiscal year 2020 out of surplus funds only, accrued from the fiscal year  
4 ending June 30, 2019, subject to the terms and conditions set forth in this section.

5 It is the intent and mandate of the Legislature that the following appropriation be payable  
6 only from surplus as of July 31, 2019 from the fiscal year ending June 30, 2019, only after first  
7 meeting requirements of W.Va. Code §11B-2-20(b).

8 In the event that surplus revenues available on July 31, 2019, are not sufficient to meet  
9 the appropriation made pursuant to this section, then the appropriation shall be made to the extent  
10 that surplus funds are available as of the date mandated to meet the appropriation in this section  
11 and shall be allocated first to provide the necessary funds to meet the first appropriation of this  
12 section and each subsequent appropriation in the order listed in this section.

378 - Department of Agriculture

(WV Code Chapter 19)

Fund 0131 FY 2020 Org 1400

1 WV Food Banks – Surplus..... ##### \$ 300,000

379 - State Board of Education

State Department of Education

(WV Code Chapter 18 & 18A)

Fund 0313 FY 2020 Org 0402

1 Directed Transfer – Surplus ..... ##### \$ 3,500,000

2 The above appropriation for Directed Transfer - Surplus (fund 0313, appropriation #####)  
3 shall be transferred to the Safe Schools Fund (fund XXXX, org 0402) established by W.Va. Code  
4 §18-5-48.

380 - Shepherd University

(WV Code Chapter 18B)

Fund 0366 FY 2020 Org 0486

1 Shepherd University – Surplus..... ##### \$ 500,000

381 - Blue Ridge Community and Technical College

(WV Code Chapter 18B)

Fund 0601 FY 2020 Org 0477

1 Blue Ridge Community and Technical College – Surplus..... ##### \$ 500,000

382 - Eastern West Virginia community and Technical College

(WV Code Chapter 18B)

Fund 0587 FY 2020 Org 0492

1 Eastern West Virginia Community and

2 Technical College – Surplus ..... ##### \$ 500,000

383 - West Virginia university at Parkersburg

(WV Code Chapter 18B)

Fund 0131 FY 2020 Org 0464

1 West Virginia University at Parkersburg – Surplus ..... ##### \$ 500,000

384 - Glenville State College

(WV Code Chapter 18B)

Fund 0363 FY 2020 Org 0485

1	Glenville State College – Surplus.....	#####	\$	500,000
	385 – Division of Health – Central Office (WV Code Chapter 16) Fund <u>0407</u> FY <u>2020</u> Org <u>0506</u>			
1	New Born Screening Testing – Surplus.....	#####	\$	200,000
	386 – Division of Health – Central Office (WV Code Chapter 16) Fund <u>0407</u> FY <u>2020</u> Org <u>0506</u>			
1	Sexual Assault Intervention and Prevention – Surplus .....	#####	\$	125,000
	<i>387 - West Virginia Tourism Office</i> (WV Code Chapter 5B) Fund <u>0246</u> FY <u>2020</u> Org <u>0304</u>			
1	Tourism – Brand Promotion – Surplus .....	#####	\$	5,000,000
2	Tourism – Public Relations – Surplus.....	#####		750,000
3	Tourism – Events and Sponsorships – Surplus.....	#####		250,000
4	Tourism – Industry Development – Surplus.....	#####		250,000
5	State Parks and Recreation Adverstising – Surplus .....	#####		<u>750,000</u>
6	Total.....		\$	7,000,000
	<i>388 - State Board of Education</i> Vocational Division (WV Code Chapter 18 and 18A) Fund <u>0390</u> FY <u>2020</u> Org <u>0402</u>			
1	Jim’s Dream – Surplus.....	#####	\$	4,000,000

389- Consolidated Medical Service Fund

(WV Code Chapter 16)

Fund 0525 FY 2020 Org 0506

1	Jim's Dream – Surplus .....	#####	\$	1,000,000
1	390 – Division of Human Services			
2	(WV Code Chapter 9, 48, and 49)			
3	Fund <u>0403</u> FY <u>2020</u> Org <u>0511</u>			
4	Medical Services – Surplus .....	63300	\$	53,000,000
5	Total TITLE II, Section 9 – Surplus Accrued .....		\$	<u>71,625,000</u>

1       **Sec. 10. Appropriations from lottery net profits surplus accrued.** — The following  
 2 item is hereby appropriated from the lottery net profits, and is to be available for expenditure  
 3 during the fiscal year 2020 out of surplus funds only, as determined by the director of lottery,  
 4 accrued from the fiscal year ending June 30, 2019, subject to the terms and conditions set forth  
 5 in this section.

6       It is the intent and mandate of the Legislature that the following appropriation be payable  
 7 only from surplus accrued from the fiscal year ending June 30, 2019.

8       In the event that surplus revenues available from the fiscal year ending June 30, 2019,  
 9 are not sufficient to meet the appropriation made pursuant to this section, then the appropriation  
 10 shall be made to the extent that surplus funds are available.

391 - Bureau of Senior Services –

*Lottery Senior Citizens Fund*

(WV Code Chapter 29)

Fund 5405 FY 2020 Org 0508

1	Senior Nutrition Vehicle Replacement – Lottery Surplus .....	#####	\$	1,000,000
2	In-Home Services and Nutrition for			
3	Senior Citizens – Lottery Surplus .....	#####		750,000
4	Senior Services Medicaid Transfer – Lottery Surplus .....	68199		<u>16,000,000</u>
5	Total .....		\$	17,750,000



6 Total TITLE II, Section 10 – Surplus Accrued ..... \$ 17,750,000

1 **Sec. 11. Appropriations from state excess lottery revenue surplus accrued.** — The  
 2 following item is hereby appropriated from the state excess lottery revenue fund, and is to be  
 3 available for expenditure during the fiscal year 2020 out of surplus funds only, as determined by  
 4 the director of lottery, accrued from the fiscal year ending June 30, 2019, subject to the terms and  
 5 conditions set forth in this section.

6 It is the intent and mandate of the Legislature that the following appropriation be payable  
 7 only from surplus accrued from the fiscal year ending June 30, 2019.

8 In the event that surplus revenues available from the fiscal year ending June 30, 2019,  
 9 are not sufficient to meet the appropriation made pursuant to this section, then the appropriation  
 10 shall be made to the extent that surplus funds are available.

*392 - Division of Human Services*

(WV Code Chapters 9, 48 and 49)

Fund 5365 FY 2020 Org 0511

1 Medical Services – Lottery Surplus ..... 68100 \$ 17,000,000

2 Total TITLE II, Section 11 – Surplus Accrued ..... \$ 17,000,000

1 **Sec. 12. Special revenue appropriations.** — There are hereby appropriated for  
 2 expenditure during the fiscal year 2020 appropriations made by general law from special revenues  
 3 which are not paid into the state fund as general revenue under the provisions of W.Va. Code  
 4 §12-2-2: *Provided*, That none of the money so appropriated by this section shall be available for  
 5 expenditure except in compliance with the provisions of W.Va. Code §12-2 and 3, and W.Va.  
 6 Code §11B-2, unless the spending unit has filed with the director of the budget and the legislative  
 7 auditor prior to the beginning of each fiscal year:

8 (a) An estimate of the amount and sources of all revenues accruing to such fund; and

9 (b) A detailed expenditure schedule showing for what purposes the fund is to be  
 10 expended.

11 During Fiscal Year 2020, the following funds are hereby available and are to be transferred  
 12 to the appropriate funds as specified from available balances per the following:

*393 -Attorney General*

*Consumer Protection Recovery Fund*

(WV Code Chapter 46A)

*Fund 1509 FY 2020 Org 1500*

1 Directed Transfer ..... 70000 \$ 3,400,000

2 From the above appropriation for Directed Transfer (Fund 1509, appropriation 70000),  
3 \$1,000,000 shall be transferred to the West Virginia State Police – Forensic Laboratory Fund  
4 (Fund 6511) and \$2,400,000 shall be transferred to the Department of Health and Human  
5 Resources, Division of Human Services – Medical Services Trust Fund (Fund 5185).

*394- Department of Administration**Premium Tax Savings Fund*

(WV Code Chapter 29)

*Fund 2367 FY 2020 Org 0218*

1 Directed Transfer ..... 70000 \$ 6,149,802

2 The above appropriation for Directed Transfer (Fund 2367, appropriation 70000) shall be  
3 transferred to the Department of Health and Human Resources, Division of Human Services –  
4 Medical Services Trust Fund (Fund 5185).

5 Total TITLE II, Section 12 – Special Revenue ..... \$ 9,549,802

1 **Sec. 13. State improvement fund appropriations.** — Bequests or donations of  
2 nonpublic funds, received by the Governor on behalf of the state during the fiscal year 2020,  
3 for the purpose of making studies and recommendations relative to improvements of the  
4 administration and management of spending units in the executive branch of state  
5 government, shall be deposited in the state treasury in a separate account therein designated  
6 state improvement fund.

7 There are hereby appropriated all moneys so deposited during the fiscal year 2020 to  
8 be expended as authorized by the Governor, for such studies and recommendations which  
9 may encompass any problems of organization, procedures, systems, functions, powers or  
10 duties of a state spending unit in the executive branch, or the betterment of the economic,  
11 social, educational, health and general welfare of the state or its citizens.

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

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

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

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

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

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

5           (a) For redemption of lands;

6           (b) By public service corporations;

7           (c) For tax forfeitures.

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

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

### TITLE III – ADMINISTRATION

1           **Sec. 1. Appropriations conditional.** — The expenditure of the appropriations made by  
2 this act, except those appropriations made to the legislative and judicial branches of the state

3 government, are conditioned upon the compliance by the spending unit with the requirements of  
4 Article 2, Chapter 11B of the Code.

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

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

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

Following extended discussion and a point of inquiry to the President, with resultant response thereto,

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

Engrossed Committee Substitute for House Bill 2020, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Blair, Boso, Clements, Cline, Hamilton, Mann, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—19.

The nays were: Baldwin, Beach, Facemire, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—14.

Absent: Boley—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2020) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Blair, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—27.

The nays were: Beach, Facemire, Prezioso, Romano, Unger, and Woelfel—6.

Absent: Boley—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2020) takes effect from passage.

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

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 8th day of March, 2019, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

**(Com. Sub. for S. B. 157)**, Authorizing Department of Administration promulgate legislative rules.

**(S. B. 440)**, Relating to Antihazing Law.

**(S. B. 453)**, Relating to background checks of certain financial institutions.

**(S. B. 510)**, Relating to medical professional liability.

**(Com. Sub. for S. B. 518)**, Restricting sale and trade of dextromethorphan.

**(S. B. 545)**, Relating to HIV testing.

**(S. B. 593)**, Permitting critical access hospital become community outpatient medical center.

**(Com. Sub. for H. B. 2204)**, Prohibiting state licensing boards from hiring lobbyists.

**(H. B. 2510)**, Relating to special funds of boards of examination or registration.

**(H. B. 2608)**, Repealing the requirement of printing the date a consumer deposit account was opened on paper checks.

**(Com. Sub. for H. B. 2703)**, Relating to refunds of excise taxes collected from dealers of petroleum products.

**(Com. Sub. for H. B. 2737)**, Relating to training of State Tax Division employees.

**(H. B. 2743)**, Eliminating reference to municipal policemen's pension and relief funds and firemen's pension and relief funds in section restricting investment.

**(H. B. 2829)**, Relating to the termination of severance taxes on limestone and sandstone.

**(Com. Sub. for H. B. 2848)**, Relating to the West Virginia ABLE Act.

And,

**(H. B. 3093)**, Relating to standards for factory-built homes.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
Moore Capito,  
*Chair, House Committee.*

The Senate again proceeded to the eighth order of business, the next bill coming up in numerical sequence being

**Eng. Com. Sub. for House Bill 2849**, Establishing different classes of pharmacy technicians.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Blair and Boley—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2849) passed with its title.

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

**Eng. House Bill 2850**, Relating to qualifications for commercial driver's license.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—31.

The nays were: Facemire and Plymale—2.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2850) passed with its title.

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

**Eng. House Bill 2926**, Requiring the Secretary of the Department of Veterans' Affairs to study the housing needs of veterans.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2926) passed with its title.

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

**Eng. House Bill 2934**, West Virginia Lottery Interactive Wagering Act.

On third reading, coming up in regular order, with the unreported Judiciary committee amendment pending, and with the right having been granted on yesterday, Thursday, March 7, 2019, for amendments to be received on third reading, was reported by the Clerk.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk:

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

**ARTICLE 22E. WEST VIRGINIA LOTTERY INTERACTIVE WAGERING ACT.**

**§29-22E-1. Short title.**

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

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

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

(b) Legislative findings. —

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

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

(3) The Legislature finds that it is in the best interests of the State of West Virginia for the state to operate a lottery in the form of interactive wagering and that it is the intent of the Legislature to authorize interactive wagering within the state and through compacts with other approved jurisdictions.

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

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

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

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

### **§29-22E-3. Definitions.**

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

(1) "Adjusted gross interactive wagering receipts" means an operator's gross interactive wagering receipts from West Virginia Lottery interactive wagering, less winnings paid to wagers in such games.

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

(3) "Director" means the Director of the West Virginia State Lottery Commission, appointed pursuant to §29-22-6 of this code.

(4) "Gaming" or "interactive gaming" means wagering on any authorized interactive game. Authorized interactive games are computerized or virtual versions of any game of chance or digital simulation thereof, including, but not limited to, casino themed slot simulations, table games, and other games approved by the commission.

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

(6) "Gross interactive wagering receipts" means the total gross receipts received by a licensed gaming facility from interactive wagering.

(7) "Interactive gaming operator" or "operator" means a licensed gaming facility which has elected to operate authorized West Virginia Lottery interactive wagering activities or an interactive gaming system on behalf of or in cooperation with an interactive gaming licensee.



(8) “Interactive gaming provider” or “management services provider” means an interactive gaming licensee or an interactive gaming operator with a valid permit acting on behalf of or in partnership with an interactive gaming licensee.

(9) “Interactive wagering account” means a financial record established by a licensed gaming facility for an individual patron in which the patron may deposit and withdraw funds for interactive wagering and other authorized purchases, and to which the licensed gaming facility may credit winnings or other amounts due to that patron or authorized by that patron.

(10) “Interactive wagering agreement” means a written agreement between the commission and one or more other governments whereby persons who are physically located in a signatory jurisdiction may participate in interactive wagering conducted by one or more operators licensed by the signatory governments.

(11) “Interactive wagering fund” means the special fund in the State Treasury, created in §29-22E-17 of this code.

(12) “License” means any license, applied for or issued by the commission under this article, including, but not limited to:

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

(B) A license to supply a gaming facility, licensed under this article, to operate interactive wagering with interactive wagering equipment or services necessary for the operation of interactive wagering (supplier license); or

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

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

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

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

(16) “Wager” means a sum of money or thing of value risked on an uncertain occurrence.

(17) “West Virginia Lottery interactive wagering” or “interactive wagering” or “interactive gaming” means the placing of wagers remotely and in real time on any authorized interactive

game with any interactive gaming provider, using any communications technology, by means of any electronic or mobile device or other interface capable of providing a means of input and output. The term does not include:

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

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

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

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

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

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

(G) Sports wagering, authorized by §29-22D-1 et seq.; and

(H) Daily Fantasy Sports (DFS).

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

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

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

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

(c) The commission has the authority, pursuant to §29A-1-1 et seq. and §29A-3-1 et seq. of this code, to promulgate or otherwise enact any legislative, interpretive, and procedural rules the commission considers necessary for the successful implementation, administration, and enforcement of this article. Rules proposed by the commission before December 1, 2019, may be promulgated as emergency rules pursuant to §29A-3-15 of this code.

(1) Rules promulgated by the commission may include, but are not limited to, those governing the acceptance of wagers on interactive games; maximum wagers which may be accepted by an operator from any one patron on any one interactive game; method of accounting to be used by operators; types of records which shall be kept; use of credit and checks by patrons; type of system for wagering; protections for patrons placing wagers; and promotion of social

responsibility, responsible gaming, and inclusion of the statement, "If you or someone you know has a gambling problem and wants help, call 1-800 GAMBLER", in every designated area approved for interactive wagering and on any mobile application or other digital platform used to place wagers.

(2) The commission shall establish minimum internal control standards (MICS) and approve minimum internal control standards proposed by licensed operators for administration of interactive wagering operations, interactive wagering equipment and systems, or other items used to conduct interactive wagering, as well as maintenance of financial records and other required records.

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

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

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

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

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

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

(a) No person may engage in any activity in connection with West Virginia Lottery interactive wagering in this state unless all necessary licenses have been obtained in accordance with this article and rules of the commission.

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

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

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

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

(c) License application requirements. — All applicants for any license issued under this article shall submit an application to the commission in the form the commission requires and submit fingerprints for a national criminal records check by the Criminal Identification Bureau of the West Virginia State Police and the Federal Bureau of Investigation. The fingerprints shall be furnished by all persons required to be named in the application and shall be accompanied by a signed authorization for the release of information by the Criminal Investigation Bureau and the Federal Bureau of Investigation. The commission may require additional background checks on licensees when they apply for annual license renewal, and any applicant convicted of any disqualifying offense shall not be licensed.

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

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

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

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

#### **§29-22E-6. Operator license; West Virginia interactive wagering operators.**

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

(b) All interactive wagering authorized by this article shall be West Virginia Lottery games owned by the State of West Virginia. An operator license granted by the commission pursuant to this article grants licensees lawful authority to conduct West Virginia Lottery interactive wagering within the terms and conditions of the license and any rules promulgated under this article.

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

(d) Grant of license. — Upon application by a gaming facility and payment of a \$250,000 application fee, the commission shall immediately grant a West Virginia Lottery interactive

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

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

(f) *Management service contracts.* —

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

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

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

(g) *Expiration date and renewal.* —

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

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

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

(i) *Audits.* — Upon application for a license and annually thereafter, a West Virginia Lottery interactive wagering licensee shall submit to the commission an annual audit of the financial

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

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

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

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

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

(b) License qualifications and fee. — Each applicant for a management services provider license shall meet all requirements for licensure and pay a nonrefundable license and application fee of \$100,000. The commission may adopt rules establishing additional requirements for an authorized management services provider. The commission may accept licensing by another jurisdiction, that it specifically determines to have similar licensing requirements, as evidence the applicant meets authorized management services provider licensing requirements.

(c) Renewal. — Management services provider licenses shall be renewed annually to any licensee who continues to be in compliance with all requirements and who pays the annual renewal fee of \$100,000.

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

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

(a) Supplier license. —

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

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

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

(c) *License application and renewal fees.* — Applicants shall pay to the commission a nonrefundable license and application fee in the amount of \$10,000. After the initial one-year term, the commission shall renew supplier licenses annually thereafter. Renewal of a supplier license will be granted to any renewal applicant who has continued to comply with all applicable statutory and regulatory requirements, upon submission of the commission issued renewal form and payment of a \$10,000 renewal fee.

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

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

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

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

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

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

**§29-22E-10. License prohibitions.**

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

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

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

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

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

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

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

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

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

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

**§29-22E-11. Interactive wagering house rules; posting of rules.**

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

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



(c) The commission shall license and require the display of West Virginia Lottery game logos on interactive wagering platforms and any locations the commission considers appropriate.

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

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

(1) Employ an interactive gaming system and interactive gaming platform which manages, conducts, and records interactive games and the wagers associated with interactive games, as well as any interactive gaming platforms authorized by the commission. System requirements and specifications shall be developed according to industry standards and implemented by the commission as part of the minimum internal control standards;

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

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

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

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

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

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

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

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

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

(4) Ensure that West Virginia Lottery interactive wagering occurs only in the specific locations within designated gaming areas approved by the commission or using a commission approved mobile application or other digital platform that utilizes communications technology to accept wagers originating within this state, or on an interactive wagering device. West Virginia Lottery

interactive wagering shall only be relocated or offered in additional authorized manners in accordance with the rules of the commission;

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

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

#### **§29-22E-13. Posting of betting limits.**

An interactive wagering licensee shall conspicuously post a sign at each West Virginia Lottery interactive wagering location and on all interactive gaming platforms indicating the minimum and maximum wagers permitted at that location and shall comply with the same.

#### **§29-22E-14. Interactive wagering agreements with other governments.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**§29-22E-15. Authorization of interactive wagering in this state; requirements.**

(a) An operator shall accept wagers on interactive games authorized under this article from persons physically present in a licensed gaming facility where authorized interactive wagering occurs. A person placing a wager shall be at least 21 years of age.

(b) An operator may accept wagers from an individual physically located within this state using a mobile or other digital platform or an interactive wagering device, approved by the commission, through the patron's interactive wagering account. A person placing a wager shall be at least 21 years of age.

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

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

(e) The commission shall promulgate rules implementing the provisions of §29-22E-15(a) and §29-22E-15(b) of this code by interpretive rule and minimum internal control standards.

(f) The commission shall conduct all interactive wagering pursuant to the provisions of this article, and such gaming activities shall be deemed to occur at the licensed gaming facilities authorized to conduct interactive wagering.

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

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

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

(a) Imposition and rate of assessment. — For the privilege of holding a license to operate interactive wagering under this article, the state shall impose and collect 15 percent of the licensee's adjusted gross interactive wagering receipts from the operation of West Virginia Lottery interactive wagering (hereinafter "privilege tax" or "tax"). The accrual method of accounting shall be used for purposes of calculating the amount of the tax owed by the licensee.

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

(1) The tax levied and collected pursuant to §29-22E-16(a) of this code is due and payable to the commission in weekly installments on or before the Wednesday following the calendar week in which the adjusted gross interactive wagering receipts were received and the tax obligation was accrued.

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

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

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

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

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

(c) Privilege tax obligation imposed by this section is in lieu of other taxes. — With the exception of the ad valorem property tax collected under chapter 11A of this code, the privilege tax on adjusted gross interactive wagering receipts imposed by this section is in lieu of all other state and local taxes and fees imposed on the operation of, or the proceeds from operation of, West Virginia Lottery interactive wagering, except as otherwise provided in this section. The

consumers sales and services tax imposed pursuant to §11-15-1 et seq. of this code, the use tax imposed by §11-15A-1 et seq. of this code and any similar local tax imposed at the municipal or county level, shall not apply to the licensee's gross receipts from any West Virginia Lottery interactive wagering or to the licensee's purchase of interactive wagering equipment, supplies, or services directly used in operation of the interactive wagering authorized by this article.

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

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

#### **§29-22E-17. West Virginia Lottery Interactive Wagering Fund; distribution of funds.**

(a) The special fund in the State Treasury known as the West Virginia Lottery Interactive Wagering Fund is hereby created and all moneys collected under this article by the commission shall be deposited with the State Treasurer to the West Virginia Lottery Interactive Wagering Fund. The fund shall be an interest-bearing account with all interest or other return earned on the money of the fund credited to and deposited in the fund. All expenses of the commission incurred in the administration and enforcement of this article shall be paid from the interactive wagering fund pursuant to §29-22E-17(b) of this code.

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

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

(2) Distribution of net profit. — In each fiscal year, net profit shall be deposited into the State Lottery Fund created by §29-22-18 of this code unless otherwise required by this code.

#### **§29-22E-18. Law enforcement.**

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

**§29-22E-19. Civil penalties.**

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

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

**§29-22E-20. Crimes and penalties related to unauthorized interactive wagering operations.**

(a) Any person, other than a licensee under this article, who engages in accepting, facilitating, or operating an interactive wagering operation is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$10,000 or confined in jail for not more than 90 days, or both fined and confined.

(b) Notwithstanding the penalty provisions of §29-22E-20(a) of this code, any person convicted of a second violation of §29-22E-20(a) of this code is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$50,000, or confined in jail for not more than six months, or both fined and confined.

(c) Notwithstanding the penalty provisions of §29-22E-20(a) or §29-22E-20(b) of this code, any person convicted of a third or subsequent violation of §29-22E-20(a) of this code is guilty of a felony, and upon conviction thereof, shall be fined not less than \$25,000 nor more than \$100,000 or imprisoned in a state correctional facility for not less than one year nor more than five years, or both fined and confined.

**§29-22E-21. Crimes and penalties related to authorized interactive wagering operation.**

(a) An interactive wagering licensee is guilty of unlawful operation and is guilty of a misdemeanor when:

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

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

(3) The licensee knowingly conducts, carries on, operates, or allows any interactive wagering to occur on premises or through any other device if equipment or material has been tampered with, or exposed to conditions in which it will be operated in a manner designed to deceive the public;

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

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

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

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

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

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

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

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

(4) The person knowingly places a wager using counterfeit currency or other counterfeit form of credit for wagering at a gaming facility or through a digital or electronic platform offering West Virginia Lottery interactive wagering; or

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

(c) Any person who violates any provision of §29-22E-21(a) of this code is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or confined in jail for not more than six months, or both fined and confined, except any violation that is not committed by a natural person may result in a fine of not more than \$25,000.

(d) Any person who violates any provision of §29-22E-21(b) of this code is guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than \$10,000, or confined in a state correctional facility for not less than one year nor more than five years, or both fined and confined.

(e) With regard to §29-22E-21(b) of this code, each West Virginia interactive wagering licensee shall post notice of the prohibitions and penalties of this section in a manner determined by the rules of the commission.

#### **§29-22E-22. Preemption.**

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

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

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

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

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

On motion of Senator Trump, the following amendment to the Judiciary committee amendment to the bill (Eng. H. B. 2934) was reported by the Clerk and adopted:

On page six, section four, subsection (c), by striking out "December 1, 2019" and inserting in lieu thereof "July 1, 2020".

On motion of Senator Lindsay, the following amendments to the Judiciary committee amendment to the bill (Eng. H. B. 2934) were next reported by the Clerk and considered simultaneously:

On page twenty-three, section seventeen, subsection (b), after subdivision (1) by inserting a new subdivision, designated subdivision (2), to read as follows:

(2) *Distribution to pension plan for racing association employees.* — In each fiscal year, the Lottery Commission shall deposit one-quarter of a percent of the net profit into each of the four special funds established by the Racing Commission, pursuant to §29-22A-10 and §29-22C-27 of this code, to be used for payment into the pension plan for the employees of the licensed racing associations in this state.;

By renumbering the remaining subdivision;

And,

On page twenty-three, section seventeen, after the word "year," by inserting the word "remaining."

Following discussion,

The question being on the adoption of Senator Lindsay's amendments to the Judiciary committee amendment to the bill, the same was put and prevailed.

The question now being on the adoption of the Judiciary committee amendment, as amended, the same was put and prevailed.

Having been engrossed, the bill (Eng. H. B. 2934) , as just amended, was then read a third time and put upon its passage.



On the passage of the bill, the yeas were: Baldwin, Beach, Blair, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Romano, Rucker, Stollings, Swope, Takubo, Tarr, Trump, Weld, Woelfel, and Carmichael (Mr. President)—26.

The nays were: Azinger, Boso, Prezioso, Roberts, Smith, Sypolt, and Unger—7.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2934) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. House Bill 2934**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §29-22E-1, §29-22E-2, §29-22E-3, §29-22E-4, §29-22E-5, §29-22E-6, §29-22E-7, §29-22E-8, §29-22E-9, §29-22E-10, §29-22E-11, §29-22E-12, §29-22E-13, §29-22E-14, §29-22E-15, §29-22E-16, §29-22E-17, §29-22E-18, §29-22E-19, §29-22E-20, §29-22E-21, §29-22E-22, §29-22E-23, and §29-22E-24, all relating to permitting interactive wagering authorized as West Virginia Lottery interactive wagering activities; providing legislative findings; defining terms; detailing duties and powers of the West Virginia Lottery Commission; providing rule-making authority and emergency rule-making authority; requiring commission to levy and collect all fees, surcharges, civil penalties, and weekly tax on adjusted gross interactive wagering receipts and deposit them into the West Virginia Lottery Interactive Wagering Fund; limiting licensees who may offer interactive wagering to existing racetrack casinos and the casino in a historic resort hotel; providing for four types of licenses to be issued related to interactive wagering; establishing license requirements and prohibitions; authorizing licensing fees; requiring adoption and posting of house rules; defining duties of an operator conducting interactive wagering; requiring the posting of betting limits; authorizing interactive wagering agreements with other governments; providing powers and duties of commission and operators; limiting certain activities of employees; authorizing the West Virginia Lottery to levy and collect a privilege tax in the amount of 15 percent of adjusted gross interactive wagering receipts; requiring reports and submission of taxes; clarifying that tax is in lieu of certain other taxes; providing that certain expenditures related to interactive wagering are facility modernization improvements eligible for recoupment; providing that credits are not allowed against the privilege tax; creating the West Virginia Lottery Interactive Wagering Fund; authorizing the West Virginia Lottery to collect an administrative allowance from gross interactive wagering receipts; providing for distribution of moneys deposited in the West Virginia Lottery Interactive Wagering Fund; authorizing certain agreements between the West Virginia Lottery and law enforcement; imposing civil penalties for certain violations, and exceptions thereto; prohibiting unauthorized interactive wagering in this state; establishing crimes related to unauthorized interactive wagering and imposing criminal penalties; establishing crimes related to authorized interactive wagering and imposing criminal penalties; preempting provisions from state and local law; and establishing certain exemptions from federal law.

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

**Eng. Com. Sub. for House Bill 2982**, Amending and updating the laws relating to auctioneers.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2982) passed.

On motion of Senator Boso, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 2982**—A Bill to amend and reenact §19-2C-1, §19-2C-2, §19-2C-3, §19-2C-5, §19-2C-5a, §19-2C-6, §19-2C-6a, §19-2C-6c, §19-2C-8, §19-2C-8a, §19-2C-9, and §19-2C-10 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §19-2C-5b, all relating to amending and updating the laws relating to auctioneers by providing for definitions; providing for certain exemptions to license requirements; providing for additional rulemaking authority; providing for June 30 as the date all licenses expire; establishing certain conditions for auctioneers to continue working after license expiration; providing for record retention requirements; providing for exams held a minimum of two times each year; providing for applicants for auctioneer licenses to submit to background checks; providing for authorization to conduct and use information relating to background checks; providing for confidentiality of background checks; establishing certain conditions for apprentice auctioneers to continue working after license expiration; adjusting residency requirements for members of the board of review; eliminating certain outdated language; providing for reciprocal licensure; increasing civil penalties for violations of this article; increasing penalties commissioner may be assessed against an unlicensed auctioneer; providing for additional circumstances to suspend, deny, or revoke a license; providing for written contracts with auctioneers and owners of property; providing for auction houses and business entities to enter into contracts with auctioneers and owners of property; and providing for certain unlawful advertising practices.

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

**Eng. Com. Sub. for House Bill 3016**, Relating to the State Aeronautics Commission.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3016) passed with its title.

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

**Eng. Com. Sub. for House Bill 3057**, Relating to the Adult Drug Court Participation Fund.

On third reading, coming up in regular order, was read a third time.

At the request of Senator Trump, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's second reading calendar.

**Eng. House Bill 3132**, Relating to exempting providers that serve no more than 30 patients with office-based medication-assisted treatment.

On third reading, coming up in regular order, was read a third time and put upon its passage.

Pending discussion,

The question being "Shall Engrossed House Bill 3132 pass?"

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3132) passed with its title.

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

**Eng. House Bill 3141**, Requiring capitol building commission authorization for certain renovations.

On third reading, coming up in regular order, was read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—33.

The nays were: None.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3141) passed with its title.

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

**Eng. House Bill 3144**, North Central Appalachian Coal Severance Tax Rebate Act.

On third reading, coming up in regular order, was reported by the Clerk.

On motion of Senator Takubo, the Senate reconsidered the vote by which it adopted the Finance committee amendment to the bill.

The vote thereon having been reconsidered,

The question again being on the adoption of the Finance committee amendment to the bill.

Thereafter, at the request of Senator Blair, as chair of the Committee on Finance, and by unanimous consent, the Finance committee amendment to the bill was withdrawn.

At the request of Senator Blair, unanimous consent was granted to offer an amendment to the bill on third reading.

Thereupon, on motion of Senator Blair, the following amendment to the bill was reported by the Clerk:

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

**ARTICLE 13EE. COAL SEVERANCE TAX REBATE.**

**§11-13EE-1. Findings and purpose.**

The Legislature finds that the encouragement of economic growth and development in this state is in the public interest and promotes the general welfare of the people of this state. In order to encourage capital investment in the coal industry in this state and thereby increase economic development, there is hereby provided a coal severance tax rebate.

**§11-13EE-2. Definitions.**

(a) General. When used in this article, or in the administration of this article, terms defined in subsection (b) shall have the meanings ascribed to them by this section, unless a different meaning is clearly required by either the context in which the term is used, or by specific definition, in this article.

(b) Terms defined.

(1) "Affiliated group" means one or more chains of corporations, limited liability entities, or partnerships, or any combination thereof, connected through the ownership of stock or ownership interests with a common parent which is a corporation, limited liability entity, or partnership, but only if the common parent owns directly, or indirectly, a controlling interest in each of the members of the group.

(2) "Business" means and is limited to the activity of producing coal for sale, profit or commercial use including coal preparation and processing.

(3) “Capital investment in new machinery, equipment, or improvements to real property” means:

(A) Tangible personal property in the form of machinery and equipment that is purchased on or after the effective date of this article and placed in service for direct use in the production of coal, when the original or first use of the machinery or equipment commences in this state on or after the effective date of this article;

(B) Tangible personal property in the form of machinery and equipment that is leased by the taxpayer and placed in service for direct use in the production of coal by the taxpayer on or after the effective date of this article, if the original or first use of the machinery or equipment commences in this state, with the taxpayer, on or after the effective date of this article and the machinery or equipment is depreciable, or amortizable, for federal income tax purposes and has a useful life of five or more years for federal income tax purposes;

(C) Improvements to real property having a useful life of 5 or more years, that are depreciable or amortizable for federal income tax purposes, purchased on or after the effective date of this article, if the original or first use of such improvements commences in this state on or after the effective date of this article and the improvements are placed in service for direct use in the production of coal.

(4) “Coal mine” or “mine” includes:

(A) A “surface mine,” or “surface mining operation” which means:

(i) Activities conducted on the surface of lands for the removal of coal, or, subject to the requirements of §11-13EE-14 of this code, surface operations and surface impacts incident to an underground coal mine, including the drainage and discharge from the mine. The activities include: Excavation for the purpose of obtaining coal, including, but not limited to, common methods as contour, strip, auger, mountaintop removal, box cut, open pit and area mining; the uses of explosives and blasting; reclamation; in situ distillation or retorting, leaching or other chemical or physical processing; the cleaning, concentrating or other processing or preparation and loading of coal for commercial purposes at or near the mine site; and

(ii) The areas upon which the above activities occur or where the activities disturb the natural land surface. The areas also include any adjacent land, the use of which is incidental to the activities; all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of the activities and for haulage; and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incidental to the activities: *Provided*, That the activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed 16 and two-thirds percent of the tonnage of minerals removed for purposes of commercial use or sale, or coal prospecting. Surface mining does not include any of the following:

(I) Coal extraction authorized pursuant to a government-financed reclamation contract;

(II) Coal extraction authorized as an incidental part of development of land for commercial, residential, industrial or civic use; or

(III) The reclamation of an abandoned or forfeited mine by a no cost reclamation contract; and

(B) An “underground mine” which includes the shafts, slopes, drifts or inclines connected with, or intended in the future to be connected with, excavations penetrating coal seams or strata, which excavations are ventilated by one general air current or divisions thereof, and connected by one general system of mine haulage over which coal may be delivered to one or more points outside the mine, and the surface structures or equipment connected or associated therewith which contribute directly or indirectly to the mining, preparation or handling of coal.

(5) “Coal mining operation” includes the mine and the coal preparation and processing plant.

(6) “Coal preparation and processing plant” means any facility (excluding underground mining operations) which prepares coal by one or more of the following processes: breaking, crushing, screening, wet or dry cleaning, and thermal drying.

(7) “Coal production” means the privilege of severing, extracting, reducing to possession and producing coal for sale, profit or commercial use and includes the processing of coal at a coal preparation and processing plant.

(8) “Commissioner” or “Tax Commissioner” are used interchangeably herein and mean the Tax Commissioner of the State of West Virginia, or his or her delegate.

(9) “Controlled group” means one or more chains of corporations connected through stock ownership with a common parent corporation if stock possessing at least 50 percent of the voting power of all classes of stock of each of the corporations is owned, directly or indirectly, by one or more of the corporations; and the common parent owns directly stock possessing at least 50 percent of the voting power of all classes of stock of at least one of the other corporations.

(10) “Controlling interest” means:

(A) For a corporation, either more than 50 percent ownership, directly or indirectly, of the total combined voting power of all classes of stock of the corporation, or more than 50 percent ownership, directly or indirectly, of the beneficial ownership interest in the voting stock of all classes of stock of the corporation;

(B) For a partnership, association, trust or other entity other than a limited liability company, more than 50 percent ownership, directly or indirectly, of the capital, profits, or beneficial interest in the partnership, association, trust, or other entity;

(C) For a limited liability company, either more than 50 percent ownership, directly or indirectly, of the total membership interest of the limited liability company, or more than 50 percent ownership, directly or indirectly, of the beneficial ownership interest in the membership interest of the limited liability company.

(11) “Corporation” means any corporation, joint-stock company or association, and any business conducted by a trustee or trustees wherein interest or ownership is evidenced by a certificate of interest or ownership or similar written instrument.

(12) “Delegate” used in the phrase “or his delegate”, when used in reference to the Tax Commissioner, means any officer or employee of the State Tax Department duly authorized by the Tax Commissioner directly, or indirectly by one or more redelegations of authority, to perform the functions mentioned or described in this article.

(13) "Directly used or consumed in the production of coal" means used or consumed in those activities or operations which constitute an integral and essential part of the production of coal, as contrasted with and distinguished from those activities or operations which are simply incidental, convenient or remote to the production of coal.

(A) Uses of tangible personal property or improvements to real property which constitute direct use or consumption in the production of coal include only:

(i) New machinery, equipment, or improvements to real property that are depreciable, or amortizable, and have a useful life of five or more years for federal income tax purposes, and that are directly used in the production of coal in this state;

(ii) Transportation of coal within the coal mine from the coal face or coal deposit to the exterior of the mine or to a point where the extracted coal is transported away from the mine;

(iii) Directly and physically recording the flow of coal during the production of coal including those coal treatment processes specified in §11-13A-4 of this code;

(iv) Safety equipment and apparatus directly used in the production of coal, or to secure the safety of mine personnel in direct use in the production of coal;

(v) Controlling or otherwise regulating atmospheric conditions required for the production of coal;

(vi) Transformers, pumps, rock dusting equipment and other property used to supply electricity or water, or to supply or apply rock dust directly used in the production of coal;

(vii) Storing, removal or transportation of economic waste, including coal gob, resulting from the production of coal;

(viii) Engaging in pollution control or environmental quality or protection activity directly relating to the production of coal; or

(ix) Otherwise using as an integral and essential part of the production of coal.

(B) Uses of tangible personal property or improvements to real property which do not constitute direct use or consumption in the production of coal include, but are not limited to:

(i) Heating and illumination of office buildings;

(ii) Janitorial or general cleaning activities;

(iii) Personal comfort of personnel: *Provided*, That safety equipment and apparatus directly used in the production of coal or to secure the safety of mine personnel is direct use in the production of coal when the tangible personal property is depreciable, or amortizable, for federal income tax purposes and has a useful life of five or more years for federal income tax purposes when it is placed in service or use;

(iv) Production planning, scheduling of work or inventory control;

(v) Marketing, general management, supervision, finance, training, accounting and administration;

(vi) Measuring or determining weight, and ash content, water content and other physical and chemical characteristics of the coal after production;

(vii) An activity or function incidental or convenient to the production of coal, rather than an integral and essential part of these activities.

(14) "Eligible taxpayer" means:

(A) Any person who pays the tax imposed by §11-13A-3 of this code on the privilege of producing coal for sale, profit or commercial use for at least two years before the capital investment in new machinery, equipment, or improvements to real property is placed in service or use in this state; or

(B) A taxpayer that has experienced a change in business composition through merger, acquisition, split-up, spin-off or other ownership changes or changes in the form of the business organization from limited liability company to C corporation, or partnership, or from one form of business organization to a different form of business organization, may constitute an eligible taxpayer if the entity currently operating in this state was operating in a different form of business organization in this state at least two years before the capital investment in new machinery, equipment, or improvements to real property is placed in service or use in this state. In the case of business composition change through merger, acquisition, split-up, spin-off or other ownership changes the current business may constitute an eligible taxpayer if at least 50 percent of the business assets of such component were actively and directly used in coal production activity in this state for such two-year period. If less than 50 percent of the assets of the current entity were not actively and directly used in coal production activity in this state for such two-year period, then the current entity resulting from a business composition change through merger, acquisition, split-up, spin-off or other ownership shall not constitute an eligible taxpayer.

(15) "Includes" and "including" when used in a definition contained in this article, shall not be deemed to exclude other things otherwise within the generally understood meaning of the term defined.

(16) "Original use" means the first use to which the property is put by anyone.

(17) "Partnership" includes a syndicate, group, pool, joint venture or other unincorporated organization through or by means of which any business, operation or venture is carried on, which is taxed under Subchapter K of the Internal Revenue Code, as defined in §11-24-3 of this code, and which is not a trust or estate, a corporation or a sole proprietorship. The term "partner" includes a member in such a syndicate, group, pool, joint venture or other unincorporated organization taxed under Subchapter K of the Internal Revenue Code.

(18) "Person" includes any natural person, corporation, partnership, limited liability company or other business entity.

(19) "Production of coal" means the privilege of severing, extracting, reducing to possession and producing coal for sale, profit or commercial use and includes the processing of coal at the coal preparation and processing plant.

(20) "Property" means new machinery, equipment, or improvements to real property that are depreciable or amortizable for federal income tax purposes and that have a useful life of five or more years for federal income tax purposes.

(21) "Property purchased or leased for business expansion" means:



(A) *Included property.* Except as provided in subparagraph (B), the term “property purchased or leased for business expansion” means tangible personal property, or improvements to real property but only if the property was purchased, or leased and placed in service or use by the taxpayer in West Virginia. This term includes only:

(i) Tangible personal property placed in service or use by the taxpayer on or after the effective date of this article, with respect to which depreciation, or amortization in lieu of depreciation, is allowable in determining the personal or corporation net income tax liability of the business, or its equity owners, under §11-21-1 et seq. or §11-24-1 et seq. of this code, and which has a useful economic life at the time the property is placed in service or use in this state, of five or more years.

(ii) Tangible personal property acquired by written lease having a primary term of 5 years or more, that is depreciable or amortizable by the lessor, or lessee, for federal income tax purposes and that has a useful life of five or more years for federal income purposes when it is placed in service or use, and when the lease commences and was executed by the parties thereto on or after the effective date of this article, if used as a component part of a new or expanded coal mining operation in this state shall be included within this definition.

(iii) Improvements to real property having a useful life of five or more years, that are depreciable or amortizable for federal income tax purposes, purchased on or after the effective date of this article, if the original or first use of such improvements commences in this state on or after the effective date of this article and the improvements are placed in service as a component part of a new or expanded coal mining operation in this state.

(B) *Excluded property.* -The term “property purchased or leased for business expansion” shall not include:

(i) Machinery and equipment owned or leased by the taxpayer and improvements to real property owned by a taxpayer for which credit was taken or is claimed under any other article of this chapter;

(ii) Repair costs, including materials used in the repair, unless for federal income tax purposes, must be capitalized and not expensed;

(iii) Motor vehicles licensed by the West Virginia Division of Motor Vehicles;

(iv) Airplanes;

(v) Off-premise transportation equipment;

(vi) Machinery, equipment, or improvements to real property that are primarily used outside this state;

(vii) Machinery, equipment, or improvements to real property that are acquired incident to the purchase of the stock or assets of the seller; and

(viii) Used machinery, equipment, or improvements to real property.

(C) *Purchase date.* New machinery, equipment, or improvements to real property shall be deemed to have been purchased prior to a specified date only if:

(i) The machinery, equipment, or improvements to real property were owned by the taxpayer prior to the effective date of this article or were acquired by the taxpayer pursuant to a binding purchase contract which was in effect prior to the effective date of this article; or

(ii) In the case of leased machinery and equipment, there was a binding written lease or contract to lease identifiable machinery or equipment in effect prior to the effective date of this article.

(22) "Purchase" means any acquisition of new machinery, equipment, or improvements to real property, but only if:

(A) The property or the improvement to the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of deductions under Section 267 or 707 (b) of the United States Internal Revenue Code, as defined in §11-24-3 of this code;

(B) The property or the improvement to the property is not acquired by one component member of a controlled group from another component member of the same controlled group; and

(C) The basis of the property or improvements to property for federal income tax purposes, in the hands of the person acquiring it, is not determined:

(i) In whole or in part by reference to the federal adjusted basis of the property or the improvements to property in the hands of the person from whom it was acquired; or

(ii) Under Section 1014 (e) of the United States Internal Revenue Code.

(23) "Qualified coal mining activity" means any business or other activity subject to the tax imposed by §11-13A-3 of this code on the privilege of severing, extracting, reducing to possession and producing coal for sale, profit or commercial use including the treatment process described as mining in §11-13A-4(a)(1) of this code.

(24) "Qualified investment" means capital investment in new machinery, equipment, or improvements to real property directly used in the production of coal in this state that is depreciable, or amortizable, for federal income tax purposes and has a useful life for federal income tax purposes of five or more years when it is placed in service or use in this state.

(25) "Rebate" means the amount of rebate allowable under §11-13EE-3 of this code.

(26) "Related person" means:

(A) A corporation, partnership, association or trust controlled by the taxpayer;

(B) An individual, corporation, partnership, association, or trust that is in control of the taxpayer;

(C) A corporation, partnership, association, or trust controlled by an individual, corporation, partnership, association, or trust that is in control of the taxpayer; or

(D) A member of the same controlled group as the taxpayer.

For purposes of this subdivision, the term “control”, with respect to a corporation, means ownership, directly or indirectly, of stock possessing 50 percent or more of the total combined voting power of all classes of the stock of the corporation entitled to vote. “Control,” with respect to a trust, means ownership, directly or indirectly, of 50 percent or more of the beneficial interest in the principal or income of the trust. The ownership of stock in a corporation, of a capital or profits interest in a partnership or association, or of a beneficial interest in a trust is determined in accordance with the rules for constructive ownership of stock provided in section 267 (c) of the United States Internal Revenue Code, other than paragraph (3) of that section.

(27) “State portion of severance taxes paid” means the portion of severance taxes due under §11-13A-3 of this code when computed at the 4.65 percent rate of tax.

(28) “Tangible personal property” means, and is limited to, new machinery and equipment that is depreciable, or amortizable, for federal income tax purposes and that has a useful life of five or more years for federal income tax purposes when it is placed in service or use in this state.

(29) “Taxpayer” means any person exercising the privilege of severing, extracting, reducing to possession, and producing coal for sale, profit, or commercial use coal, which privilege is taxable under §11-13A-3 of this code.

(30) “This code” means the Code of West Virginia, 1931, as amended.

(31) “This state” means the State of West Virginia.

(32) “United States Internal Revenue Code” or “Internal Revenue Code” means the Internal Revenue Code as defined in §11-24-3 of this code.

### **§11-13EE-3. Rebate allowable.**

(a) *Rebate allowable.* Eligible taxpayers shall be allowed a rebate for a portion of state severance taxes imposed by §11-13A-3 of this code on the privilege of severing, extracting, reducing to possession and producing coal for sale, profit, or commercial use that is attributable to the increase in the production of coal that is attributable to and the consequence of the taxpayer’s capital investment in new machinery, equipment, or improvements to real property used at the coal mine, or coal preparation and processing facility. The amount of this rebate shall be determined and applied as hereinafter provided in this article.

(b) *Amount of rebate.* The amount of rebate allowable is determined by multiplying the amount of the taxpayer’s capital investment in new machinery, equipment, or improvements to real property directly used in the production of coal at a coal mining operation in this state by 35 percent. The product of this computation establishes the maximum amount of rebate allowable under this article for the capital investment in new machinery, equipment, or improvements to real property.

(c) *Application of rebate amount.* The amount of rebate allowable is determined by applying the rebate amount determined in subsection (b) of this section against 80 percent of the state portion of the severance tax paid on the privilege of severing, extracting, reducing to possession, and producing coal for sale, profit, or commercial use that is directly attributable to the increased production of coal at the mine due to taxpayer’s capital investment in new machinery, equipment, or improvements to real property at the mine or coal processing and preparation plant.

(d) The amount of severance tax attributable to the increase in coal production at a mine due to the capital investment in new machinery, equipment, or improvements to real property shall be determined by comparing (1) the state portion of the severance tax due under §11-13A-3 of this code on coal produced from the mine during calendar year 2018, or if the taxpayer has produced coal for five years at the mine at which its capital investment in new machinery, equipment, or improvements to real property are placed in service or use the average of the state portion of the severance tax due under §11-13A-3 of this code on coal produced from the mine during the five year period ending on December 31, 2018, whichever is less, before allowance of any tax credits, except as provided in subsection (e) of §11-13-EE-3 of this code (2) with the state severance tax due on coal produced at the mine during the then current calendar year in which the rebate amount is claimed, before allowance for any tax credits. When the amount in (2) of this section is greater than the amount in (1) of this section, the difference is the amount of state severance tax due to the increase in coal production at the mine that is attributable to the capital investment in new machinery, equipment, or improvements to real property: *Provided*, That when the producer of the coal operates more than one mine in this state, or is a member of a controlled or affiliated group that operates one or more coal mines in this state, no credit shall be allowed unless the total coal production from all mines operated by the taxpayer or by members of the affiliated or controlled group in this state has increased: *Provided, however*, That in no case shall the severance tax attributable to any mine other than the specific mine at which capital investment in new machinery, equipment, or improvements to real property is directly used in a coal mining operation has been placed in service or use be offset by this rebate.

(e) When the eligible taxpayer is a new business that has produced coal in this state for two years before making the capital investment in new machinery, equipment, or improvements to real property then, for purposes of subdivision (1) in subsection (d) of this section, the base shall be the average amount of state severance tax due under §11-13A-3 of this code on coal produced in this state during this two-year period.

(f) No rebate shall be allowed under this article when credit is claimed under any other article of this chapter for capital investment in the new machinery, equipment, or improvements to real property. No credit shall be allowed under any other article of this chapter when rebate is allowed under this article for the capital investment in new machinery, equipment, or improvements to real property.

#### **§11-13EE-4. Information required to determine amount of rebate allowable.**

(a) A taxpayer claiming rebate under this article who operates more than one coal mine in this state shall provide a schedule with the annual severance tax return filed under §11-13A-1 *et seq.* of this code that shows, for each coal mine, the number of tons of coal produced and the gross value of the coal produced at each mine during the taxable year.

(b) When a taxpayer claiming rebate under this article is a member of an affiliated or controlled group, as the case may be, that operates more than one coal mine in this state the group shall provide a schedule with its annual severance tax return filed under §11-13A-1 *et seq.* of this code for the taxable year that shows for each coal mine operated in this state by the affiliated or controlled group, as the case may be, the number of tons of coal produced at each mine and the gross value of the coal produced at each mine during the taxable year.

#### **§11-13EE-5. Claim for rebate.**

(a) After the severance taxes due for the taxable year are paid, a taxpayer may file a claim under this article for rebate of up to 80 percent of the state portion of the additional severance taxes paid under §11-13A-3 of this code that are directly attributable to the taxpayer's capital investment in new machinery, equipment, or improvements on real property placed in service or use during that taxable year as set forth in §11-13EE-3 of this code.

(b) When the amount of rebate claimed exceeds 80 percent of the additional state severance tax paid as provided in subsection (a) of this section, the unused portion of the rebate amount may be carried forward and rebated by the Tax Commissioner after severance taxes due in subsequent years are paid: *Provided*, That the carryforward period may not exceed 10 years from the date the capital investment in new machinery, equipment, or improvements to real property is placed in service or use in this state.

#### **§11-13EE-6. Suspension of payment of rebate.**

(a) No rebate may be paid under this article when the taxpayer, or any member of the taxpayer's combined or affiliated group, as the case may be, is delinquent in the payment of severance taxes imposed pursuant to §11-13A-3 of this code and any local, state, or federal tax or fee until such time as the delinquency is cured.

(b) For purposes of this section, a taxpayer is not delinquent if the taxpayer is contesting an assessment in the Office of Tax Appeals or in any court of this state or of the appropriate federal agency or court, or is complying with the terms of any payment plan agreement.

(c) In the case of a taxpayer that files a combined tax return as a member of a unitary group, no rebate under this article that is earned by one member of the combined group, but not fully used by or allowed to that member, may be claimed, in whole or in part, by another member of the group.

#### **§11-13EE-7. Burden of proof; application required; failure to make timely application.**

(a) *Burden of proof.* The burden of proof is on the taxpayer to establish by clear and convincing evidence that the taxpayer is entitled to the benefits allowed by this article.

(b) *Application for rebate required.*

(1) Notwithstanding any provision of this article to the contrary, no rebate shall be paid under this article for any capital investment in new machinery, equipment, or improvements to real property placed in service or use until the person asserting a claim for the allowance of rebate under this article makes written application to the Tax Commissioner for allowance of rebate as provided in this section.

(2) An application for rebate shall be filed, in the form prescribed by the Tax Commissioner, no later than the last day for filing the severance tax return, determined by including any authorized extension of time for filing the return, for the taxable year in which the machinery, equipment, or improvements to which the rebate relates is placed in service or use and all information required by the form is provided.

(3) A separate application for rebate is required for each taxable year during which the taxpayer places new machinery, equipment, or improvements in service or use in a mine or coal preparation and processing facility in this state.

(c) Failure to make timely application. — The failure to timely apply for the rebate results in the forfeiture of 25 percent of the rebate amount otherwise allowable under this article. This penalty applies annually until the application is filed.

**§11-13EE-8. Identification of capital investment property.**

Every taxpayer who claims a rebate pursuant to the provisions of this article shall maintain sufficient records to establish the following facts for each item of qualified investment property:

- (1) Its identity;
- (2) Its actual or reasonably determined cost;
- (3) Its useful life for federal income tax purposes;
- (4) The month and taxable year in which it was placed in service;
- (5) The amount of rebate claimed; and
- (6) The date it was disposed of or otherwise ceased to be qualified capital investment property.

**§11-13EE-9. Failure to keep records of capital investment property.**

A taxpayer who does not keep the records required for identification of investment credit property is subject to the following rules:

(1) A taxpayer is treated as having disposed of, during the taxable year, any machinery, equipment or improvements to real property that the taxpayer cannot establish was still on hand, in this state, at the end of that year.

(2) If a taxpayer cannot establish when capital investment in new machinery, equipment, or improvements to real property was reported for purposes of claiming this credit during the taxable year, or the machinery, equipment, or improvements to real property were placed in service or use, the taxpayer is treated as having placed it in service or use in the most recent prior taxable year in which similar machinery, equipment, or improvements to real property were placed in service or use, unless the taxpayer can establish that the machinery, equipment, or improvements to real property were placed in service or use in the most recent taxable year is still on hand. In that event, the taxpayer will be treated as having placed the returned machinery, equipment, or improvements to real property in service or use in the next most recent taxable year.

**§11-13EE-10. Transfer of qualified investment property to successors.**

(a) Mere change in form of business. Machinery, equipment, or improvements to real property may not be treated as disposed of under §11-13EE-9 of this code, by reason of a mere change in the form of conducting the business as long as the machinery, equipment, or improvements to real property is retained in the successor business in this state, and the transferor business retains a controlling interest in the successor business. In this event, the successor business is allowed to claim the rebate amount of credit still available with respect to the machinery and equipment transferred, and the transferor business may not be required to redetermine the amount of rebate allowed in earlier years.

(b) *Transfer or sale to successor.* Machinery, equipment, or improvements to real property is not treated as disposed of under §11-13EE-11 of this code by reason of any transfer or sale to a successor business which continues to operate machinery, equipment, or improvements to real property at the mine in this state at which the machinery, equipment, or improvements to real property were first placed in service or use. Upon transfer or sale, the successor shall acquire the amount of rebate, if any, that remains available under this article, and the transferor business is not required to redetermine the amount of rebate allowed in earlier years.

#### **§11-13EE-11. Recapture of rebate; recapture tax imposed.**

(a) *When recapture tax applies.*

(1) Any person who places machinery, equipment, or improvements to real property in service or use for purposes of this credit and who fails to use the machinery, equipment, or improvements to real property for at least five years in the production of coal in this state shall pay the recapture tax imposed by subsection (b) of this section.

(2) This section does not apply when §11-13EE-10 of this code

applies: *Provided,* That, the successor, or the successors, and the person, or persons, who previously claimed credit under this article with respect to the machinery, equipment, or improvements to real property, are jointly and severally liable for payment of any recapture tax subsequently imposed under this section with respect to the machinery, equipment, or improvements to real property used to qualify for rebate under this article.

(b) *Recapture tax imposed.* The recapture tax imposed by this subsection is the amount determined as follows. If the taxpayer prematurely removes machinery, equipment, or improvements to real property placed in service when considered as a class from economic service in the taxpayer's coal production activity in this state, the taxpayer shall recapture the amount of rebate claimed under this article for the taxable year, and all preceding taxable years, attributable to the machinery, equipment, or improvements to real property which has been prematurely removed from service. The amount of tax due under this subsection is an amount equal to the amount of rebate that is recaptured pursuant to this subsection.

(c) *Payment of recapture tax.* The amount of tax recaptured under this section is due and payable on the day the person's annual return is due for the taxable year, in which this section applies, under §11-13A-1 *et seq.* of this code. When the employer is a partnership, limited liability company or an S corporation for federal income tax purposes, the recapture tax shall be paid by those persons who are partners in the partnership, members in the company, or shareholders in the S corporation, in the taxable year in which recapture tax is imposed under this section.

#### **§11-13EE-12. Interpretation and construction.**

(a) No inference, implication, or presumption of legislative construction or intent may be drawn or made by reason of the location or grouping of any particular section, provision, or portion of this article; and no legal effect may be given to any descriptive matter or heading relating to any section, subsection, or paragraph of this article.

(b) The provisions of this article shall be reasonably construed in order to effectuate the legislative intent recited in §11-13EE-1 of this code.

**§11-13EE-13. Rebate report.**

(a) The Tax Commissioner shall provide to the Joint Committee on Government and Finance by July 1, 2022, and on the first day of July of each year thereafter, a report detailing the amount of rebate claimed pursuant to this article. The report is to include the amount of rebate claimed against the severance tax imposed pursuant to §11-13A-2 of this code.

(b) Taxpayers claiming the rebate shall provide the information the Tax Commissioner may require to prepare the report: *Provided*, That the information provided is subject to the confidentiality and disclosure provisions of §11-10-5d and §11-10-5s of this code.

(c) The Tax Commissioner shall identify any issues he or she has in the administration and enforcement of this rebate and make any suggestions the Commissioner may have for improving the credit or the administration of the rebate.

**§11-13EE-14. Rules.**

The Tax Commissioner may promulgate such interpretive, legislative, and procedural rules as the commissioner deems to be useful or necessary to carry out the purpose of this article and to implement the intent of the Legislature. The Tax Commissioner may promulgate emergency rules if they are filed in the West Virginia Register before January 1, 2020. All rules shall be promulgated in accordance with the provisions of §29A-3-1 *et seq.* of this code.

**§11-13EE-15. Severability.**

(a) If any provision of this article or the application thereof is for any reason adjudged by any court of competent jurisdiction to be invalid, the judgment may not affect, impair, or invalidate the remainder of the article, but shall be confined in its operation to the provision thereof directly involved in the controversy in which the judgment shall have been rendered, and the applicability of the provision to other persons or circumstances may not be affected thereby.

(b) If any provision of this article or the application thereof is made invalid or inapplicable by reason of the repeal, or any other invalidation of any statute therein addressed or referred to, such invalidation or inapplicability may not affect, impair, or invalidate the remainder of the article, but shall be confined in its operation to the provision thereof directly involved with, pertaining to, addressing, or referring to the statute, and the application of the provision with regard to other statutes or in other instances not affected by any such repealed or invalid statute may not be abrogated or diminished in any way.

**§11-13EE-17. Effective date.**

The rebate allowed by this article is allowed for capital investment in new machinery, equipment, or improvements to real property placed in service or use in this state on or after the effective date of this article.

Following discussion,

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



Having been engrossed, the bill (Eng. H. B. 3144), as just amended, was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed House Bill 3144 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Blair, Boso, Clements, Cline, Hamilton, Hardesty, Mann, Maroney, Maynard, Plymale, Roberts, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, and Carmichael (Mr. President)—24.

The nays were: Beach, Facemire, Ihlenfeld, Jeffries, Lindsay, Palumbo, Prezioso, Romano, and Unger—9.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3144) passed.

On motion of Senator Blair, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. House Bill 3144**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13EE-1, §11-13EE-2, §11-13EE-3, §11-13EE-4, §11-13EE-5, §11-13EE-6, §11-13EE-7, §11-13EE-8, §11-13EE-9, §11-13EE-10, §11-13EE-11, §11-13EE-12, §11-13EE-13, §11-13EE-14, §11-13EE-15, and §11-13EE-16, all relating generally to Coal Severance Tax Rebate; findings and purpose; defining terms; providing for rebate of severance tax when capital investment made in new machinery, equipment, or improvements to real property directly used in severance of coal, or in coal preparation and processing plants; providing rules and procedures for claiming rebate and transfer to successors; imposing recapture tax in certain circumstance; providing rules for interpretation and construction; requiring periodic rebate reports; authorizing rulemaking; and providing for severability and effective date.

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

On motion of Senator Takubo, at 6:07 p.m., the Senate recessed until 7 p.m. tonight.

The Senate reconvened at 7:11 p.m. and proceeded to the ninth order of business.

**Eng. Com. Sub. for House Bill 2049**, Relating to a prime contractor’s responsibility for wages and benefits.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk:

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

**ARTICLE 5. WAGE PAYMENT AND COLLECTION.**

**§21-5-4a. Safe Harbor.**

(a) An employee, in bringing an action for the underpayment or nonpayment of wages and fringe benefits due upon the employee's separation of employment as contemplated by §21-5-4 of this code, is not entitled to seek liquidated damages or attorney's fees from an employer without first making a written demand, as defined in subsection (c) of this section, to the employer seeking the payment of any alleged underpayment or nonpayment as set forth in this section. The written demand shall be mailed or delivered to the employer's correct address or delivered to the employer's authorized representative. Upon receiving a written demand, the employer has seven calendar days from receipt to correct the alleged underpayment or nonpayment of the wages and fringe benefits due. If, after the seven calendar days, the employer has not corrected the alleged underpayment or nonpayment, or otherwise disputes the allegation, the employee shall be allowed to seek liquidated damages and attorney's fees. Nothing in this section prohibits the employee from presenting a claim under this article without making a written demand to the employer.

(b) In a class action lawsuit brought under this article for the underpayment or nonpayment of wages and fringe benefits due upon the employee's separation of employment, participation in the class shall be limited only to those individual employees who have made a written demand on the employer as required in subsection (a) of this section.

(c) For purposes of this section, a "written demand" means any writing, including email, from or on behalf of an employee stating only that the employer has not paid all of the wages or fringe benefits which the employee is owed.

(d) In order for the employer to be eligible for the protections of this section, the employer shall: (i) Inform its employees through a posted notice maintained in a place accessible to its employees in accordance with §21-5-9 of this code of the employee's obligation to make a written demand in order to preserve the right to seek liquidated damages, attorney's fees, or class action relief; and (ii) furnish to the employee with his or her last paycheck or pay stub a written notice of that obligation together with a mailing address and email address to which the notice may be delivered.

**§21-5-7. Prime contractor's responsibility for wages and benefits.**

(a) Whenever any person, firm, or corporation shall contract with another for the performance of any work which the prime contracting person has undertaken to perform for another, the prime contractor shall become civilly liable to employees engaged in the performance of work under such the contract for the payment of wages and fringe benefits relating to such work only, exclusive of attorney's fees, interest, liquidated damages, or any other damages of any kind, as provided in §21-5-4(e) of this code, or other applicable law and/or common law, to the extent that the employer of such the employee fails to pay such the wages and fringe benefits: for work performed under the contract with the prime contractor. The employer, and its shareholders, owners, directors, and officers shall be personally and civilly liable to the prime contractor for any sums paid under this section, including attorney's fees.

(b) Any individual or entity seeking redress pursuant to subsection (a) of this section must:

(1) Notify the prime contractor, by certified mail, only that wages or fringe benefits have not been paid within 100 days of the date the wages or fringe benefits become payable to the employee; and

(2) Commence the action within one year of the date the employee delivered notice to the prime contractor pursuant to subdivision (1) of this subsection.

~~*Provided, That such employees have exhausted all feasible remedies contained in this article against such employer, but if the prime contractor has failed to notify the commissioner as required by section sixteen of this article, then the employee shall not be required to exhaust any remedies against the employer: Provided, however, That such employer shall become civilly liable to such prime contractor for any sum of money paid by him under this section.*~~

(c) The employer of the employee to whom wages and/or fringe benefits are owed, shall whenever feasible provide, immediately upon request by the employee or the prime contractor, complete payroll records relating to work performed under the contract with the prime contractor.

(d) Whenever the employee to whom wages and/or fringe benefits are due is represented by a union, the union shall whenever feasible, immediately upon notice of a claim hereunder, cooperate with the employee and the prime contractor to identify and quantify the wages and fringe benefits owed for work performed under the contract with the prime contractor. Further, if the union or agents thereof, including, but not limited to, third party administrators, trustees, administrators, or employees, become aware that an employer is not timely in the payment of wages and/or fringe benefits, the union shall immediately notify the affected employee and the prime contractor for whom the affected employee provided work.

(e) A prime contractor must notify the owner and the architect prior to the completion of the contract if any subcontractor has not been paid in full.

On motion of Senator Lindsay, the following amendments to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 2049) were reported by the Clerk and considered simultaneously:

On page one, section four-a, by striking out all of subsection (b);

And,

Relettering the remaining subsections.

Following discussion,

The question being on the adoption of Senator Lindsay's amendments to the Judiciary committee amendment to the bill, the same was put and did not prevail.

On motion of Senator Hamilton, the following amendment to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 2049) was next reported by the Clerk:

On page three, section seven, lines twenty-five through thirty-two, by striking out all of subsection (d), and inserting a new subsection, designated as (d), to read as follows:

(d) Whenever the employee to whom wages and/or fringe benefits are due is represented by a union or other plan administrator, the union or other plan administrator, shall whenever feasible, immediately upon notice of a claim hereunder, cooperate with the employee and the prime contractor to identify and quantify the wages and fringe benefits owed for work performed under the contract with the prime contractor. Further, if the union or agents thereof or other plan

administrator, including, but not limited to, third party administrators, trustees, administrators, or employees, become aware that an employer is not timely in the payment of wages and/or fringe benefits, the union or other plan administrator shall immediately notify the affected employee and the prime contractor for whom the affected employee provided work.

Following discussion,

The question being on the adoption of Senator Hamilton's amendment to the Judiciary committee amendment to the bill, the same was put and prevailed.

The question now being on the adoption of the Judiciary committee amendment to the bill, as amended, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 2049), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2079**, Removing certain limitations on medical cannabis grower, processor and dispensary licenses.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk:

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

## **ARTICLE 2. DEFINITIONS.**

### **§16A-2-1. Definitions.**

(a) The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

(1) "Act" means the West Virginia Medical Cannabis Act and the provisions contained in §60A-1-101 *et seq.* of this code.

(2) "Advisory board" means the advisory board established under §16A-11-1 *et seq.* of this chapter.

(3) "Bureau" means the Bureau for Public Health within the West Virginia Department of Health and Human Resources.

(4) "Caregiver" means the individual designated by a patient or, if the patient is under 18 years of age, an individual authorized under §16A-5-1 *et seq.* of this code, to deliver medical cannabis.

(5) "Certified medical use" means the acquisition, possession, use, or transportation of medical cannabis by a patient, or the acquisition, possession, delivery, transportation, or administration of medical cannabis by a caregiver, for use as part of the treatment of the patient's serious medical condition, as authorized in a certification under this act, including enabling the patient to tolerate treatment for the serious medical condition.

(6) "Change in control" means the acquisition by a person or group of persons acting in concert of a controlling interest in an applicant or permittee either all at one time or over the span of a 12-consecutive-month period.

(7) "Commissioner" means the Commissioner of the Bureau for Public Health.

(8) "Continuing care" means treating a patient ~~for at least six months~~, in the course of which the practitioner has completed a full assessment of the patient's medical history and current medical condition, including an in-person consultation with the patient, and is able to document and make a medical diagnosis based upon the substantive treatment of the patient.

(9) "Controlling interest" means:

(A) For a publicly traded entity, voting rights that entitle a person to elect or appoint one or more of the members of the board of directors or other governing board or the ownership or beneficial holding of five percent or more of the securities of the publicly traded entity.

(B) For a privately held entity, the ownership of any security in the entity.

(10) "Dispensary" means a person, including a natural person, corporation, partnership, association, trust, or other entity, or any combination thereof, which holds a permit issued by the bureau to dispense medical cannabis. The term does not include a health care medical cannabis organization ~~under~~ as defined in §16A-13-1 *et seq.* of this code.

(11) "Family or household member" means the same as defined in §48-27-204 of this code.

(12) "Financial backer" means an investor, mortgagee, bondholder, note holder, or other source of equity, capital, or other assets, other than a financial institution.

(13) "Financial institution" means a bank, a national banking association, a bank and trust company, a trust company, a savings and loan association, a building and loan association, a mutual savings bank, a credit union, or a savings bank.

(14) "Form of medical cannabis" means the characteristics of the medical cannabis recommended or limited for a particular patient, including the method of consumption and any particular dosage, strain, variety and quantity, or percentage of medical cannabis or particular active ingredient.

(15) "Fund" means the Medical Cannabis Program Fund established in §16A-9-2 of this code.

(16) "Grower" means a person, including a natural person, corporation, partnership, association, trust or other entity, or any combination thereof, which holds a permit from the bureau under this act to grow medical cannabis. The term does not include a health care medical cannabis organization as defined in article thirteen this chapter.

(17) "Grower/processor" means either a grower or a processor.

(18) "Identification card" means a document issued under §16A-5-1 *et seq.* of this code that authorizes access to medical cannabis under this act.

(19) "Individual dose" means a single measure of medical cannabis.

(20) "Medical cannabis" means cannabis for certified medical use as set forth in this act.

(21) "Medical cannabis organization" means a dispensary, grower or processor. The term does not include a health care medical cannabis organization ~~under~~ as defined in §16A-13-1 et seq. of this code.

(22) "Patient" means an individual who:

(A) has a serious medical condition;

(B) has met the requirements for certification under this act; and

(C) is a resident of this state.

(23) "Permit" means an authorization issued by the bureau to a medical cannabis organization to conduct activities under this act.

(24) "Physician" or "practitioner" means a doctor of allopathic or osteopathic medicine who is fully licensed pursuant to the provisions of either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code to practice medicine and surgery in this state.

(25) "Post-traumatic stress disorder" means a diagnosis made as part of continuing care of a patient by a medical doctor, licensed counselor, or psychologist.

~~(26) "Practitioner" means a physician who is registered with the bureau under article four of this chapter.~~

~~(27)~~ (26) "Prescription drug monitoring program" means the West Virginia Controlled Substances Monitoring program under §60A-9-101 *et seq.* of this code.

~~(28)~~ (27) "Principal" means an officer, director, or person who directly owns a beneficial interest in or ownership of the securities of an applicant or permittee, a person who has a controlling interest in an applicant or permittee or who has the ability to elect the majority of the board of directors of an applicant or permittee or otherwise control an applicant or permittee, other than a financial institution.

~~(29)~~ (28) "Processor" means a person, including a natural person, corporation, partnership, association, trust, or other entity, or any combination thereof, which holds a permit from the bureau under this act to process medical cannabis. The term does not include a health care medical cannabis organization ~~under~~ as defined in §16A-13-1 et seq. of this chapter.

~~(30)~~ (29) "Registry" means the registry established by the bureau for practitioners.

~~(31)~~ (30) "Serious medical condition" means any of the following, as has been diagnosed as part of a patient's continuing care:

(A) Cancer.

(B) Positive status for human immunodeficiency virus or acquired immune deficiency syndrome.

(C) Amyotrophic lateral sclerosis.

(D) Parkinson's disease.

(E) Multiple sclerosis.

(F) Damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity.

(G) Epilepsy.

(H) Neuropathies.

(I) Huntington's disease.

(J) Crohn's disease.

(K) Post-traumatic stress disorder.

(L) Intractable seizures.

(M) Sickle cell anemia.

(N) Severe chronic or intractable pain of neuropathic origin or severe chronic or intractable pain in which conventional therapeutic intervention and opiate therapy is contraindicated or has proved ineffective as determined as part of continuing care.

(O) Terminally ill.

(32) "Terminally ill" means a medical prognosis of life expectancy of approximately one year or less if the illness runs its normal course.

#### **ARTICLE 4. PRACTITIONERS.**

##### **§16A-4-3. Issuance of certification.**

(a) *Conditions for issuance.* — A certification to use medical cannabis may be issued by a practitioner to a patient if all of the following requirements are met:

(1) The practitioner has been approved by the bureau for inclusion in the registry and has a valid, unexpired, unrevoked, unsuspended license to practice medicine in this state at the time of the issuance of the certification.

(2) The practitioner has determined that the patient has a serious medical condition and has included the condition in the patient's health care record.

(3) The patient is under the practitioner's continuing care for the serious medical condition.

(4) In the practitioner's professional opinion and review of past treatments, the practitioner determines the patient is likely to receive therapeutic or palliative benefit from the use of medical cannabis, and other treatments, including treatments involving opioids, have proven ineffective or otherwise are contraindicated.

(5) The practitioner has determined that the patient has no past or current medical condition(s) or medication use that would constitute a contraindication for the use of cannabis.

(6) The practitioner has determined that the patient is experiencing serious pathophysiological discomfort, disability, or dysfunction that may be attributable to a serious medical condition and may possibly benefit from cannabis treatment when current medical research exhibits a moderate or higher probability of efficacy; and

(7) The practitioner has educated the patient about cannabis and its safe use.

(b) *Contents.* — The certification shall include:

(1) The patient's name, date of birth, and address.

(2) The specific serious medical condition of the patient.

(3) A statement by the practitioner that the patient has a serious medical condition and the patient is under the practitioner's continuing care for the serious medical condition.

(4) The date of issuance.

(5) The name, address, telephone number, and signature of the practitioner.

(6) Any requirement or limitation concerning the appropriate form of medical cannabis and limitation on the duration of use, if applicable, including whether the patient is terminally ill.

(7) A statement by the practitioner attesting that he or she has performed the requirements contained in subsection (a) of this section on a form to be issued by the West Virginia Department of Health and Human Resources, Bureau for Public Health.

(c) *Consultation.* —

(1) A practitioner shall review the prescription drug monitoring program prior to:

(A) Issuing a certification to determine the controlled substance history of a patient.

(B) Recommending a change of amount or form of medical cannabis.

(2) The practitioner shall consider and give due consideration to other controlled substances the patient may be taking prior to certifying medical cannabis.

(d) *Other access by practitioner.* — A practitioner may access the prescription drug monitoring program to do any of the following:

(1) Determine whether a patient may be under treatment with a controlled substance by another physician or other person.

(2) Allow the practitioner to review the patient's controlled substance history as deemed necessary by the practitioner.

(3) Provide to the patient, or caregiver, on behalf of the patient if authorized by the patient, a copy of the patient's controlled substance history.



(e) *Duties of practitioner.* — The practitioner shall:

(1) Provide the certification to the patient.

(2) Provide a copy of the certification to the bureau, which shall place the information in the patient directory within the bureau's electronic database. The bureau shall permit electronic submission of the certification.

(3) File a copy of the certification in the patient's health care record.

(f) *Prohibition.* — A practitioner may not issue a certification for the practitioner's own use or for the use of a family or household member.

## ARTICLE 6. MEDICAL CANNABIS ORGANIZATIONS.

### §16A-6-3. Granting of permit.

(a) The bureau may grant or deny a permit to a grower, processor, or dispensary. In making a decision under this subsection, the bureau shall determine that:

(1) The applicant will maintain effective control of and prevent diversion of medical cannabis.

(2) The applicant will comply with all applicable laws of this state.

(3) The applicant is a resident of this state as defined in §29-22B-327 of this code or is organized under the law of this state. If the applicant is a business entity, majority ownership in the business entity must be held by a state resident or residents.

(4) The applicant is ready, willing, and able to properly carry on the activity for which a permit is sought.

(5) The applicant possesses the ability to obtain in an expeditious manner sufficient land, buildings, and equipment to properly grow, process, or dispense medical cannabis.

(6) It is in the public interest to grant the permit.

(7) The applicant, including the financial backer or principal, is of good moral character and has the financial fitness necessary to operate.

(8) The applicant is able to implement and maintain security, tracking, recordkeeping, and surveillance systems relating to the acquisition, possession, growth, manufacture, sale, delivery, transportation, distribution, or the dispensing of medical cannabis as required by the bureau.

(9) The applicant satisfies any other conditions as determined by the bureau.

(b) *Nontransferability.* — A permit issued under this chapter shall be nontransferable.

(c) *Privilege.* — The issuance or renewal of a permit shall be a revocable privilege.

~~(d) *Regions.* — The bureau shall establish a minimum of three regions within this state for the purpose of granting permits to grower/processors and dispensaries and enforcing this act. The bureau shall approve permits for growers, processors and dispensaries in a manner which will~~

~~provide an adequate amount of medical cannabis to patients and caregivers in all areas of this state. The bureau shall consider the following when issuing a permit:~~

(d) Dispensary location. — The bureau shall consider the following when issuing a dispensary permit:

(1) Geographic location;

~~(1)~~ (2) Regional population;

~~(2)~~ (3) The number of patients suffering from serious medical conditions;

~~(3)~~ (4) The types of serious medical conditions;

~~(4)~~ (5) Access to public transportation;

~~(5)~~ (6) Approval by local health departments;

~~(6)~~ (7) Whether the county has disallowed the location of a grower, processor or dispensary;  
and

~~(7)~~ (8) Any other factor the bureau deems relevant.

(e) Application procedure. — The bureau shall establish a procedure for the fair and objective evaluation of all applications for all medical cannabis organization permits. Such evaluations shall score each applicant numerically according to standards set forth in this chapter.

### **§16A-6-13. Limitations on permits.**

(a) The following limitations apply to approval of permits for growers, processors, and dispensaries, subject to the limitations in subsection (b) of this section:

(1) The bureau may not issue permits to more than 10 growers: *Provided*, That each grower may have up to two locations per permit.

(2) The bureau may not issue permits to more than 10 processors.

(3) The bureau may not issue permits to more than ~~thirty~~ 100 dispensaries. ~~with no more than five in any region~~

(4) The bureau may not issue more than ~~two~~ 10 individual dispensary permits to one person.

(5) The bureau may not issue more than one individual grower permit to one person.

(6) The bureau may not issue more than one individual processor permit to one person.

(7) A dispensary may only obtain medical cannabis from a grower or processor holding a valid permit under this act.

(8) A grower or processor may only provide medical cannabis to a dispensary holding a valid permit under this act.

~~(9) A grower or a processor may not be a dispensary. A person may hold a grower permit, a processor permit, and a dispensary permit, or any combination thereof, concurrently.~~

(b) Before a permit may be issued, the bureau shall obtain the following:

(1) A written approval from the board of health for the county in which the permit is to be located and operate business.

(2) A written statement from the county commission for the county in which the permit is to be located and conduct business that the county has not voted, pursuant to §16A-7-6 of this code, to disapprove a medical cannabis organization to be located or operate within the county.

## **ARTICLE 7. MEDICAL CANNABIS CONTROLS.**

### **§16A-7-4. Laboratory.**

~~A grower and processor shall contract with an independent laboratory to test the medical cannabis produced by the grower or processor. The bureau shall approve the laboratory and require that the laboratory report testing results in a manner as the bureau shall determine, including requiring a test at harvest and a test at final processing. The possession by a laboratory of medical cannabis shall be a lawful use.~~

(a) All medical cannabis produced pursuant to this chapter shall be subject to testing as directed by the bureau.

(b) The bureau shall ensure that there is sufficient testing capacity to meet patient demand.

(c) To the extent practicable, testing required by the provisions of subsection (a) of this section shall be conducted by the Commissioner of Agriculture. The commissioner shall, in consultation with the bureau, establish a fee schedule for such testing as is required by the bureau.

(d) Fees received pursuant to subsection (b) of this section, shall be deposited in the Agriculture Fees Fund established under §19-1-4c of this code.

(e) Should the bureau determine that the Commissioner is unable to provide the testing required by this section, it shall provide notice to the Commissioner and authorize growers and processors to contract with other laboratories certified by the Office of Laboratory Services.

## **ARTICLE 8. DISPENSARIES.**

### **§16A-8-1. Dispensing to patients and caregivers.**

(a) *General rule.* — A dispensary that has been issued a permit under §16A-6-1 *et seq.* of this code may lawfully dispense medical cannabis to a patient or caregiver upon presentation to the dispensary of a valid identification card for that patient or caregiver. The dispensary shall provide to the patient or caregiver a receipt, as appropriate. The receipt shall include all of the following:

(1) The name, address and any identification number assigned to the dispensary by the bureau.

(2) The name and address of the patient and caregiver.

(3) The date the medical cannabis was dispensed.

(4) Any requirement or limitation by the practitioner as to the form of medical cannabis for the patient.

(5) The form and the quantity of medical cannabis dispensed.

~~(b) Requirements. — A dispensary shall have a physician or a pharmacist onsite at all times during the hours the dispensary is open to receive patients and caregivers. A physician or a pharmacist shall, prior to assuming duties under this paragraph, successfully complete the course established in subsection (a), section one, article three of this chapter. A physician may not issue a certification to authorize patients to receive medical cannabis or otherwise treat patients at the dispensary.~~

~~(c) Filing with bureau. —~~ Prior to dispensing medical cannabis to a patient or caregiver, the dispensary shall file the receipt information with the bureau utilizing the electronic tracking system. When filing receipts under this subsection, the dispensary shall dispose of any electronically recorded certification information as provided by rule.

~~(d) Limitations. —~~ No dispensary may dispense to a patient or caregiver:

(1) A quantity of medical cannabis greater than that which the patient or caregiver is permitted to possess under the certification; or

(2) A form of medical cannabis prohibited by this act.

~~(e) Supply. —~~ When dispensing medical cannabis to a patient or caregiver, the dispensary may not dispense an amount greater than a 30-day supply until the patient has exhausted all but a seven-day supply provided pursuant to §16A-4-5 of this code.

~~(f) Verification. —~~ Prior to dispensing medical cannabis to a patient or caregiver, the dispensary shall verify the information in subsections (d) and (f) of this section by consulting the electronic tracking system included in the bureau's electronic database established under §16A-3-1 of this code and the dispensary tracking system under §16A-7-1 of this code.

~~(g) Form of medical cannabis. —~~ Medical cannabis dispensed to a patient or caregiver by a dispensary shall conform to any requirement or limitation set by the practitioner as to the form of medical cannabis for the patient.

~~(h) Safety insert. —~~ When a dispensary dispenses medical cannabis to a patient or caregiver, the dispensary shall provide to that patient or caregiver, as appropriate, a safety insert. The insert shall be developed and approved by the bureau. The insert shall provide the following information:

(1) Lawful methods for administering medical cannabis in individual doses.

(2) Any potential dangers stemming from the use of medical cannabis.

(3) How to recognize what may be problematic usage of medical cannabis and how to obtain appropriate services or treatment for problematic usage.

(4) How to prevent or deter the misuse of medical cannabis by minors or others.

(5) Any other information as determined by the bureau.

(†) (h) Sealed and labeled package. — Medical cannabis shall be dispensed by a dispensary to a patient or caregiver in a sealed, properly labeled, and child-resistant package. The labeling shall contain the following:

(1) The information required to be included in the receipt provided to the patient or caregiver, as appropriate, by the dispensary.

(2) The packaging date.

(3) Any applicable date by which the medical cannabis should be used.

(4) A warning stating:

“This product is for medicinal use only. Women should not consume during pregnancy or while breastfeeding except on the advice of the practitioner who issued the certification and, in the case of breastfeeding, the infant’s pediatrician. This product might impair the ability to drive or operate heavy machinery. Keep out of reach of children.”

(5) The amount of individual doses contained within the package and the species and percentage of tetrahydrocannabinol and cannabidiol.

(6) A warning that the medical cannabis must be kept in the original container in which it was dispensed.

(7) A warning that unauthorized use is unlawful and will subject the person to criminal penalties.

(8) Any other information required by the bureau.

## **ARTICLE 9. TAX ON MEDICAL CANNABIS.**

### **§16A-9-1. Tax on medical cannabis.**

(a) *Tax imposed.* — A tax is imposed on the gross receipts of a grower/processor received from the sale of medical cannabis by a grower/processor to a dispensary, to be paid by the grower/processor, at the rate of ten percent. The tax shall be charged against and be paid by the grower/processor and shall not be added as a separate charge or line item on any sales slip, invoice, receipt or other statement or memorandum of the price paid by a dispensary, patient or caregiver.

~~(b) *Payment of tax and reports.* — A grower/processor shall make quarterly payments under this section for each calendar quarter at the rate prescribed in subsection (a) on the gross receipts for the calendar quarter. The tax shall be due and payable on the 20th day of January, April, July and October for the preceding calendar quarter on a form prescribed by the Department of Revenue.~~

(a) *Tax imposed.* — Upon every person exercising the privilege of engaging or continuing within this state in the business of growing medical cannabis for sale to a processor of medical cannabis,

purchasing, and processing medical cannabis for sale to a dispensary, growing, processing, and selling medical cannabis to a dispensary of medical cannabis, or engaging in any combination thereof, there is hereby imposed an annual privilege tax. The tax imposed by this article shall not be added as a separate charge or line item on any sales slip, invoice, receipt, other statement, or memorandum of the price paid by a dispensary, patient, or caregiver. Persons subject to this tax shall pay the tax at the rates specified in subsection (b) of this section based upon the taxable privilege specified, and no diminishment, offset, or deduction shall be allowed for tax paid directly or as an embedded cost at any earlier point in the growth, sales, or distribution process.

(b) Rate and measure of tax. — The rate of tax imposed by this article shall be:

(1) In the case of a grower of medical cannabis who sells medical cannabis to an unrelated processor of medical cannabis, 10 percent of the gross receipts derived from the sale to the processor.

(2) In the case of a processor of medical cannabis who purchases medical cannabis from a grower of medical cannabis and after processing sells processed medical cannabis to an unrelated dispensary of medical cannabis, 10 percent of the gross receipts derived from the sale to the dispensary.

(3) In the case of an integrated grower or processor of medical cannabis who sells processed medical cannabis to an unrelated dispensary of medical cannabis, 10 percent of the gross receipts derived from the sale to the dispensary.

(4) When the same person is the grower, processor, and dispensary, or when the grower, processor, and dispensary are related parties, the tax shall be 5 percent of the gross receipts the dispensary derived from sale of medical cannabis product to the patient, or to a caregiver.

(c) Definitions. — For purposes of this article:

(1) “Gross receipts” means and includes the gross receipts, however denominated, derived from the sale, distribution, or transfer of medical cannabis, without any deduction on account of the cost of property sold; the cost of materials used to grow, process, or sell the medical cannabis; labor costs, taxes, royalties paid in cash or in kind, or otherwise; interest or discount paid; or any other expense, however denominated.

(2) “Person” includes any natural person, corporation, partnership, limited liability company, or other business entity as those terms are defined in §11-1-1 et seq. of this code.

(3) “Related person” means two or more persons that are related persons as defined in section 267 of the Internal Revenue Code, as defined in §11-24-3 of this code.

(b) (d) Payment of tax and reports. — A grower/processor Every person subject to the tax imposed by this article shall make quarterly payments under this section for each calendar quarter at the rate prescribed in subsection (a) subsection (b) of this section on the gross receipts for the calendar quarter. The tax shall be due and payable on the 20th day of January, April, July, and October for the preceding calendar quarter and shall be filed with a tax return and such schedules as may be prescribed by the Tax Division of the Department of Revenue. The Tax Commissioner may require such forms, schedules, and returns and impose such filing and remittance requirements as may be necessary or convenient for the efficient administration of taxes imposed by this §16A-9-1 of this code and may prescribe such electronic filings and payments as the Tax

Commissioner may deem appropriate. The Tax Commissioner may issue such procedural, interpretive, or legislative rules, including emergency rules, as the Tax Commissioner may deem necessary or convenient for the efficient administration of taxes imposed by this §16A-9-1 of this code.

(e) *Electronic filing and payment.* – As the Tax Commissioner may direct, taxes imposed by this article may be paid to the Tax Commissioner by electronic funds transfer unless electronic payment is prohibited by state or federal law. As the Tax Commissioner may direct, tax returns required by this article may be filed electronically with the Tax Commissioner.

~~(d)~~ (f) *Deposits of proceeds.* – All money received from the tax imposed under subsection (a) this article, including any interest and additions to tax paid under §11-10-1 *et seq.*, shall be deposited into the fund Medical Cannabis Program Fund.

~~(d)~~ (g) *Exemption.* – Medical Sales of medical cannabis shall not be subject to a sales tax, if gross receipts from the sale thereof are taxable under this article and the tax has been paid on gross receipts thereof under this article.

(e) *Information.* – ~~A grower/processor that sells medical cannabis shall provide to the Department of Revenue information required by the bureau.~~

(1) Persons subject to the tax imposed by this article of this code shall provide to the Tax Commissioner any information required by the Tax Commissioner to administer, collect, and enforce the taxes imposed by this article.

(2) Notwithstanding any provision of §11-10-1 *et seq.* of this code or of this article to the contrary, the Tax Commissioner, the bureau, and the Secretary of Health and Human Resources may enter into written agreements pursuant to which the Tax Commissioner will disclose to designated employees of the bureau and the Secretary of Health and Human Resources, whether a particular grower, processor, or dispensary is in good standing with the Tax Commissioner, and the bureau and the Secretary will disclose to designated employees of the Tax Commissioner information a grower, processor, or dispensary provides to the bureau and the Secretary pursuant to this code. Tax information disclosed pursuant to a written agreement shall remain confidential in the hands of the receiver and shall not be disclosable under §29B-1-1 *et seq.* of this code. To the extent feasible, this information should be shared or exchanged electronically.

### **§16A-9-3. Tax on medical cannabis crimes and penalties.**

Notwithstanding any provision in §11-9-1 *et seq.* of this code to the contrary, each and every provision of the “West Virginia Tax Crimes and Penalties Act” set forth in §11-9-1 *et seq.* of this code shall apply to the tax imposed by §16A-9-1 *et seq.* of this code with like effect as if said act were applicable only to the tax imposed by §16A-9-1 *et seq.* of this code and were set forth in extenso in §16A-9-1 *et seq.* of this code.

### **§16A-9-4. Procedure and administration of the tax on medical cannabis.**

Notwithstanding any provision of §11-10-1 *et seq.* of this code or any other provision of this code to the contrary, each and every provision of the “West Virginia Tax Procedure and Administration Act” set forth in §11-10-1 *et seq.* of this code, shall apply to the tax imposed by §16A-9-1 *et seq.* with like effect as if the said West Virginia Tax Procedure and Administration Act

were applicable only to the tax imposed by §16A-9-1 et seq. of this code and were set forth in extenso in §16A-9-1 et seq. of this code.

## **ARTICLE 10. ADMINISTRATION.**

### **§16A-10-6. Emergency rules.**

(a) *Promulgation.* — In order to facilitate the prompt implementation of this act, the bureau may promulgate emergency rules that shall expire not later than two years following the publication of the emergency rule.

(b) *Expiration.* — The bureau's authority to adopt emergency rules under subsection (a) of this section shall expire ~~two years after the effective date of this section~~ July 1, 2021. Rules adopted after this period shall be promulgated as provided by law.

(c) *Publication.* — The bureau shall begin publishing emergency rules in the State Register no later than six months after the effective date of this section.

## **ARTICLE 11. MEDICAL CANNABIS ADVISORY BOARD.**

### **§16A-11-1. Advisory board.**

(a) The Medical Cannabis Advisory Board is established within the bureau. The advisory board shall consist of the following members:

(1) The commissioner or a designee.

(2) The Superintendent of the West Virginia State Police or a designee.

(3) Four physicians licensed to practice in the state to be appointed by the State Medical Association with one from each of the following specialized medicine:

(A) Family Practice/Neurologist/General Practitioner.

(B) Pain Management.

(C) Oncologist/Palliative Care.

(D) Psychiatrist.

(4) Two physicians who are licensed pursuant to §30-14-1 et seq. of this code appointed by the West Virginia Osteopathic Association.

~~(4)~~ (5) One pharmacist licensed to practice in the state, to be designated by the Board of Pharmacy.

~~(5)~~ (6) One pharmacologist who has experience in the science of cannabis and a knowledge of the uses, effects, and modes of actions of drugs, to be appointed by the Governor.

~~(6)~~ (7) One member who is a horticulturalist, to be designated by the West Virginia Commissioner of Agriculture.



~~(7)~~ (8) One member designated by the West Virginia Association of Alcoholism and Drug Counselors.

~~(8)~~ (8) An attorney licensed in the state who is knowledgeable about medical cannabis laws.

~~(9)~~ (10) One member appointed by the West Virginia Prosecuting Attorneys Institute.

~~(10)~~ (11) One member appointed by the Governor, who shall be a patient, a family or household member of a patient or a patient advocate.

(b) *Terms.* — Except as provided under subsection (g) of this section, the members shall serve a term of four years or until a successor has been appointed and qualified, but no longer than six months beyond the four-year period.

(c) *Chair.* — The commissioner, or a designee, shall serve as chair of the advisory board.

(d) *Voting; quorum.* — A majority of the members shall constitute a quorum for the purpose of organizing the advisory board, conducting its business and fulfilling its duties. A vote of the majority of the members present shall be sufficient for all actions of the advisory board unless the bylaws require a greater number.

(e) *Attendance.* — A member of the advisory board who fails to attend three consecutive meetings shall be deemed vacant, unless the commissioner, upon written request from the member, finds that the member should be excused from a meeting for good cause. A member who cannot be physically present may attend meetings via electronic means, including video conference.

(f) *Governance.* — The advisory board shall have the power to prescribe, amend and repeal bylaws governing the manner in which the business of the advisory board is conducted and the manner in which the duties granted to it are fulfilled. The advisory board may delegate supervision of the administration of advisory board activities to an administrative commissioner and other employees of the bureau as the commissioner shall appoint.

(g) *Initial terms.* — The initial terms of members appointed under subsection (a) of this section shall be for terms of one, two, three, or four years, the particular term of each member to be designated by the commissioner at the time of appointment. All other members shall serve for a term of four years.

(h) *Vacancy.* — In the event that any member appointed under subsection (a) of this section shall die or resign or otherwise become disqualified during the member's term of office, a successor shall be appointed in the same way and with the same qualifications as set forth in this section and shall hold office for the unexpired term. An appointed member of the advisory board shall be eligible for reappointment.

(i) *Expenses.* — A member shall receive the amount of reasonable travel, hotel, and other necessary expenses incurred in the performance of the duties of the member in accordance with state rules but shall receive no other compensation for the member's service on the board.

(j) *Duties.* — The advisory board shall have the following duties:

(1) To examine and analyze the statutory and regulatory law relating to medical cannabis within this state.

(2) To examine and analyze the law and events in other states and the nation with respect to medical cannabis.

(3) To accept and review written comments from individuals and organizations about medical cannabis.

(4) To issue, two years after the effective date of this section, a written report to the Governor, the Senate, and the House of Delegates.

(5) The written report under subdivision (4) shall include recommendations and findings as to the following:

(A) Whether to change the types of medical professionals who can issue certifications to patients.

(B) Whether to change, add, or reduce the types of medical conditions which qualify as serious medical conditions under this act.

(C) Whether to change the form of medical cannabis permitted under this act.

(D) Whether to change, add, or reduce the number of growers, processors or dispensaries.

(E) How to ensure affordable patient access to medical cannabis.

(F) Whether to permit medical cannabis to be dispensed in dry leaf or plant form, for administration by vaporization.

(6) The final written report under this section shall be adopted at a public meeting.

## **ARTICLE 15. MISCELLANEOUS PROVISIONS.**

### **§16A-15-10. State employee actions and federal law.**

(a) No cause of action exists against the state officers and employees in their personal capacities, while acting within the scope of duties contemplated by §16A-1-1 et seq. of this code. Any recovery for claims or actions arising from this section is limited solely to the proceeds of available insurance coverage.

(b) To the extent permitted by law, the State of West Virginia shall defend state officers and employees involved in implementing the provisions of §16A-1-1, et seq. of this code against any claims, charges, liabilities, or expenses and shall indemnify and hold harmless state officers and employees involved in implementing the provisions of §16A-1-1 et seq. of this code provided within the scope of their duties or employment in accordance with the Act, including without limitation, defense in any state, federal, or local court and payment of the amount of any judgment obtained, damages, legal fees, expenses, and any other expenses incurred.

## **ARTICLE 16. EFFECTIVE DATE.**

### **§16A-16-1. Effective date.**

(a) Unless excepted in subsection (b) or (c), the provisions of this act shall be effective upon passage.

(b) The provisions of §16A-12-1 *et seq.* of this code, and any other criminal provisions or penalties contained in this act, shall not be effective until 90 days from passage of Senate Bill 386 during the 2017 regular session.

(c) Notwithstanding any provision of this chapter to the contrary, no identification cards may be issued to patients until July 1, 2019. The Bureau may take sufficient steps through rule to implement the preliminary provisions in preparation for implementation of the provisions of this act.

(d) Notwithstanding the prohibition contained in subsection (c) on the issuance of identification cards until July 1, 2019, the bureau may implement a process for the pre-registration of patients with a serious medical condition who have been issued a certification approved by the bureau and to a caregiver designated by the patient: *Provided*, That a patient who is pre-registered must nevertheless comply with the provisions of §16A-5-1 of this code and may not be issued an identification card necessary to obtain and use medical cannabis as authorized by this act until July 1, 2019.

On motion of Senator Takubo, the following amendments to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 2079) were next reported by the Clerk and considered simultaneously:

On page five, section one, subsection (a), subdivision (30), paragraph (N), after the word “pain” by striking out the remainder of the paragraph and inserting in lieu thereof a period;

And,

On page five, section three, subsection (a), subdivision (4), after the word “cannabis” by striking out the comma and the remainder of the subdivision and inserting in lieu thereof a period.

Following discussion,

The question being on the adoption of Senator Takubo’s amendments to the Judiciary committee amendment to the bill, the same was put and prevailed.

On motion of Senator Baldwin, the following amendment to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 2079) was next reported by the Clerk:

On page ten, by striking out all of section four.

Following discussion,

The question being on the adoption of Senator Baldwin’s amendment to the Judiciary committee amendment to the bill, and on this question, Senator Ihlenfeld demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Palumbo, Plymale, Prezioso, Romano, Stollings, Unger, and Woelfel—16.

The nays were: Azinger, Blair, Boso, Clements, Cline, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—17.

Absent: Boley—1.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Baldwin's amendment to the bill rejected.

The question now being on the adoption of the Judiciary committee amendment to the bill, as amended.

Following discussion,

(Senator Weld in the Chair.)

Following discussion and a point of inquiry to the Chair, with resultant response thereto,

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

Following discussion and points of inquiry to the President, with resultant responses thereto,

Senator Plymale moved the previous question, which motion prevailed.

The previous question having been ordered, that being on the adoption of the Judiciary committee amendment to the bill, as amended, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 2079), as amended, was then ordered to third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Trump, Unger, Weld, Woelfel, and Carmichael (Mr. President)—29.

The nays were: Azinger, Maynard, Roberts, and Tarr—4.

Absent: Boley—1.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2079) was then read a third time and put upon its passage.

Pending discussion,

Senator Plymale moved the previous question, which motion prevailed.

The previous question having been ordered, that being on the passage of Engrossed Committee Substitute for House Bill 2079.

On the passage of the bill, the yeas were: Baldwin, Beach, Blair, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Palumbo, Plymale, Prezioso, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Trump, Unger, Woelfel, and Carmichael (Mr. President)—26.

The nays were: Azinger, Cline, Maynard, Roberts, Takubo, Tarr, and Weld—7.

Absent: Boley—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2079) passed.

The following amendment to the title of the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 2079**—A Bill to amend and reenact §16A-2-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §16A-4-3 of said code; to amend and reenact §16A-6-3 of this code; to amend and reenact §16A-6-13 of said code; to amend and reenact §16A-7-4 of said code; to amend and reenact §16A-8-1 of said code; to amend and reenact §16A-9-1 of said code; to amend said code by adding thereto two new sections, designated §16A-9-3 and §16A-9-4; to amend and reenact §16A-10-6 of said code; to amend and reenact §16A-11-1 of said code; to amend said code by adding thereto a new section, designated §16A-15-10; and to amend and reenact §16A-16-1 of said code, all relating generally to medical cannabis; defining terms; modifying certain definitions; modifying conditions for issuance of patient certifications; expanding practitioner reporting requirements; defining resident for purposes of the act; requiring that state residents own a majority of business entities applying for medical cannabis organization permits; removing regional distribution requirements for growers, processors, and dispensaries; establishing criteria for choosing the locations of dispensary permittees; requiring the Bureau for Public Health to adopt fair and objective evaluation procedures in choosing permittees; requiring numeric scoring of applications; increasing the maximum number of dispensary permits; increasing the number of dispensary permits a person or entity may hold; authorizing persons or entities to hold grower, processor and dispensary permits; authorizing the bureau to oversee testing of medical cannabis; granting a preference to the Department of Agriculture to perform medical cannabis testing; directing that fees for testing of medical cannabis received by the Department of Agriculture be deposited in the Agriculture Feed Fund; authorizing the bureau to contract with persons or entities other than the Department of Agriculture for testing of medical cannabis; removing the requirement that dispensaries have a physician or pharmacist onsite; modifying tax rates and tax procedures related to medical cannabis organizations; authorizing the electronic filing with the Tax Commissioner; directing tax proceeds to be deposited in the Medical Cannabis Program Fund; clarifying applicability of the West Virginia Tax Procedure and Administration Act and the West Virginia Tax Crimes and Penalties Act apply to medical cannabis operations; extending the authority of the bureau to adopt emergency rules until July 1, 2021; adding two osteopathic physicians appointed by the West Virginia Osteopathic Association to the Medical Cannabis Advisory Board; immunizing state officials and employees from causes of action in their personal capacities for actions taken to implement the act; limiting any type of recovery to proceeds of available insurance; obligating the state to defend and indemnify state officials and employees against one type of action brought against them for implementing the act; authorizing pre-certification of patients; maintaining restriction that patient certificates may not be issued until July 1, 2019; and incorporating certain tax offenses and penalties by reference.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Baldwin, Beach, Blair, Boso, Clements, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Palumbo, Plymale, Prezioso, Romano,

Rucker, Smith, Stollings, Swope, Sypolt, Trump, Unger, Woelfel, and Carmichael (Mr. President)—26.

The nays were: Azinger, Cline, Maynard, Roberts, Takubo, Tarr, and Weld—7.

Absent: Boley—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2079) takes effect from passage.

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

**Eng. House Bill 2474**, Relating to a reserving methodology for health insurance and annuity contracts.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

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

## **ARTICLE 7. ASSETS AND LIABILITIES.**

### **§33-7-9. Standard Valuation Law.**

(a) This section shall be known as the standard valuation law. For the purposes of this section, the following definitions apply on or after the operative date of the valuation manual:

(1) The term “accident and health insurance” means contracts that incorporate morbidity risk and provide protection against economic loss resulting from accident, sickness, or medical conditions and as may be specified in the valuation manual.

(2) The term “appointed actuary” means a qualified actuary who is appointed in accordance with the valuation manual to prepare the actuarial opinion required in subdivision (2), subsection (c) of this section.

(3) The term “company” means an entity that has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this state and has at least one such policy in force or on claim, or has written, issued, or reinsured life insurance contracts, accident and health insurance contracts, or deposit-type contracts in any state and is required to hold a certificate of authority to write life insurance, accident and health insurance, or deposit-type contracts in this state.

(4) The term “deposit-type contract” means contracts that do not incorporate mortality or morbidity risks, and as may be specified in the valuation manual.

(5) The term “life insurance” means contracts that incorporate mortality risk, including annuity and pure endowment contracts, and as may be specified in the valuation manual.

(6) The term “NAIC” means the National Association of Insurance Commissioners.

(7) The term “policyholder behavior” means any action a policyholder, contract holder, or any other person with the right to elect options, such as a certificate holder, may take under a policy or contract subject to this section including, but not limited to, lapse, withdrawal, transfer, deposit, premium payment, loan, annuitization, or benefit elections prescribed by the policy or contract but excluding events of mortality or morbidity that result in benefits prescribed in their essential aspects by the terms of the policy or contract.

(8) The term “principle-based valuation” means a reserve valuation that uses one or more methods or one or more assumptions determined by the insurer and is required to comply with subsection (o) of this section as specified in the valuation manual.

(9) The term “qualified actuary” means an individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements and who meets the requirements specified in the valuation manual.

(10) The term “tail risk” means a risk that occurs either where the frequency of low probability events is higher than expected under a normal probability distribution or where there are observed events of very significant size or magnitude.

(11) The term “valuation manual” means the manual of valuation instructions adopted by the commissioner in accordance with subsection (n) of this section.

(b) *Reserve valuation.* —

(1) *Policies and Contracts Issued Prior to the Operative Date of the Valuation Manual.* —

(A) The commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this state issued on or after January 1, 1958 and prior to the operative date of the valuation manual. In calculating reserves, the commissioner may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves herein required of any foreign or alien company, the commissioner may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when the valuation complies with the minimum standard provided in this section.

(B) Subsections (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m) of this section apply to all policies and contracts, as appropriate, subject to this section issued on or after January 1, 1958 and prior to the operative date of the valuation manual, and subsections (n) and (o) of this section do not apply to any such policies and contracts.

(C) The minimum standard for the valuation of policies and contracts issued prior to January 1, 1958 shall be that provided by the laws in effect immediately prior to that date.

(2) *Policies and contracts issued on or after the operative date of the valuation manual.* —

(A) The commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance contracts, annuity and pure endowment contracts, accident and health contracts, and deposit-type contracts of every company issued on or after the operative date of the valuation manual. In lieu of the valuation of

the reserves required of a foreign or alien company, the commissioner may accept a valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when the valuation complies with the minimum standard provided in this section.

(B) Subsection (n) and (o) of this section apply to all policies and contracts issued on or after the operative date of the valuation manual.

(c) *Actuarial opinion of reserves.* —

(1) *Actuarial Opinion Prior to the Operative Date of the Valuation Manual.* —

(A) *General.* — Every life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rule are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts and comply with applicable laws of this state. The commissioner shall define the specifics of this opinion and add any other items deemed to be necessary to its scope.

(B) *Actuarial analysis of reserves and assets supporting the reserves.* —

(i) Every life insurance company, except as exempted by or pursuant to rule, shall also annually include in the opinion required by paragraph (A) of this subdivision an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rule, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including, but not limited to, the benefits under and expenses associated with the policies and contracts.

(ii) The commissioner may provide, by rule, for a transition period for establishing any higher reserves that the qualified actuary may deem necessary in order to render the opinion required by this subdivision.

(C) *Requirement for opinion under paragraph (B) of this subdivision.* — Each opinion required by paragraph (B) of this subdivision shall be governed by the following provisions:

(i) A memorandum in form and substance acceptable to the commissioner as specified by rule shall be prepared to support each actuarial opinion.

(ii) If the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified by rule or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the rules or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting memorandum required by the commissioner.

(D) *Requirement for all opinions subject to this subdivision.* — Every opinion ~~subject to~~ required by this subdivision is governed by the following:



(i) The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after December 31, 1995.

(ii) The opinion shall apply to all business in force, including individual and group health insurance plans, in form and substance acceptable to the commissioner as specified by rule.

(iii) The opinion shall be based on standards adopted, from time to time, by the actuarial standards board and on such additional standards as the commissioner may by rule prescribe.

(iv) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(v) For the purposes of this ~~section~~ subsection, "qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirements set forth in such regulations.

(vi) Except in cases of fraud or willful misconduct, the qualified actuary is not liable for damages to any person (other than the insurance company and the commissioner) for any act, error, omission, decision, or conduct with respect to the actuary's opinion.

(vii) Disciplinary action by the commissioner against the company or the qualified actuary shall be defined in rules by the commissioner.

(viii) Except as provided in subparagraphs (xii), (xiii), and (xiv) of this paragraph, documents, materials or other information in the possession or control of the commissioner that are a memorandum in support of the opinion and any other material provided by the company to the commissioner in connection therewith are confidential by law and privileged, exempt from disclosure under §29A-1-1 *et seq.* of this code and are not to be subject to subpoena and, additionally, are not subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties.

(ix) Neither the commissioner nor any person who received documents, materials, or other information while acting under the authority of the commissioner is permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subparagraph (viii) of this paragraph.

(x) In order to assist in the performance of the commissioner's duties, the commissioner:

(I) May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subparagraph (viii) of this paragraph with other state, federal, and international regulatory agencies, with the NAIC and its affiliates and subsidiaries, and with state, federal, and international law-enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material or other information;

(II) May receive documents, materials, or information, including otherwise confidential and privileged documents, materials or information, from the NAIC and its affiliates and subsidiaries,

and from regulatory and law-enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information; and

(III) May enter into agreements governing sharing and use of information consistent with this subparagraph and subparagraphs (viii) and (ix) and this subparagraph of this paragraph.

(xi) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information occurs as a result of disclosure to the commissioner under this ~~section subsection~~ or as a result of sharing as authorized in subparagraph ~~(ix)~~ (x) of this paragraph.

(xii) A memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection with the memorandum, may be subject to subpoena for the purpose of defending an action seeking damages from the actuary submitting the memorandum by reason of an action required by this subsection or by rules.

(xiii) The memorandum or other material may otherwise be released by the commissioner with the written consent of the company or to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material.

(xiv) Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before a governmental agency other than a state insurance department or is released by the company to the news media, all portions of the confidential memorandum shall be no longer confidential.

*(2) Actuarial Opinion of Reserves after the Operative Date of the Valuation Manual. —*

(A) *General.* — Every company with outstanding life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this state and subject to rule of the commissioner shall annually submit the opinion of the appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts and comply with applicable laws of this state. The valuation manual will prescribe the specifics of this opinion including any items deemed to be necessary to its scope.

(B) *Actuarial Analysis of Reserves and Assets Supporting Reserves.* — Every company with outstanding life insurance contracts, accident and health insurance contracts, or deposit-type contracts in this state and subject to rule of the commissioner, except as exempted in the valuation manual, shall also annually include in the opinion required by paragraph (A) of this subdivision, an opinion of the same appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including, but not limited to, the benefits under and expenses associated with the policies and contracts.

~~(C) Requirements for Opinions Subject to paragraph (B), subdivision (2), subsection (c) Requirement for opinion under paragraph (B) of this subdivision.~~ — Each opinion required by subdivision (2), subsection (c) of this section paragraph (B) of this subdivision shall be governed by the following:

(i) A memorandum, in form and substance as specified in the valuation manual, and acceptable to the commissioner, shall be prepared to support each actuarial opinion.

(ii) If the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified in the valuation manual or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the valuation manual or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting memorandum required by the commissioner.

~~(D) Requirement for All Opinions Subject to subdivision (2), subsection (c) of this section Requirement for all opinions subject to this subdivision.~~ — Every opinion required by this subdivision is governed by the following:

(i) The opinion shall be in form and substance as specified in the valuation manual and acceptable to the commissioner.

(ii) The opinion shall be submitted with the annual statement reflecting the valuation of ~~such~~ the reserve liabilities for each year ending on or after the operative date of the valuation manual.

(iii) The opinion shall apply to all policies and contracts subject to paragraph (B) ~~subdivision (2), subsection (c) of this section~~ of this subdivision, plus other actuarial liabilities as may be specified in the valuation manual.

(iv) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board or its successor, and on such additional standards as may be prescribed in the valuation manual.

(v) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(vi) Except in cases of fraud or willful misconduct, the appointed actuary is not liable for damages to any person, other than the insurance company and the commissioner, for any act, error, omission, decision, or conduct with respect to the appointed actuary's opinion.

(vii) Disciplinary action by the commissioner against the company or the appointed actuary shall be defined in rules.

(d) *Computation of minimum standards.* — Except as otherwise provided in subsections (e), (f), and (m) of this section, the minimum standard for the valuation of all policies and contracts issued prior to January 1, 1958 shall be that provided by the laws in effect immediately prior to that date. Except as otherwise provided in subsections (e), (f), and (m) of this section, the minimum standard for the valuation of all policies and contracts issued on or after January 1, 1958

of this section shall be the commissioners reserve valuation methods defined in subsections (g), (h), (k), and (m) of this section, three and one-half percent interest or in the case of life insurance policies and contracts, other than annuity and pure endowment contracts, issued on or after June 1, 1974, four percent interest for policies issued prior to April 6, 1977, five and one-half percent interest for single premium life insurance policies, and four and one-half percent interest for all other policies issued on and after April 6, 1977, and the following tables:

(1) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in the policies:

(A) The commissioner's 1941 standard ordinary mortality table for policies issued prior to the operative date of §33-13-30(e) of this code;

(B) The commissioner's 1958 standard ordinary mortality table for policies issued on or after the operative date of §33-13-30(e) of this code and prior to the operative date of §33-13-30(g) of this code: *Provided*, That for any category of policies issued on female risks, all modified net premiums and present values referred to in this section may be calculated according to an age not more than six years younger than the actual age of the insured; and

(C) For policies issued on or after the operative date of §33-13-30(g) of this code:

(i) The commissioner's 1980 standard ordinary mortality table;

(ii) At the election of the company for any one or more specified plans of life insurance, the commissioner's 1980 standard ordinary mortality table with 10 year select mortality factors; or

(iii) Any ordinary mortality table adopted after the year 1980 by the ~~national association of Insurance Commissioners~~ NAIC that is approved by rule promulgated by the commissioner for use in determining the minimum standard of valuation for the policies.

(2) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in the policies: the 1941 standard industrial mortality table for policies issued prior to the operative date of §33-13-30(f) of this code and for policies issued on or after the operative date, the commissioner's 1961 standard industrial mortality table or any industrial mortality table adopted after the year 1980 by the ~~national association of Insurance Commissioners~~ NAIC that is approved by rule promulgated by the commissioner for use in determining the minimum standard of valuation for the policies.

(3) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in policies: the 1937 standard annuity mortality table or, at the option of the company, the annuity mortality table for 1949, ultimate, or any modification of either of these tables approved by the commissioner.

(4) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in the policies: The group annuity mortality table for 1951, any modification of the table approved by the commissioner or, at the option of the company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(5) For total and permanent disability benefits in or supplementary to ordinary policies or contracts: for policies or contracts issued on or after January 1, 1966, the tables of period two disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the society

of actuaries, with due regard to the type of benefit or any tables of disablement rates and termination rates adopted after the year 1980 by the ~~national association of Insurance Commissioners~~ NAIC that are approved by rule promulgated by the commissioner for use in determining the minimum standard of valuation for the policies; for policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either those tables or, at the option of the company, the Class (3) disability table (1926); and for policies issued prior to January 1, 1961, the Class (3) disability table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(6) For accidental death benefits in or supplementary to policies issued on or after January 1, 1966, the 1959 accidental death benefits table or any accidental death benefits table adopted after the year 1980 by the ~~national association of Insurance Commissioners~~ NAIC that is approved by rules promulgated by the commissioner for use in determining the minimum standard of valuation for ~~such~~ the policies, for policies issued on or after January 1, 1961, and prior to January 1, 1966, either such table or, at the option of the company, the intercompany double indemnity mortality table; and for policies issued prior to January 1, 1961, the intercompany double indemnity mortality table. Either table shall be combined with a mortality table for calculating the reserves for life insurance policies.

(7) For group life insurance, life insurance issued on the substandard basis, and other special benefits: Tables as may be approved by the commissioner.

(e) *Computation of minimum standard for annuities.* — Except as provided in subsection (f) of this section, the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this subsection, and for all annuities and pure endowments purchased on or after the operative date under group annuity and pure endowment contracts, shall be the commissioner's reserve valuation methods defined in subsections (g) and (h) of this section and the following tables and interest rates:

(1) For individual annuity and pure endowment contracts issued prior to April 6, 1977, excluding any disability and accidental death benefits in the contracts: The 1971 individual annuity mortality table or any modification of this table approved by the commissioner and six percent interest for single premium immediate annuity contracts and four percent interest for all other individual annuity and pure endowment contracts;

(2) For individual single premium immediate annuity contracts issued on or after April 6, 1977, excluding any disability and accidental death benefits in ~~such~~ the contracts: The 1971 individual annuity mortality table or any individual annuity mortality table adopted after the year 1980 by the ~~national association of Insurance Commissioners~~ NAIC that is approved by rule promulgated by the commissioner for use in determining the minimum standard of valuation for the contracts or any modification of these tables approved by the commissioner and seven and one-half percent interest;

(3) For individual annuity and pure endowment contracts issued on or after April 6, 1977, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in those contracts: The 1971 individual annuity mortality table or any individual annuity mortality table adopted after the year 1980 by the ~~national association of Insurance Commissioners~~ NAIC that is approved by rule promulgated by the commissioner for use in determining the minimum standard of valuation for the contracts or any modification of these tables approved by the commissioner and five and one-half percent interest for single premium

deferred annuity and pure endowment contracts and four and one-half percent interest for all other individual annuity and pure endowment contracts;

(4) For all annuities and pure endowments purchased prior to April 6, 1977, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under those contracts: The 1971 group annuity mortality table or any modification of this table approved by the commissioner and six percent interest;

(5) For all annuities and pure endowments purchased on or after April 6, 1977, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under the contracts: The 1971 group annuity mortality table or any group annuity mortality table adopted after the year 1980 by the ~~national association of Insurance Commissioners~~ NAIC that is approved by rule promulgated by the commissioner for use in determining the minimum standard of valuation for annuities and pure endowments or any modification of these tables approved by the commissioner and seven and one-half percent interest.

After June 3, 1974, any company may file with the commissioner a written notice of its election to comply with the provisions of this subsection after a specified date before January 1, 1979, which shall be the operative date of this subsection for the company provided, if a company makes no election, the operative date of this section for the company shall be January 1, 1979.

(f) *Computation of minimum standard by calendar year of issue. —*

(1) The interest rates used in determining the minimum standard for the valuation of the following shall be the calendar year statutory valuation interest rates as defined in this section:

(A) All life insurance policies issued in a particular calendar year, on or after the operative date of §33-13-30(g) of this code, as amended;

(B) All individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1982;

(C) All annuities and pure endowments purchased in a particular calendar year on or after January 1, 1982, under group annuity and pure endowment contracts; and

(D) The net increase, if any, in a particular calendar year after January 1, 1982, in amounts held under guaranteed interest contracts.

(2) *Calendar year statutory valuation interest rates. —*

(A) The calendar year statutory valuation interest rates, I, shall be determined as follows and the results rounded to the nearer one quarter of one percent:

(i) For life insurance:  $I = .03 + W(R1 - .03) + W/2(R2 - .09)$ ;

(ii) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options:  ~~$I = .03 + W(R1 - .03)$~~   $I = .03 + W(R - .03)$

Where R1 is the lesser of R and .09; R2 is the greater of R and .09; R is the reference interest rate defined in this subsection; and W is the weighting factor defined in this ~~section~~ subsection;

(iii) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue-year basis, except as stated in subparagraph (ii) of this paragraph, the formula for life insurance stated in subparagraph (i) of this paragraph shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of ten years and the formula for single premium immediate annuities stated in subparagraph (ii) of this paragraph shall apply to annuities and guaranteed interest contracts with guarantee duration of 10 years or less;

(iv) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in subparagraph (ii) of this paragraph shall apply;

(v) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in subparagraph (ii) of this paragraph shall apply.

(B) However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one half of one percent, the calendar year statutory valuation interest rate for ~~such~~ the life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for the year 1980 (using the reference interest rate defined for the year 1979) and shall be determined for each subsequent calendar year regardless of when §33-13-30(g) of this code, as amended, becomes operative.

(3) *Weighting factors.* —

(A) The weighting factors referred to in the formulas stated above are given in the following tables:

(i) Weighting factors for life insurance:

~~Guarantee~~

~~Duration Weighting~~

~~(Years) Factors~~

~~10 or less .50~~

~~More than 10, but not more than 20 .45~~

~~More than 20 .35~~

Guarantee duration of 10 years or less: .50

Guarantee duration of more than 10 years but not more than 20 years: .45

Guarantee duration of more than 20 years: .35

For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy;

(ii) Weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options: .80;

(iii) Weighting factors for other annuities and for guaranteed interest contracts, except as stated in subparagraph (ii) of this paragraph, shall be as specified in clauses (I), (II), and (III) of this subparagraph, according to the rules and definitions in clauses (IV), (V), and (VI) of this subparagraph:

(I) For annuities and guaranteed interest contracts valued on an issue year basis, the following weighting factors shall apply:

~~Guarantee Weighting Factor~~

~~Duration for Plan Type~~

~~(Years) A B C~~

~~5 or less: .80 .60 .50~~

~~More than 5, but not more than 10: .75 .60 .50~~

~~More than 10, but not more than 20: .65 .50 .45~~

~~More than 20: .45 .35 .35~~

Guarantee duration of five years or less: Plan Type A - .80; Plan Type B - .60; Plan Type C - .50

Guarantee duration of more than five years but not more than 10 years: Plan Type A - .75; Plan Type B - .60; Plan Type C - .50

Guarantee duration of more than 10 years but not more than 20 years: Plan Type A - .65; Plan Type B - .50; Plan Type C - .45

Guarantee duration of more than 20 years: Plan Type A - .45; Plan Type B - .35; Plan Type C - .35

(II) For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in clause (I) of this subparagraph increased by:

~~Weighting Factor~~

~~for Plan Type~~

~~A B C1~~



~~.15 .25 .05~~

Plan Type A - .15; Plan Type B - .25; Plan Type C - .05

(III) For annuities and guaranteed interest contracts valued on an issue-year basis (other than those with no cash settlement options) which do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than 12 months beyond the valuation date, the factors shown in clause (I) of this subparagraph or derived in clause (II) of this subparagraph increased by:

~~Weighting Factor~~

~~for Plan Type~~

~~A B C1~~

~~.05 .05 .05~~

Plan Type A - .05; Plan Type B - .05; Plan Type C - .05

(IV) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of 20 years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guaranteed duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

(V) Plan type as used in the above tables is defined as follows:

Plan Type A:

At any time policyholder may withdraw funds only: (1) With an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company; or (2) without such adjustment but in installments over five years or more; or (3) as an immediate life annuity; or (4) no withdrawal permitted;

Plan Type B:

Before expiration of the interest rate guarantee, policyholder may withdraw funds only: (1) With an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company; or (2) without such adjustment but in installments over five years or more; or (3) no withdrawal permitted. At the end of interest rate guarantee, funds may be withdrawn without such adjustment in a single sum or installments over less than five years;

Plan Type C:

Policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than five years either: (1) Without adjustment to reflect changes in

interest rates or asset values since receipt of the funds by the insurance company; or (2) subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

(VI) A company may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue-year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue-year basis. As used in this section, an issue-year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract and the change in fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

(4) *The reference interest rate.* —

(A) Reference interest rate referred to in subdivision (2) of this subsection is defined as follows:

(i) For all life insurance, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year next preceding the year of issue, of the monthly average of the composite yield on seasoned corporate bonds as published by Moody's Investors Service, Inc.;

(ii) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or year of purchase, of the monthly average of the composite yield on seasoned corporate bonds as published by Moody's Investors Service, Inc.;

(iii) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in subparagraph (ii) of this paragraph, with guarantee duration in excess of 10 years, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of the monthly average of the composite yield on seasoned corporate bonds as published by Moody's Investors Service, Inc.;

(iv) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in subparagraph (ii) of this paragraph, with guarantee duration of 10 years or less, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of the monthly average of the composite yield on seasoned corporate bonds as published by Moody's Investors Service, Inc.;

(v) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of the monthly average of the composite yield on seasoned corporate bonds as published by Moody's Investors Service, Inc.; and

(vi) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in subparagraph (ii) of this paragraph, the average over a period of 12 months, ending on June 30 of the calendar year of the change in the fund, of the monthly average of the composite yield on seasoned corporate bonds as published by Moody's Investors Service, Inc.

(5) *Alternative method for determining reference interest rates.* —

In the event that the monthly average of the composite yield on seasoned corporate bonds is no longer published by Moody's Investors Service, Inc., or in the event that the ~~national association of Insurance Commissioners~~ NAIC determines that the monthly average of the composite yield on seasoned corporate bonds as published by Moody's Investors Service, Inc., is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is adopted by the ~~national association of Insurance Commissioners~~ NAIC and approved by rule promulgated by the commissioner, may be substituted.

(g) *Reserve valuation method: Life insurance and endowment benefits.* —

(1) Except as otherwise provided in subsections (h), (k), and (m) of this section, reserves according to the commissioner's reserve valuation method for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of the future guaranteed benefits provided by the policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be the uniform percentage of the respective contract premiums for the benefits that the present value, at the date of issue of the policy, of all the modified net premiums shall be equal to the sum of the then present value of the benefits provided by the policy and the excess of ~~subdivision (1) paragraph (A) of this subsection~~ subdivision over ~~subdivision (2) paragraph (B) of this subsection~~ subdivision, as follows:

~~(1) (A)~~ (A) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due: *Provided*, That such net level annual premium shall not exceed the net level annual premium on the 19 year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy.

~~(2) (B)~~ (B) A net one-year term premium for such benefits provided for in the first policy year.

~~Provided, That for (2) For~~ any life insurance policy issued on or after January 1, 1985, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the reserve according to the ~~commissioners'~~ commissioner's reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium shall, except as otherwise provided in subsection (k) of this section, be the greater of the reserve as of such policy anniversary calculated as described in ~~the preceding paragraph~~ subdivision (1) of this subsection and the reserve as of the policy anniversary calculated as described in that ~~paragraph~~ subdivision,

but with: (i) The value defined in subdivision (1) of ~~that paragraph~~ this subsection being reduced by ~~fifteen~~ 15 percent of the amount of such excess first-year premium; (ii) all present values of benefits and premiums being determined without reference to premiums or benefits provided by the policy after the assumed ending date; (iii) the policy being assumed to mature on the date as an endowment; and (iv) the cash surrender value provided on such date being considered as an endowment benefit. In making the above comparison, the mortality and interest bases stated in subsections (d) and (f) of this section shall be used.

(3) Reserves according to the ~~commissioners'~~ commissioner's reserve valuation method shall be calculated by a method consistent with the principles of ~~the preceding paragraphs~~ subdivisions (1) and (2) of this section subsection for:

(i) (A) Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums;

(ii) (B) Group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code (26 U.S.C. § 408) as now or hereafter amended;

(iii) (C) Disability and accidental death benefits in all policies and contracts; and

(iv) (D) All other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts. ~~shall be calculated by a method consistent with the principles of the preceding paragraphs of this section~~

(h) *Reserve valuation method: Annuity and pure endowment benefits.* —

(1) This subsection shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code (26 U.S.C. § 408) as now or hereafter amended.

(2) Reserves according to the ~~commissioners'~~ commissioner's annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such the contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided by such the contracts at the end of each respective contract year over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of such the contract, that become payable prior to the end of the respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in the contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such the contracts to determine nonforfeiture values.

(i) *Minimum reserves.* —

(1) In no event shall a company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after January 1, 1958 be less than the aggregate reserves calculated in accordance with the methods set forth in subsections (g), (h), (k), and (l) of this section and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for the policies.

(2) In no event shall the aggregate reserves for all policies, contracts, and benefits be less than the aggregate reserves determined by the qualified actuary to be necessary to render the opinion required by subsection (c) of this section.

(j) *Optional reserve calculation.* —

(1) Reserves for all policies and contracts issued prior to ~~the effective date of this section~~ January 1, 1958 may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for all policies and contracts than the minimum reserves required by the laws in effect immediately prior to such date.

(2) Reserves for any category of policies, contracts or benefits as established by the commissioner issued on or after January 1, 1958 may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided therein.

(3) Any ~~such~~ company which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided: *Provided*, That for the purposes of this section, the holding of additional reserves previously determined by the appointed actuary to be necessary to render the opinion required by subsection (c) of this section shall not be considered to be the adoption of a higher standard of valuation.

(k) *Reserve calculation: Valuation net premium exceeding the gross premium charged.* —

(1) If in any contract year the gross premium charged by any life insurance company on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for ~~such~~ the policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for ~~such~~ the policy or contract or the reserve calculated by the method actually used for ~~such~~ the policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this section are those standards stated in subsections (d) and (f) of this section: *Provided*, That for any life insurance policy issued on or after January 1, 1985, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than ~~such~~ the excess premium, the foregoing provisions of this subsection shall be applied as if the method actually used in calculating the

reserve for ~~such the~~ policy were the method described in subsection (g) of this section, ignoring ~~the second paragraph subdivision (2)~~ of said subsection.

(2) The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with subsection (g) of this section, including ~~the second paragraph subdivision (2)~~ of said ~~section~~ subsection, and the minimum reserve calculated in accordance with this subsection.

(l) *Reserve calculation: Indeterminate premium plans.* —

In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in subsections (g), (h), and (k) of this section, the reserves which are held under any such plan must:

(1) Be appropriate in relation to the benefits and the pattern of premiums for that plan; and

(2) Be computed by a method which is consistent with the principles of this standard valuation law as determined by rules promulgated by the commissioner.

~~(m) The commissioner may, by rule, establish alternative methods of calculating reserve liabilities, which methods shall be used to calculate reserve liabilities for the types of policies, annuities or other contracts identified in the rule: *Provided*, That the method specified in the rule shall be one which, in the opinion of the commissioner and in light of the methods applied to the contracts by the insurance regulators of other states, is appropriate to the contracts. This power shall be in addition to, and in no way diminish, rule-making power granted to the commissioner elsewhere in this code Minimum standard for accident and health insurance contracts. —~~

For accident and health insurance contracts issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under subdivision (2), subsection (b) of this section. For accident and sickness insurance contracts issued on or after January 1, 1958 and prior to the operative date of the valuation manual, the minimum standard of valuation is the standard adopted by the commissioner by rule.

(n) *Valuation manual for policies issued on or after the operative date of the valuation manual.*

(1) The commissioner shall promulgate emergency rules adopting a valuation manual that is substantially similar to the valuation manual approved by the ~~National Association of Insurance Commissioners~~ NAIC and any amendments to ~~such the~~ manual as may be subsequently approved by the ~~National Association of Insurance Commissioners~~ NAIC, and ~~such the~~ rules shall be effective in accordance with subdivisions (2) and (3) of this subsection.

(2) The operative date of the valuation manual is January 1 of the first calendar year following the first July 1 as of which all of the following have occurred:

(A) The valuation manual has been adopted by the ~~National Association of Insurance Commissioners~~ NAIC by an affirmative vote of at least 42 members, or three-fourths of the members voting, whichever is greater;

(B) The Standard Valuation Law, as amended by the ~~National Association of Insurance Commissioners~~ NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by states representing greater than 75 percent of the direct premiums written as reported in the following annual statements submitted for 2008: Life, accident, and health annual statements; health annual statements; and fraternal annual statements; and

(C) The Standard Valuation Law, as amended by the ~~National Association of Insurance Commissioners~~ NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by at least 42 of the following 55 jurisdictions: The 50 states of the United States, American Samoa, the American Virgin Islands, the District of Columbia, Guam, and Puerto Rico.

(3) Unless a change in the valuation manual specifies a later effective date, changes to the valuation manual shall be effective on January 1 following the date when ~~such the~~ changes have been adopted by the ~~National Association of Insurance Commissioners~~ NAIC by an affirmative vote representing:

(A) At least three-fourths of the members of the ~~National Association of Insurance Commissioners~~ NAIC voting, but not less than a majority of the total membership; and

(B) Members of the ~~National Association of Insurance Commissioners~~ NAIC representing jurisdictions totaling greater than 75 percent of the direct premiums written, as reported in the following annual statements most recently available prior to the vote in paragraph (A) of this subdivision: Life, accident, and health annual statements, health annual statements, or fraternal annual statements.

(4) The valuation manual must specify all of the following:

(A) Minimum valuation standards for and definitions of the policies or contracts subject to subdivision (2), subsection (b) of this section. ~~Such~~ The minimum valuation standards shall be:

(i) The commissioner's reserve valuation method for life insurance contracts, other than annuity contracts, subject to subdivision (2), subsection (b) of this section;

(ii) The commissioner's annuity reserve valuation method for annuity contracts subject to subdivision (2), subsection (b) of this section; and

(iii) Minimum reserves for all other policies or contracts subject to subdivision (2), subsection (b) of this section.

(B) Which policies or contracts or types of policies or contracts that are subject to the requirements of a principle-based valuation in subdivision (1), subsection (o) of this section and the minimum valuation standards consistent with those requirements.

(C) For policies and contracts subject to a principle-based valuation under subsection (o) of this section:

(i) Requirements for the format of reports to the commissioner under paragraph (C), subdivision (2), subsection (o) of this section and which shall include information necessary to determine if the valuation is appropriate and in compliance with this section;

(ii) Assumptions shall be prescribed for risks over which the company does not have significant control or influence; and

(iii) Procedures for corporate governance and oversight of the actuarial function and a process for appropriate waiver or modification of ~~such~~ the procedures.

(D) For policies not subject to a principle-based valuation under subsection (o), the minimum valuation standard shall either:

(i) Be consistent with the minimum standard of valuation prior to the operative date of the valuation manual; or

(ii) Develop reserves that quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring.

(E) Other requirements, including, but not limited to, those relating to reserve methods, models for measuring risk, generation of economic scenarios, assumptions, margins, use of company experience, risk measurement, disclosure, certifications, reports, actuarial opinions and memoranda, transition rules and internal controls; and

(F) The data and form of the data required under subsection (p) of this section, with whom the data must be submitted, and may specify other requirements including data analyses and reporting of analyses.

(5) For policies issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under subdivision (2), subsection (b) of this section, except as provided under subdivision (6) or (8) of this subsection.

(6) In the absence of a specific valuation requirement or if a specific valuation requirement in the valuation manual is not, in the opinion of the commissioner, in compliance with this section, then the company shall, with respect to ~~such~~ the requirements, comply with minimum valuation standards prescribed by rule.

(7) The commissioner may engage a qualified actuary, at the expense of the company, to perform an actuarial examination of the company and opine on the appropriateness of any reserve assumption or method used by the company, or to review and opine on a company's compliance with any requirement set forth in this section. The commissioner may rely upon the opinion, regarding provisions contained within this section, of a qualified actuary engaged by the commissioner of another state, district, or territory of the United States. As used in this subdivision, term "engage" includes employment and contracting.

(8) The commissioner may require a company to change any assumption or method that in the opinion of the commissioner is necessary in order to comply with the requirements of the valuation manual or this section, and the company shall adjust the reserves as required by the commissioner.

(o) *Requirements of a Principle-Based Valuation.* —

(1) A company must establish reserves using a principle-based valuation that meets the following conditions for policies or contracts as specified in the valuation manual:



(A) Quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring during the lifetime of the contracts. For policies or contracts with significant tail risk, reflects conditions appropriately adverse to quantify the tail risk.

(B) Incorporate assumptions, risk analysis methods and financial models, and management techniques that are consistent with, but not necessarily identical to, those utilized within the company's overall risk assessment process, while recognizing potential differences in financial reporting structures and any prescribed assumptions or methods.

(C) Incorporate assumptions that are derived in one of the following manners:

(i) The assumption is prescribed in the valuation manual; or

(ii) For assumptions that are not prescribed, the assumptions shall either:

(I) Be established utilizing the company's available experience, to the extent it is relevant and statistically credible; or

(II) To the extent that company data is not available, relevant or statistically credible, be established utilizing other relevant, statistically credible experience.

(D) Provide margins for uncertainty including adverse deviation and estimation error, such that the greater the uncertainty, the larger the margin and resulting reserve.

(2) A company using a principle-based valuation for one or more policies or contracts subject to this section as specified in the valuation manual shall:

(A) Establish procedures for corporate governance and oversight of the actuarial valuation function consistent with those described in the valuation manual.

(B) Provide to the commissioner and the board of directors an annual certification of the effectiveness of the internal controls with respect to the principle-based valuation. ~~Such~~ The controls shall be designed to assure that all material risks inherent in the liabilities and associated assets subject to ~~such~~ the valuation are included in the valuation, and that valuations are made in accordance with the valuation manual. The certification shall be based on the controls in place as of the end of the preceding calendar year.

(C) Develop, and file with the commissioner upon request, a principle-based valuation report that complies with standards prescribed in the valuation manual.

(3) A principle-based valuation may include a prescribed formulaic reserve component.

(p) *Experience reporting for policies in force on or after the operative date of the valuation manual.* — A company shall submit mortality, morbidity, policyholder behavior, or expense experience and other data as prescribed in the valuation manual.

(q) *Confidentiality.* —

(1) For purposes of this subsection, "confidential information" means:

(A) A memorandum in support of an opinion submitted under subsection (c) of this section and any other documents, materials, and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by, or disclosed to the commissioner or any other person in connection with ~~such~~ the memorandum;

(B) All documents, materials, and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by, or disclosed to the commissioner or any other person in the course of an examination made under subdivision (7), subsection (n) of this section, but only to the same extent as ~~such~~ the documents, materials, and other information would be held confidential were they created, produced or obtained in connection with an examination made under the general examination law set forth in §33-2-9 of this code;

(C) Any reports, documents, materials, and other information developed by a company in support of, or in connection with, an annual certification by the company under paragraph (B), subdivision (2), subsection (o) of this section evaluating the effectiveness of the company's internal controls with respect to a principle-based valuation and any other documents, materials, and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by, or disclosed to the commissioner or any other person in connection with ~~such~~ the reports, documents, materials, and other information;

(D) Any principle-based valuation report developed under paragraph (C), subdivision (2), subsection (o) of this section and any other documents, materials, and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by, or disclosed to the commissioner or any other person in connection with ~~such~~ the report; and

(E) Any documents, materials, data, and other information submitted by a company under subsection (p) of this section (collectively, "experience data") and any other documents, materials, data, and other information, including, but not limited to, all working papers, and copies thereof, created or produced in connection with ~~such~~ the experience data, in each case that include any potentially company-identifying or personally identifiable information, that is provided to or obtained by the commissioner (together with any "experience data", the "experience materials") and any other documents, materials, data, and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by, or disclosed to the commissioner or any other person in connection with ~~such~~ the experience materials.

(2) *Privilege for, and Confidentiality of, Confidential Information.* —

(A) Except as otherwise provided in this subsection, a company's confidential information is confidential by law and privileged, is exempt from disclosure under §29A-1-1 *et seq.* of this code, is not subject to subpoena, and is not subject to discovery or admissible in evidence in any private civil action: *Provided*, That the commissioner is authorized to use the confidential information in the furtherance of any regulatory or legal action brought against the company as a part of the commissioner's official duties.

(B) Neither the commissioner nor any person who received confidential information while acting under the authority of the commissioner is permitted or required to testify in any private civil action concerning any confidential information.

(C) In order to assist in the performance of the commissioner's duties, the commissioner may share confidential information:

(i) With other state, federal, and international regulatory agencies and with the ~~National Association of Insurance Commissioners~~ NAIC and its affiliates and subsidiaries;

(ii) In the case of confidential information specified in paragraphs (A) and (D), subdivision (1) of this subsection only, with the Actuarial Board for Counseling and Discipline or its successor upon request stating that the confidential information is required for the purpose of professional disciplinary proceedings and with state, federal, and international law-enforcement officials; and

(iii) In the case of subparagraphs (i) and (ii) of this paragraph, provided that ~~such~~ the recipient agrees and has the legal authority to agree, to maintain the confidentiality and privileged status of ~~such~~ the documents, materials, data, and other information in the same manner and to the same extent as required for the commissioner.

(D) The commissioner may receive documents, materials, data, and other information, including otherwise confidential and privileged documents, materials, data, or information, from the ~~National Association of Insurance Commissioners~~ NAIC and its affiliates and subsidiaries, from regulatory or law-enforcement officials of other foreign or domestic jurisdictions, and from the Actuarial Board for Counseling and Discipline or its successor, and he or she shall maintain as confidential or privileged any document, material, data, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or other information.

(E) The commissioner may enter into agreements governing sharing and use of information consistent with this subdivision.

(F) No waiver of any applicable privilege or claim of confidentiality in the confidential information occurs as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in paragraph (C) of this subdivision.

(G) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this subdivision is available and may ~~been forced~~ be enforced in any proceeding in, and in any court of, this state.

(H) In this subsection “regulatory agency”, “law-enforcement agency”, and the “NAIC” include, but are not limited to, their employees, agents, consultants, and contractors.

(3) Notwithstanding subdivision (2) of this subsection, any confidential information specified in paragraphs (A) and (D), subdivision (1) of this subsection:

(A) May be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the related memorandum in support of an opinion submitted under subsection (c) of this section or principle-based valuation report developed under paragraph (C), subdivision (2), subsection (o) of this section by reason of an action required by this section or by rules promulgated hereunder;

(B) May otherwise be released by the commissioner with the written consent of the company; and

(C) Once any portion of a memorandum in support of an opinion submitted under subsection (c) of this section or a principle-based valuation report developed under paragraph (C), subdivision (2), subsection (o) of this section is cited by the company in its marketing or is publicly

volunteered to or before a governmental agency other than a state insurance department or is released by the company to the news media, all portions of ~~such~~ the memorandum or report are no longer ~~be~~ confidential.

The bill (Eng. H. B. 2474), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2479**, Corporate Governance Annual Disclosure Act.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. Com. Sub. for House Bill 2490**, Preventing proposing or enforcing rules that prevent recreational water facilities from making necessary upgrades.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. Com. Sub. for House Bill 2503**, Relating to court actions.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk:

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

#### **ARTICLE 4. COURT ACTIONS.**

##### **PART VI.**

##### **PROCEDURES IN CASES OF CHILD NEGLECT OR ABUSE.**

#### **§49-4-601. Petition to court when child believed neglected or abused; venue; notice; right to counsel; continuing legal education; findings; proceedings; procedure.**

(a) *Petitioner and venue.* — If the department or a reputable person believes that a child is neglected or abused, the department or the person may present a petition setting forth the facts to the circuit court in the county in which the child resides, or if the petition is being brought by the department, in the county in which the custodial respondent or other named party abuser resides, or in which the abuse or neglect occurred, or to the judge of the court in vacation. Under no circumstance may a party file a petition in more than one county based on the same set of facts.

(b) *Contents of Petition.* — The petition shall be verified by the oath of some credible person having knowledge of the facts. The petition shall allege specific conduct including time and place, how the conduct comes within the statutory definition of neglect or abuse with references ~~thereto~~ to the statute, any supportive services provided by the department to remedy the alleged circumstances, and the relief sought. Each petition shall name as a party each parent, guardian, custodian, other person standing in loco parentis of or to the child allegedly neglected or abused and state with specificity whether each parent, guardian, custodian, or person standing in loco parentis is alleged to have abused or neglected the child.

(c) *Court action upon filing of petition.* — Upon filing of the petition, the court shall set a time and place for a hearing and shall appoint counsel for the child. When there is an order for temporary custody pursuant to this article, the preliminary hearing shall be held within 10 days of the order continuing or transferring custody, unless a continuance for a reasonable time is granted to a date certain, for good cause shown.

(d) *Department action upon filing of the petition.* — At the time of the institution of any proceeding under this article, the department shall provide supportive services in an effort to remedy circumstances detrimental to a child.

(e) *Notice of hearing.* —

(1) The petition and notice of the hearing shall be served upon both parents and any other guardian, custodian, or person standing in loco parentis, giving to ~~the parents or custodian~~ those persons at least five days' actual notice of a preliminary hearing and at least ten days' notice of any other hearing.

(2) Notice shall be given to the department, any foster or pre-adoptive parent, and any relative providing care for the child.

(3) In cases where personal service within West Virginia cannot be obtained after due diligence upon any parent or other custodian, a copy of the petition and notice of the hearing shall be mailed to the person by certified mail, addressee only, return receipt requested, to the last known address of the person. If the person signs the certificate, service ~~shall be~~ is complete and the certificate shall be filed as proof of the service with the clerk of the circuit court.

(4) If service cannot be obtained by personal service or by certified mail, notice shall be by publication as a Class II legal advertisement in compliance with §59-3-1 *et seq.* of this code.

(5) A notice of hearing shall specify the time and place of the hearing hearings, the right to counsel of the child, and parents, or and other guardians, custodians, at every stage of the proceedings, and other persons standing in loco parentis with the child and the fact that the proceedings can result in the permanent termination of the parental rights.

(6) Failure to object to defects in the petition and notice may not be construed as a waiver.

(f) *Right to counsel.* —

~~(1) In any proceeding under this article, the child, his or her parents, and his or her legally established custodian or other persons standing in loco parentis to him or her has the right to be represented by counsel at every stage of the proceedings and shall be informed by the court of their right to be so represented and that if they cannot pay for the services of counsel, that counsel will be appointed.~~

(1) In any proceeding under this article, the child shall have counsel to represent his or her interests at all stages of the proceedings.

~~(2) Counsel shall be appointed in the initial order. For parents, legal guardians, and other persons standing in loco parentis, the representation may only continue after the first appearance the parent or other persons standing in loco parentis cannot pay for the services of counsel.~~

(2) The court's initial order shall appoint counsel for the child and for any parent, guardian, custodian, or other person standing *in loco parentis* with the child if such person is without retained counsel.

~~(3) Counsel for other parties shall only be appointed upon request for appointment of counsel. If the requesting parties have not retained counsel and cannot pay for the services of counsel, the court shall, by order entered of record, appoint an attorney or attorneys to represent the other party or parties and so inform the parties.~~

(3) The court shall, at the initial hearing in the matter, determine whether persons other than the child for whom counsel has been appointed:

(A) Have retained counsel; and

(B) Are financially able to retain counsel.

(4) A parent, guardian, custodian, or other person standing *in loco parentis* with the child who is alleged to have neglected or abused the child and who has not retained counsel and is financially unable to retain counsel beyond the initial hearing, shall be afforded appointed counsel at every stage of the proceedings.

(5) A parent, guardian, custodian, or other person standing *in loco parentis* with the child who is not alleged to have abused or neglected the child, has not retained counsel and who is financially unable to retain counsel, may request the court to continue to have appointed counsel. The court shall, upon a finding that the interests of justice will be served, afford that person appointed counsel at every stage of the proceedings.

~~(4) (6) Under no circumstances may the same attorney represent both the child and another party the other party or parties., nor may the The same attorney may not represent both parents or custodians more than one parent or custodian: However, *Provided, That* one attorney may represent both parents or custodians where both parents or guardians custodians consent to this representation after the attorney fully discloses to the client the possible conflict and where the attorney assures advises the court that she or he is able to represent each client without impairing her or his professional judgment.; however, if If more than one child from a family is involved in the proceeding, one attorney may represent all the children.~~

~~(5) (7) A parent who is a co-petitioner is entitled to his or her own attorney.~~

(8) The court may allow to each attorney ~~se~~ appointed pursuant to this section a fee in the same amount which appointed counsel can receive in felony cases.

~~(6) (9) The court shall, *sua sponte* or upon motion, appoint counsel to any unrepresented party if, at any stage of the proceedings, the court determines doing so is necessary to satisfy the requirements of fundamental fairness.~~

(g) *Continuing education for counsel.* — Any attorney representing a party under this article shall receive a minimum of eight hours of continuing legal education training per reporting period on child abuse and neglect procedure and practice. In addition to this requirement, any attorney appointed to represent a child must first complete training on representation of children that is approved by the administrative office of the Supreme Court of Appeals. The Supreme Court of Appeals shall develop procedures for approval and certification of training required under this

section. Where no attorney has completed the training required by this subsection, the court shall appoint a competent attorney with demonstrated knowledge of child welfare law to represent the parent or child. Any attorney appointed pursuant to this section shall perform all duties required of an attorney licensed to practice law in the State of West Virginia.

(h) *Right to be heard.* — In any proceeding pursuant to this article, the party or parties having custodial or other parental rights or responsibilities to the child shall be afforded a meaningful opportunity to be heard, including the opportunity to testify and to present and cross-examine witnesses. Foster parents, pre-adoptive parents, and relative caregivers shall also have a meaningful opportunity to be heard.

(i) *Findings of the court.* — Where relevant, the court shall consider the efforts of the department to remedy the alleged circumstances. At the conclusion of the adjudicatory hearing, the court shall make a determination based upon the evidence and shall make findings of fact and conclusions of law as to whether the child is abused or neglected and whether the respondent is abusing, neglecting, or, if applicable, a battered parent, all of which shall be incorporated into the order of the court. The findings must be based upon conditions existing at the time of the filing of the petition and proven by clear and convincing evidence.

(j) *Priority of proceedings.* — Any petition filed and any proceeding held under this article shall, to the extent practicable, be given priority over any other civil action before the court, except proceedings under §48-27-309 of this code and actions in which trial is in progress. Any petition filed under this article shall be docketed immediately upon filing. Any hearing to be held at the end of an improvement period and any other hearing to be held during any proceedings under this article shall be held as nearly as practicable on successive days and, with respect to the hearing to be held at the end of an improvement period, shall be held as close in time as possible after the end of the improvement period and shall be held within 30 days of the termination of the improvement period.

(k) *Procedural safeguards.* — The petition may not be taken as confessed. A transcript or recording shall be made of all proceedings unless waived by all parties to the proceeding. The rules of evidence shall apply. Following the court's determination, it shall be inquired of ask the parents or custodians whether or not appeal is desired and the response transcribed. A negative response may not be construed as a waiver. The evidence shall be transcribed and made available to the parties or their counsel as soon as practicable, if the same transcript is required for purposes of further proceedings. If an indigent person intends to pursue further proceedings, the court reporter shall furnish a transcript of the hearing without cost to the indigent person if an affidavit is filed stating that he or she cannot pay for the transcript therefor.

## PART VI.

### JUVENILE PROCEEDINGS

#### **§49-4-722. Conviction for offense while in custody.**

(a) Notwithstanding any other provision of law to the contrary, any person who is 18 years of age or older who is convicted as an adult of an offense that he or she committed while in the custody of the ~~Division~~ Bureau of Juvenile Services and who is ~~therefor~~ sentenced for the conviction to a regional jail or state correctional facility for the offense may not be returned to the custody of the ~~division~~ bureau upon the completion of his or her adult sentence.

(b) Upon the incarceration in a regional jail or state correctional facility of any person 18 years of age or older who remains subject to the juvenile jurisdiction of the circuit court for crimes committed in a juvenile facility, the Bureau of Juvenile Services shall provide written notification to both the circuit court with juvenile jurisdiction over the person and the judicial authority in the county where the criminal charges are pending that the person is being detained, remains in the jurisdiction of a circuit court, and is pending a sentence as an adult offender. Prior to the imposition of a sentence on the criminal charges, the juvenile facility in which the adult crime occurred shall inform the judicial authority in the county with jurisdiction over the criminal offense which circuit court has juvenile jurisdiction over the person. The judicial authority in the county with jurisdiction over the criminal offense shall then notify the circuit court with juvenile jurisdiction over the person. The person may not be released from custody on the criminal offense until the judicial authority in the county where the criminal charges are pending has been notified by the circuit court with juvenile jurisdiction over the person that it has conducted the hearing required in §49-4-722(c) of this code.

~~(b)~~(c) Prior to completion of the adult sentence specified in subsection (a) of this section, the circuit court having jurisdiction over the underlying juvenile matter shall conduct a hearing to determine whether the person who has turned 18 years of age shall remain in the regional jail during pendency of the underlying juvenile matter or if another disposition or pretrial placement is appropriate and available: Provided, That the court may not remand a child who reached the age of 18 years to a juvenile facility or placement during the pendency of the underlying juvenile matter.

On motion of Senator Trump, the following amendment to the Judiciary committee amendment to the bill (Eng. Com. Sub. for H. B. 2503) was reported by the Clerk and adopted:

On page seven, section seven hundred twenty-two, subsection (c), after the word “matter” by inserting the following proviso: Provided, however, That the Commissioner of the Division of Corrections and Rehabilitation is authorized to designate a unit in one or more of the institutions under his or her management to ensure that the detention of any person 18 years of age or older who is subject to subsection (a) of this section and who remains subject to the juvenile jurisdiction of a Circuit Court, may be placed in by the Commissioner, so that the person does not have contact with or come within sight or sound of any adult incarcerated persons.

The question now being on the adoption of the Judiciary committee amendment to the bill, as amended, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 2503), as amended, was then ordered to third reading.

On motion of Senator Takubo, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—30.

The nays were: Facemire and Prezioso—2.

Absent: Boley and Woelfel—2.



Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2503) was then read a third time and put upon its passage.

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2503 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Mann, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—32.

The nays were: None.

Absent: Boley and Woelfel—2.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2503) passed.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the unreported Judiciary committee amendment to the title of the bill was withdrawn.

On motion of Senator Trump, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 2503**— A Bill to amend and reenact §49-4-601 and §49-4-722 of the Code of West Virginia, 193, as amended, all relating to court actions in abuse and neglect proceedings; counsel appointment procedures in child neglect or abuse cases; requiring a petition to include the names of all parents, guardians, custodians, or other persons standing *in loco parentis* with the child and an express statement as to whether each parent, guardian, custodian, or person standing *in loco parentis* is alleged to have neglected or abused the child; requiring the court to appoint counsel for the child, parents, guardians, custodians, and persons standing *in loco parentis* prior to the initial hearing; clarifying when a court may and may not appoint counsel; requiring a court to appoint counsel to an unrepresented person if necessary to satisfy the requirements of fundamental fairness; directing notice to various courts in actions involving certain adults held in juvenile custody when charged or convicted of adult crimes; requiring the Bureau of Juvenile Services to provide written notification to court as to such defendants during various stages of the criminal process in cases of adults in the juvenile jurisdiction of the circuit court; requiring notice generally; requiring that notice to be given by courts that a hearing required by subsection (a) of this section has been held; and authorizing the Commissioner of Corrections and Rehabilitation to establish one or more facilities to house adult offenders who remain under the juvenile jurisdiction of the circuit court to comply with federal sight and sound restrictions.

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

**Eng. Com. Sub. for House Bill 2583**, Family Planning Access Act.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Health and Human Resources, was reported by the Clerk:

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

**ARTICLE 57. FAMILY PLANNING ACCESS ACT.**

**§16-57-1. Definitions.**

As used in this article:

“Dispense” means the same as that term is defined in §30-5-4 of this code.

“Patient counseling” means the same as that term is defined in §30-5-4 of this code.

“Pharmacist” means the same as that term is defined in §30-5-4 of this code.

“Self-administered hormonal contraceptive” means a self-administered hormonal contraceptive that is approved by the United States Food and Drug Administration to prevent pregnancy and does not include the class of emergency contraceptives commonly known as the “morning after pill” or “Plan B”.

**§16-57-2. Voluntary participation.**

This article does not create a duty or standard of care for a person to prescribe or dispense a self-administered hormonal contraceptive.

**§16-57-3. Authorization to dispense self-administered hormonal contraceptives.**

(a) A pharmacist licensed under §30-5-1 et seq. of this code may dispense a self-administered hormonal contraceptive: (1) pursuant to a standing prescription drug order made in accordance with §16-57-4 of this code without any other prescription drug order from a person licensed to prescribe a self-administered hormonal contraceptive; and (2) in accordance with the dispensing guidelines in §16-57-6 of this code.

(b) All state and federal laws governing insurance coverage of contraceptive drugs, devices, products, and services shall apply to self-administered contraceptives dispensed by a pharmacist under a standing order pursuant to this section.

**§16-57-4. Standing prescription drug orders for a self-administered hormonal contraceptive.**

The state health officer may prescribe on a statewide basis a self-administered hormonal contraceptive by one or more standing orders in accordance with a protocol consistent with the United States Medical Eligibility Criteria for Contraceptive Use (MEC) Centers for Disease Control and Prevention, that requires:

(1) Use of the self-screening risk assessment questionnaire described below;

(2) Written and oral education;

(3) The timeline for renewing and updating the standing order;

(4) Who is eligible to utilize the standing order;

(5) The pharmacist to make and retain a record of each person to whom the self-administered hormonal contraceptive is dispensed, including:

(A) The name of the person;

(B) The drug dispensed; and

(C) Other relevant information.

**§16-57-5. Pharmacist education and training required.**

(a) The Board of Pharmacy, in collaboration with the Bureau for Public Health, shall approve a training program or programs to be eligible to participate in the utilization of the standing prescription drug order for self-administered hormonal contraceptives by a pharmacist.

(b) Documentation of training shall be provided to the Board of Pharmacy upon request.

**§16-57-6. Guidelines for dispensing a self-administered hormonal contraceptive.**

(a) A pharmacist who dispenses a self-administered hormonal contraceptive under this article:

(1) Shall obtain a completed self-screening risk assessment questionnaire that has been approved by the state health officer in collaboration with the Board of Pharmacy, the Board of Osteopathic Medicine, and the Board of Medicine from the patient before dispensing the self-administered hormonal contraceptive;

(2) Shall notify the patient's primary care provider, if provided;

(3) If when dispensing within the guidelines it is unsafe to dispense a self-administered hormonal contraceptive to a patient then the pharmacist:

(A) May not dispense a self-administered hormonal contraceptive to the patient; and

(B) Shall refer the patient to a health care practitioner or local health department;

(4) May not continue to dispense a self-administered hormonal contraceptive to the patient for more than 12 months after the date of the initial prescription without evidence that the patient has consulted with a health care practitioner during the preceding 12 months; and

(5) Shall provide the patient with:

(A) Written and verbal information regarding:

(i) The importance of seeing the patient's health care practitioner to obtain recommended tests and screening; and

(ii) The effectiveness and availability of long-acting reversible contraceptives and other effective contraceptives as an alternative to self-administered hormonal contraceptives; and

(B) A copy of the record of the encounter with the patient that includes:

(i) The patient's completed self-assessment tool; and

(ii) A description of the contraceptives dispensed, or the basis for not dispensing a contraceptive.

(b) If a pharmacist dispenses a self-administered hormonal contraceptive to a patient, the pharmacist shall, at a minimum, provide the patient counseling regarding:

(1) The appropriate administration and storage of the self-administered hormonal contraceptive;

(2) Potential side effects and risks of the self-administered hormonal contraceptive;

(3) The need for backup contraception;

(4) When to seek emergency medical attention;

(5) The risk of contracting a sexually transmitted infection or disease, and ways to reduce the risk of contraction; and

(6) Any additional counseling outlined in the protocol as prescribed in §16-57-4 of this code.

(c) The Board of Pharmacy regulates a pharmacist who dispenses a self-administered hormonal contraceptive under this article.

On motion of Senator Rucker, the following amendments to the Health and Human Resources committee amendment to the bill (Eng. Com. Sub. for H. B. 2583) were reported by the Clerk and considered simultaneously:

On page one, section three, subsection (a), line four, by striking out the word "and";

And,

On page one, section three, subsection (a) line five after the word "code" by inserting the words "and (3) to a patient who is 18 years old or older."

Following discussion,

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

The question now being on the adoption of the Health and Human Resources committee amendment to the bill, as amended, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 2583), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2618**, Including undue influence as a factor in the definition of financial exploitation of an elderly person or protected person.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

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

**ARTICLE 7J. FINANCIAL EXPLOITATION OF AN ELDERLY PERSON, PROTECTED PERSON, OR INCAPACITATED ADULT.**

**§55-7J-1. Action for financial exploitation of an elderly person, protected person or incapacitated adult; definitions.**

(a) Any elderly person, protected person, or incapacitated adult against whom an act of financial exploitation has been committed may bring an action under this article against any person who has committed an act of financial exploitation against him or her.

(b) For the purposes of this article:

(1) "Incapacitated adult" has the same meaning as prescribed under §61-2-29 of this code;

(2) "Elderly person" means a person who is 65 years or older;

(3) "Financial exploitation" or "financially exploit" means the intentional misappropriation or misuse of funds or assets or the diminishment of assets due to undue influence of an elderly person, protected person, or incapacitated adult, but ~~shall~~ may not apply to a transaction or disposition of funds or assets where the defendant made a good-faith effort to assist the elderly person, protected person, or incapacitated adult with the management of his or her money or other things of value; and

(4) "Protected person" means any person who is defined as a "protected person" in §44A-1-4 of this code and who is subject to the protections of §44A-1-1 *et seq.* or §44C-1-1 *et seq.* of this code.

(c) Any person who believes that an elderly person, protected person, or incapacitated adult is suffering financial exploitation due to the intentional misappropriation or misuse of funds or undue influence may bring an action for a protective order pursuant to this section in the magistrate court or circuit court in the county in which the elderly person, protected person, or incapacitated adult resides: *Provided*, That an action for relief brought in the magistrate court of the county of residence of the elderly person, protected person, or incapacitated adult believed to be the victim of financial exploitation to stay further diminution of the persons assets shall be temporary in nature.

(d) An action under this section is commenced by the filing of a verified petition. Temporary relief may be granted without notice to the person alleged to be engaging in financial exploitation and without that person being present.

(e) If a magistrate court grants the petition and issues a temporary protective order, the magistrate court shall immediately transfer the matter to the circuit court of the county in which the petition was filed. Upon receipt of the notice of transfer from the magistrate court, the circuit court shall set the matter for a review hearing within 20 days. After a hearing, the circuit court may issue a permanent protective order containing any relief the circuit court determines necessary to protect the alleged victim if the court finds by a preponderance of the evidence that:

(1) The respondent has committed an act against the victim that constitutes financial exploitation; and

(2) There is reasonable cause to believe continued financial exploitation will occur unless relief is granted; or

(3) The respondent consents to entry of the permanent protective order.

The bill (Eng. Com. Sub. for H. B. 2618), as amended, was then ordered to third reading.

**Eng. House Bill 2665**, Supplemental appropriation for PEIA Rainy Day Fee.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Finance, was reported by the Clerk and adopted:

On page two, lines sixteen and seventeen, by striking out “and §5-16-28”.

The bill (Eng. H. B. 2665), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2670**, Relating to damages for medical monitoring.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk:

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

#### **ARTICLE 7. ACTIONS FOR INURIES.**

##### **§55-7-32. Limitations on medical monitoring damages.**

(a) Increased risk of disease, whether or not accompanied by physiological or other changes in the human body, is not compensable through damages or any other form of relief under the law of this state, regardless of the legal theory being asserted. In any civil action a defendant cannot be required to pay as damages or provide any other type of legal, injunctive, or equitable relief for a plaintiff’s future medical surveillance, screening tests, or monitoring procedures unless the plaintiff proves in addition to the other requirements for the underlying cause of action: (1) That the future medical surveillance, screening tests, or monitoring procedures are directly related to a presently existing and diagnosable physical disease of the plaintiff; and (2) that the plaintiff’s presently existing physical disease was caused by the defendant’s conduct.

(b) In any civil action in which a court orders a defendant to pay for a plaintiff’s future medical surveillance, screening tests, or monitoring procedures, a plaintiff shall not be awarded or paid any moneys to cover the cost of his or her future medical surveillance, screening tests, or monitoring procedures until they have been completed. The court shall order that the liable defendant make periodic payments into a fund established to pay the cost of future medical surveillance, screening tests, or monitoring procedures that are required by the judgment of the court. The court shall determine how the fund will be administered. The court shall also determine the date after which the future medical surveillance, screening tests, or monitoring procedures

are no longer required, and after that date any moneys remaining in the fund that are not needed to pay for medical surveillance, screening tests, or monitoring procedures completed prior to the termination date shall be repaid to the liable defendant who paid such amounts in the fund. If there are multiple defendants, then repayments shall be made in proportion to the total contributions of each defendant into the fund.

Following discussion,

(Senator Weld in the Chair.)

Following extended discussion,

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

Following discussion,

Senator Weld moved the previous question.

The question being on the adoption of Senator Weld's aforestated motion, and on this question, Senator Beach demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Blair, Boso, Clements, Cline, Ihlenfeld, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—18.

The nays were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, and Unger—13.

Absent: Boley, Mann, and Woelfel—3.

So, a majority of those present and voting having voted in the affirmative, the President declared Senator Weld's aforestated motion had prevailed.

The previous question having been ordered, that being on the adoption of the Judiciary committee amendment to the bill, and on this question, Senator Romano demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Blair, Boso, Clements, Cline, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—17.

The nays were: Baldwin, Beach, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Palumbo, Plymale, Prezioso, Romano, Stollings, and Unger—14.

Absent: Boley, Mann, and Woelfel—3.

So, a majority of those present and voting having voted in the affirmative, the President declared the Judiciary committee amendment to the bill adopted.

The bill (Eng. Com. Sub. for H. B. 2670), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2673**, Creating the Oil and Gas Abandoned Well Plugging Fund.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Sypolt, as vice chair of the Committee on Energy, Industry, and Mining, and by unanimous consent, the unreported Energy, Industry, and Mining committee amendment to the bill was withdrawn.

The following amendment to the bill, from the Committee on Finance, was reported by the Clerk and adopted:

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

## CHAPTER 11. TAXATION.

### ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE TAX ACT.

#### **§11-13A-3a. Imposition of tax on privilege of severing natural gas or oil; ~~Tax Commissioner to develop a uniform reporting form.~~**

(a) *Imposition of tax.* — For the privilege of engaging or continuing within this state in the business of severing natural gas or oil for sale, profit or commercial use, there is hereby levied and shall be collected from every person exercising ~~such~~ the privilege an annual privilege tax at the rate and measure provided in subsection (b) of this section. *Provided,* That effective for all taxable periods beginning on or after January 1, 2000, there is an exemption from the imposition of the tax provided in this article on the following: (1) Free natural gas provided to any surface owner; (2) natural gas produced from any well which produced an average of less than 5,000 cubic feet of natural gas per day during the calendar year immediately preceding a given taxable period; (3) oil produced from any oil well which produced an average of less than one-half barrel of oil per day during the calendar year immediately preceding a given taxable period; and (4) for a maximum period of 10 years, all natural gas or oil produced from any well which has not produced marketable quantities of natural gas or oil for five consecutive years immediately preceding the year in which a well is placed back into production and thereafter produces marketable quantities of natural gas or oil.

(b) *Rate and measure of tax.* — The tax imposed in subsection (a) of this section ~~shall be~~ is five percent of the gross value of the natural gas or oil produced by the producer as shown by the gross proceeds derived from the sale thereof by the producer, except as otherwise provided in this article: *Provided,* That effective for taxable periods beginning on or after January 1, 2019:

(1) For all natural gas produced from any well which produced an average in excess of 60,000 cubic feet of natural gas per day during the calendar year immediately preceding a given taxable year, and for oil produced from any well which produced an average in excess of 10 barrels of oil per day, during the calendar year immediately preceding the beginning date of a given taxable year, the rate of tax is 5% of the gross value of the natural gas or oil produced as shown by the gross proceeds derived from the sale thereof by the producer; and

(2) For all natural gas produced from any well which produced an average between 5,000 cubic feet of natural gas per day and 60,000 cubic feet of natural gas per day during the calendar year immediately preceding the beginning date of a given taxable year, and for oil produced from



any well which produced an average between ½ barrel per day and 10 barrels per day, during the calendar year immediately preceding the beginning date of a given taxable year, the rate of tax is 2.5% of the gross value of the natural gas or oil produced as shown by the gross proceeds derived from the sale thereof by the producer.

(c) *Tax in addition to other taxes.* — The tax imposed by this section ~~shall apply~~ applies to all persons severing gas or oil in this state, and ~~shall be~~ is in addition to all other taxes imposed by law.

~~(d)(1) The Legislature finds that in addition to the production reports and financial records which must be filed by oil and gas producers with the State Tax Commissioner in order to comply with this section, oil and gas producers are required to file other production reports with other agencies, including, but not limited to, the office of oil and gas, the Public Service Commission and county assessors. The reports required to be filed are largely duplicative, the compiling of the information in different formats is unnecessarily time consuming and costly, and the filing of one report or the sharing of information by agencies of government would reduce the cost of compliance for oil and gas producers.~~

~~(2) On or before July 1, 2003, the Tax Commissioner shall design a common form that may be used for each of the reports regarding production that are required to be filed by oil and gas producers, which form shall readily permit a filing without financial information when such information is unnecessary. The commissioner shall also design such forms so as to permit filings in different formats, including, but not limited to, electronic formats.~~

~~(3) Effective July 1, 2006, this subsection shall have no force or effect~~

(d) For purposes of this section, in determining the average amount of production of gas and oil in any given calendar year, a taxpayer must calculate the actual production of such well in the calendar year and divide the same by the number of days the well was in operation and producing gas or oil in such calendar year.

(e) The proceeds of the tax imposed at the rate prescribed under subdivision (2), subsection (b) of this section are dedicated to the Oil and Gas Abandoned Well Plugging Fund created under §22-6-29a of this code: *Provided*, That if on June 1, 2021, or on June 1 of any year thereafter there exists in the Oil and Gas Abandoned Well Plugging Fund an amount equal to or exceeding the sum of \$4 million then the special rate of tax imposed under subdivision (2), subsection (b) of this section is reduced to zero for the taxable year beginning on and after the next succeeding January 1. The Tax Commissioner shall issue an Administrative Notice by July 1 of each year indicating the balance in the fund as of the immediately preceding June 1 and the rate of tax on wells pursuant to this subsection.

## CHAPTER 22. ENVIRONMENTAL RESOURCES.

### ARTICLE 6. OFFICE OF OIL AND GAS; OIL AND GAS WELLS.

#### §22-6-29a. Oil and Gas Abandoned Well Plugging Fund.

(a)(1) This section may be referred to as the Oil and Gas Abandoned Well Plugging Fund Act. There is established within the Treasury of the State of West Virginia the special use fund known as the Oil and Gas Abandoned Well Plugging Fund.

(2) The Oil and Gas Abandoned Well Plugging Fund shall be administered by the secretary solely for the purposes of carrying out the provisions of this section.

(3) Any balance remaining in the Oil and Gas Abandoned Well Plugging Fund at the end of any state fiscal year does not revert to the General Revenue Fund but shall remain in the special revenue account and may be used only as provided in this section. The revenues deposited in the Oil and Gas Abandoned Well Plugging Fund may not be designated as nonaligned state special revenue funds under §11B-2-32 of this code.

(b)(1) Using funds from the Oil and Gas Reclamation Fund and the Oil and Gas Abandoned Well Plugging Fund, the secretary shall plug and reclaim abandoned oil and gas wells without a responsible operator all in accordance with plans and specifications developed pursuant to the provisions of this article relating to the plugging and reclamation of wells, and the rules establishing well plugging standards adopted thereunder.

(2) Funds from the Oil and Gas Abandoned Well Plugging Fund may only be used to plug abandoned oil and gas wells without a responsible operator and to reclaim the property disturbed from the plugging.

(3) On or before July 1 of each year, the secretary shall make an annual report to the Governor and the Legislature as to the use of the Oil and Gas Abandoned Well Plugging Fund and the Oil and Gas Reclamation Fund. The report shall include the balance in both funds on June 1 of each year. The secretary's annual report shall set forth the number of wells reclaimed or plugged through the use of the Oil and Gas Reclamation Fund and the Oil and Gas Abandoned Well Plugging Fund in the previous year. The report shall identify each reclamation and plugging project, state the number of wells plugged thereby, show the county in which the wells are located, and make a detailed accounting of all expenditures from the Oil and Gas Reclamation Fund and from the Oil and Gas Abandoned Well Plugging Fund. The annual report shall also include a 5-year plan detailing current and future projects and activities to plug and reclaim wells.

(4) Wells shall be plugged, and plugged wells reclaimed by contract entered into by the secretary on a competitive bid basis as provided for under the provisions of §5A-3-1 et seq. of this code and the rules promulgated thereunder.

The bill (Eng. Com. Sub. for H. B. 2673), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2674**, Creating a student loan repayment program for a mental health provider.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Health and Human Resources, was reported by the Clerk and adopted:

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

### **ARTICLE 3. HEALTH PROFESSIONALS STUDENT LOAN PROGRAMS.**

#### **§18C-3-3. Health Sciences Service Program; establishment; administration; eligibility.**

(a) *Legislative findings.* — The Legislature finds that there is a critical need for additional practicing health care professionals in West Virginia. Therefore, there is created a Health Sciences Service Program to be administered by the Vice Chancellor for Health Sciences. The

purpose of this program is to provide an incentive for health professional students to complete their training and provide primary care and emergency medical care in underserved areas of West Virginia.

(b) *Special account.* — There is continued a special revolving fund account under the Higher Education Policy Commission in the State Treasury formerly known as the Health Sciences Scholarship Fund. ~~and hereafter designated the Health Sciences Service Program Fund.~~ The fund shall be used to accomplish the purposes of this section. The fund consists of any of the following:

(1) All unexpended health sciences scholarship funds on deposit in the State Treasury on the effective date of this section;

(2) Appropriations as may be provided by the Legislature;

(3) Repayments, including interest as set by the Vice Chancellor for Health Sciences, collected from program award recipients who fail to practice or teach in West Virginia under the terms of an award agreement or the health sciences scholarship program previously established by this section; and

(4) Amounts that may become available from other sources.

Balances remaining in the fund at the end of the fiscal year do not expire or revert to the general revenue. All costs associated with the administration of this section shall be paid from the Health Sciences Service Program Fund under the direction of the Vice Chancellor for Health Sciences.

(c) *Eligibility requirements.* — Award preference is given to West Virginia residents. An individual is eligible for consideration for a Health Sciences Service Program award if the individual:

(1) Either:

(A) Is a fourth-year medical student at the Marshall University School of Medicine, West Virginia School of Osteopathic Medicine or West Virginia University School of Medicine who has been accepted in a primary care or emergency medicine internship/residency program in West Virginia; or

(B) Is enrolled in an approved education program at a West Virginia institution leading to a degree or certification in the field of nurse practitioner, nurse educator, nurse midwife, physician assistant, dentist, pharmacist, physical therapist, doctoral clinical psychologist, licensed independent clinical social worker or other disciplines identified as shortage fields by the Vice Chancellor for Health Sciences; and

(2) Signs an agreement to practice for at least two years in an underserved area of West Virginia or, if pursuing a Master's Degree in nursing, signs an agreement to teach at least two years for a school of nursing located in West Virginia, as may be determined by the Vice Chancellor for Health Sciences, after receiving the master's degree.

(d) *Program awards.* — Program awards shall be in an amount set by the Higher Education Policy Commission of at least \$20,000 for medical and dental students and at least \$10,000 for

all others and may be awarded by the Vice Chancellor for Health Sciences, with the advice of an advisory panel, from the pool of all applicants with a commitment to practice in an underserved area of West Virginia. This section does not grant or guarantee any applicant any right to a program award.

(e) *Repayment provisions.* — A program award recipient who fails to practice in an underserved area of West Virginia within six months of the completion of his or her training, or who fails to complete his or her training or required teaching, is in breach of contract and is liable for repayment of the program award and any accrued interest. The granting or renewal of a license to practice in West Virginia or to reciprocal licensure in another state based upon licensure in West Virginia is contingent upon beginning payment and continuing payment until complete repayment of the award and any accrued interest. A license, renewal or reciprocity may not be granted to any person whose repayment is in arrears. The appropriate regulatory board shall inform all other states where a recipient has reciprocated based upon West Virginia licensure of any refusal to renew licensure in West Virginia as a result of failure to repay the award. This provision shall be explained in bold type in the award contract. Repayment terms, not inconsistent with this section, shall be established by the Vice Chancellor for Health Sciences pursuant to the rule required by this section.

(f) *Loan repayment program.* —

(1) There is created a student loan repayment program to be administered by the Higher Education Policy Commission. The loan repayment program shall help repay the student loans for mental health providers who provide therapy and counseling services and who reside in West Virginia and work in an underserved area of West Virginia for up to three years beginning January 1, 2020. Individuals participating in the loan repayment program may be eligible to receive up to \$30,000 to be dispersed as follows:

(A) A participant may receive a loan repayment program award of up to \$10,000 each year in exchange for the participant completing one year of practice in an underserved area.

(B) A participant may not receive a program award for more than three years of practice.

(C) A participant must direct each award received toward the repayment of his or her educational loans.

(2) There is created a special revenue fund account under the Higher Education Policy Commission in the State Treasury known as the “Mental Health Provider Student Loan Repayment Fund”. The fund shall be used to accomplish the purposes of this subsection. The fund shall consist of appropriations as may be provided by the Legislature. Any moneys remaining in the fund at the close of a fiscal year shall be carried forward for use in the next fiscal year.

(3) The Higher Education Policy Commission shall promulgate a rule to implement the provisions of this subsection pursuant to §29A-3A-1.

~~(f)~~ (g) *Rule.* — The Higher Education Policy Commission shall promulgate a rule pursuant to §29A-3A-1 *et seq.* of this code to implement and administer this section.

~~(g)~~ (h) *Definitions.* — As used in this section:

(1) “Training” means:

(A) The entire degree program or certification program for nurse midwives, nurse practitioners, nurse educators, physician assistants, dentists, pharmacists, physical therapists, doctoral clinical psychologists, licensed independent clinical social workers and other disciplines identified as shortage fields by the Vice Chancellor for Health Sciences; or

(B) Completion of a degree program and an approved residency/internship program for students pursuing a degree in medicine or osteopathy, or as otherwise may be designated for such students in the rule required by this section.

(2) "Underserved area" means any primary care health professional shortage area located in the state as determined by the Bureau for Public Health or any additional health professional shortage area, including an emergency medicine professional determined by the Vice Chancellor for Health Sciences.

**§18C-3-5. Non-resident Medical Student Tuition Regularization Program.**

(a) Findings. — The Legislature finds as follows:

(1) There is a critical need for additional primary care physicians practicing in West Virginia;

(2) West Virginia has an aging population, and an increasing need for recruiting primary care physicians and placing primary care physicians in rural areas of the state;

(3) West Virginia has a historically low retention rate of state resident medical students following graduation;

(4) Efforts by the medical schools in West Virginia to increase class sizes as a means of increasing the number of physicians practicing in the state have been largely ineffective;

(5) The primary care field of practice yields a lower wage than other medical specialties and maintains an extreme shortage of practicing physicians, particularly in rural areas of the state;

(6) The high cost of nonresident medical education tuition, and resulting high level of debt incurred by students, often prohibit nonresident graduates who remain in the state from entering a primary care practice;

(7) Many nonresident medical students in West Virginia have indicated that they would be willing to remain in the state as a practicing physician if it was affordable;

(8) A waiver of the state resident to nonresident tuition rate differential would offset the significant student debt load incurred by nonresident medical school graduates;

(9) Beginning a medical practice with up to four years committed to practicing medicine in a specific area has a strong likelihood of influencing a nonresident medical school graduate to remain in that area following the service commitment;

(10) Investing resources, developing professional networks, and creating community ties all serve to create permanent connections to an area for an individual who is not originally from that area; and

(11) Attracting practicing physicians to rural and medically under-served areas of the state will further attract related health-care professionals that support a medical practice or facility and will expand the economic and job-growth potential of such areas.

(b) Purpose. – It is the purpose of this section to offer nonresident medical students a partial tuition waiver as a means of recruiting practicing physicians to under-served areas, and to primary care and practitioner shortage fields in West Virginia.

(c) Program established. – There is created the Nonresident Medical Student Tuition Regularization Program to be administered by the Vice Chancellor for Health Sciences in cooperation with the deans of the three medical schools in the state.

(1) Two nonresident medical students from each medical school in the state are selected annually to participate in the program subject to the exception provided in subsection (f) of this section.

(2) Each student selected is charged the state resident tuition rate for each academic year he or she is enrolled in the program, and has the cost differential between the resident and nonresident rates waived by the institution at which he or she is enrolled.

(3) For each academic year that a medical student participates in the program, he or she shall commit to render services for one calendar year as a medical doctor or a doctor of osteopathy in this state in a medically under-served area or in a primary care or specialty practice or field in which there is a shortage of physicians, as determined by the Division of Health at the time the application for the program is submitted. The service commitment begins within six months after graduation from an accredited residency program.

(4) Once selected to participate in the program, a student may continue in the program for as long as he or she continues to meet the eligibility criteria in subsection (d) of this section, for a maximum of four academic years.

(d) Eligibility. -- An individual is eligible for enrollment or continuation in the program if he or she meets the following criteria:

(1) Is enrolled or accepted for enrollment at the West Virginia University School of Medicine, the Marshall University School of Medicine, or the West Virginia School of Osteopathic Medicine in a program leading to the degree of medical doctor (M.D.) or doctor of osteopathy (D.O.);

(2) Has not yet received one of the degrees provided in subdivision (1) of this subsection;

(3) Satisfies the academic standards established by the program rule;

(4) Is not in default of any previous student loan;

(5) Is a nonresident student who is charged nonresident tuition rates;

(6) Commits to render services for one calendar year as a medical doctor or a doctor of osteopathy in this state in a medically under-served area or in a primary care or specialty practice or field in which there is a shortage of physicians for each academic year for which he or she participates in the program;

(7) Submits to the commission:

(A) An application for enrollment in the program as provided by the commission; and

(B) A sworn statement of commitment to service on a form provided by the commission for that purpose; and

(8) Other criteria as established by the program rule.

(e) Penalty for failure to satisfy service commitment. —

(1) A program participant violates the service commitment if he or she:

(A) Fails to render services as a medical doctor or doctor of osteopathy in accordance with the sworn statement he or she submitted to the commission. This includes failure to begin serving within six months of completing an accredited residency program, or failure to complete each one-year term to which he or she committed to serve; or

(B) Fails to complete or remain enrolled in the medical education program for which he or she obtained the tuition waiver.

(2) A program participant who violates the service commitment is subject to the following:

(A) He or she shall repay the amount of nonresident tuition charges waived plus interest at a rate of five percent per annum;

(B) The granting or renewal of a license to practice medicine in West Virginia or to reciprocal licensure in another state based upon licensure in West Virginia is contingent upon commencing payment and continuing payment until full repayment of the obligation if the recipient fails to complete the required practice commitment. A license, renewal or reciprocity may not be granted to an individual whose repayments are in arrears. The West Virginia Board of Medicine shall inform all other states where a recipient has reciprocated based upon West Virginia licensure of any refusal to renew licensure in West Virginia as a result of failure to repay the tuition amount.

(f) Rule. — The commission shall promulgate a rule in accordance with §18B-1-6 of this code to implement this section. The rule shall provide for:

(1) A method for selecting annually the six new students to be enrolled in the program, with priority consideration to applicants in the earliest academic years of the medical education program;

(2) A method for selecting greater or fewer than two participants from a single medical school in any year where two suitable applicants are not available at each school;

(3) A method for the applicant to select the service area or specialty to which he or she commits to practice medicine;

(4) A method for developing a mutually agreeable modification to the terms of a participant's service commitment regarding the medically under-served area or primary care or specialty practice or field in which he or she committed to serve under circumstances where the Division of Health determines at the time the participant's service commitment is scheduled to commence

that the area is no longer medically under-served or that primary care or service specialty is no longer experiencing a physician shortage;

(5) Provisions for enforcing sanctions against a participant who fails to satisfy the service commitment; and

(6) Such other provisions as the commission considers necessary to administer the program.

(g) There is created in the State Treasury a special revenue account to be designated the "Nonresident Medical Student Tuition Regularization Fund" which is an interest-bearing account that may be invested and retain all earnings. Expenditures from the fund shall be for the purposes set forth in this section and are to be made only in accordance with appropriation by the Legislature and in accordance with §11B-2-1 et seq. of this code.

The bill (Eng. Com. Sub. for H. B. 2674), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2694**, Relating to the state's ability to regulate hemp.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

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

## **ARTICLE 19. INDUSTRIAL HEMP DEVELOPMENT ACT.**

### **§19-12E-3. Definitions.**

As used in this article:

(a) "Cannabidiol" or "CBD" means the compound by the same name derived from the hemp variety of the cannabis sativa L. plant;

(b) "Commercial sales" means the sale of products in the stream of commerce, at retail, wholesale, and online;

~~(4)~~ (c) "Commissioner" means the Commissioner of Agriculture or his or her designee;

(d) "Cultivating" means planting, watering, growing, and harvesting a plant or crop;

(e) "Department" means the West Virginia Department of Agriculture and its employees;

(f) "Handling" means possessing or storing hemp plants for any period of time on premises owned, operated, or controlled by a person licensed to cultivate or process hemp. "Handling" also includes possessing or storing hemp plants in a vehicle for any period of time other than during its actual transport from the premises of one licensed person to cultivate or process industrial hemp to the premises of another licensed person. "Handling" does not mean possessing or storing finished hemp products;

~~(2)~~ (g) "Hemp" or "industrial hemp" means all parts and varieties of the plant Cannabis sativa L. containing and any part of the plant, including the seeds of the plant and all



derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not with no greater than one percent 0.3% tetrahydrocannabinol, or the THC concentration for hemp defined in 7 U.S.C. § 5940, whichever is greater; and

(h) "Hemp products" means all products derived from, or made by, processing hemp plants or plant parts, that are prepared in a form available for commercial sale;

(i) "Licensee" means an individual or business entity possessing a license issued by the Department to grow, handle, cultivate, or process hemp;

~~(3)~~(j) "Marijuana" means all plant material from the genus cannabis containing more than one percent tetrahydrocannabinol or seeds of the genus capable of germination;

(k) "Processing" means converting an agricultural commodity into a marketable form; and

(l) "THC" means tetrahydrocannabinol. Notwithstanding any other provision of this code to the contrary, the THC found in industrial hemp shall not be considered to be THC for the purposes of qualifying as a controlled substance.

#### **§19-12E-4. Industrial hemp authorized as agricultural crop; license required.**

(a) Industrial hemp that has not more than one percent tetrahydrocannabinol is considered an agricultural crop in this state if grown for the purposes authorized by the provisions of this article. Upon meeting the requirements of ~~section three~~ §19-12E-5 of this article code, an individual in this state may plant, grow, harvest, possess, process, sell or buy industrial hemp.

(b) A person shall not cultivate, handle, or process industrial hemp in this state unless the person holds an industrial hemp license issued by the department.

#### **§19-12E-5. Industrial hemp – licensing.**

(a) A person growing industrial hemp for commercial purposes shall apply to the commissioner for a license on a form prescribed by the commissioner.

(b) The application for a license must include the name and address of the applicant and the legal description and global positioning coordinates of the land area to be used for the production of industrial hemp.

(c) The commissioner shall require each first-time applicant, and may establish requirements for other persons involved with the industrial hemp program, to submit to a for a license to file a set of the applicant's fingerprints, taken by a law enforcement officer, and any other information necessary to complete a statewide and nationwide criminal history check with the criminal investigation bureau of the department of justice for state processing and with the Federal Bureau of Investigation for federal processing. All of the costs associated with the criminal history check are the responsibility of the applicant. Criminal history records provided to the department under this section are confidential. The commissioner may use the records only to determine if an applicant is eligible to receive a license for the production of industrial hemp. state and national criminal history record check. The criminal history record check shall be based on fingerprints submitted to the West Virginia State Police or its assigned agent for forwarding to the Federal Bureau of Investigation.

(1) The applicant shall meet all requirements necessary to accomplish the state and national criminal history record check, including:

(A) Submitting fingerprints; and

(B) Authorizing the board, the West Virginia State Police, and the Federal Bureau of Investigation to use all records submitted and produced for the purpose of screening the applicant for a license.

(2) The results of the state and national criminal history record check may not be released to or by a private entity except:

(A) To the individual who is the subject of the criminal history record check;

(B) With the written authorization of the individual who is the subject of the criminal history record check; or

(C) Pursuant to a court order.

(3) The criminal history record check and related records are not public records for the purposes of §29B-1-1 et seq. of this code.

(4) The applicant shall pay the actual costs of the fingerprinting and criminal history record check.

(d) If the applicant has completed the application process to the satisfaction of the commissioner, the commissioner shall issue the license, which is valid until December 31 of the year of application; *Provided*, That an individual applying to renew a current license may continue to operate under an existing license, as long as his or her completed renewal application has been submitted to the department on or before the deadline established by the department. ~~An individual licensed under this section is presumed to be growing industrial hemp for commercial purposes.~~

~~(e) Notwithstanding any provision of this article, rule or the provisions of chapter sixty-a 60A of this code to the contrary, the Commissioner of Agriculture may license qualified persons and state institutions of higher learning to lawfully grow or cultivate industrial hemp in this state, but institutions of higher learning may only lawfully grow industrial hemp for research and educational purposes.~~

(e) Any person seeking to grow, cultivate, or process industrial hemp shall provide to the Department prior written consent allowing the Department, State Police, and other state and local law enforcement agencies to enter onto all premises where industrial hemp is grown, cultivated, processed, or stored to conduct physical inspections or otherwise ensure compliance with the requirements of this code and the legislative rules promulgated pursuant to this code.

(f) Sale of industrial hemp products —

(1) Notwithstanding any provision of the code to the contrary, a person need not obtain a license to possess, handle, transport, or sell hemp products or extracts, including those containing one or more hemp-derived cannabinoids, including CBD.

(2) Hemp-derived cannabinoids, including CBD, are not controlled substances or adulterants.

(3) Products containing one or more hemp-derived cannabinoids, such as CBD, intended for ingestion are to be considered foods, not controlled substances or adulterated products.

(4) Applicable state agencies shall make available any and all customary registrations to the processors and manufacturers of hemp products.

(5) Retail sales of hemp products may be conducted when the products and the hemp used in the products were grown and cultivated legally in another state or jurisdiction and meet the same or substantially the same requirements for processing hemp products or growing hemp under this article and rules promulgated under §19-2E-7 of this code.

(6) Notwithstanding any other provision of this code to the contrary, derivatives of hemp, including hemp-derived cannabidiol, may be added to cosmetics, personal care products, and products intended for animal or human consumption, and the addition is not considered an adulteration of the products.

(7) Hemp and hemp products may be legally transported across state lines, and exported to foreign nations, consistent with U. S. federal law and laws of respective foreign nations.

#### **§19-12E-6. Industrial hemp production – notification.**

(a) Every licensee shall file with the commissioner:

(1) Documentation showing that the seeds planted are of a type and variety certified to contain no more than ~~one percent~~ 0.3% tetrahydrocannabinol; ~~and~~

(2) A copy of any contract to grow industrial hemp; and

(3) Any other document required to be submitted by the commissioner.

(b) Each licensee shall notify the commissioner of the sale or distribution of any industrial hemp grown by the licensee, including, but not limited to, the name and address of the person or entity receiving the industrial hemp and the amount of industrial hemp sold.

#### **§19-12E-7. Rule-making authority.**

The commissioner shall ~~promulgate legislative rules~~ propose legislative rules for promulgation in accordance with §29A-3-1 et seq. of this code that include, but are not limited to:

(1) Licensing persons who wish to grow, cultivate, handle, or process industrial hemp;

(2) Sampling and Testing testing of the industrial hemp ~~during growth~~ to determine tetrahydrocannabinol levels;

~~(2)~~ (3) Supervision of the industrial hemp during its growth and harvest;

~~(3)~~ (4) Assessment of a fee fees that is are commensurate with the costs of the commissioner's activities in licensing, testing, and supervising industrial hemp production;

~~(4) Promulgate rules relating to the (5) The production and sale of industrial hemp which are consistent with the rules of the United States Department of Justice, Drug Enforcement Administration for the production, distribution and sale of industrial hemp;~~

(6) The production, sale, possession, handling, or transport of hemp products and extracts, including those containing one or more hemp-derived cannabinoids, including CBD; and

~~(5) (7) Any other rules and procedures necessary to carry out the purposes of this article.~~

#### **§19-12E-8. Disposition of fees.**

All fees assessed as provided for in ~~section five §19-12E-5~~ of this article code must be deposited with the state treasurer to the credit of the "Agricultural Fees Fund" established by the provisions of ~~section four-c, §19-1-4c~~ article one of this ~~chapter~~ code for the use of the commissioner for administering and enforcing the provisions of this article.

#### **§19-12E-9. Defense for possession or cultivation of marijuana.**

(a) It is a complete defense to a prosecution for the possession or cultivation of marijuana pursuant to the provisions of ~~article four, §60A-4-401 et seq. chapter sixty-a~~ of this code that defendant was growing industrial hemp pursuant to the provisions of this article.

(b) This section is not a defense to a charge of criminal sale or distribution of marijuana as defined in §60A-1-101 *et seq.* of this code which does not meet the definition of industrial hemp.

#### **§19-12E-10. State regulation of industrial hemp.**

(a) The commissioner may submit to the Secretary of the United States Department of Agriculture, for his or her approval, a plan under which this state monitors and regulates the production of industrial hemp. The plan shall comply with the requirements of 7 U.S.C. § 1621 et seq. and any other requirements established by the United States Department of Agriculture.

(b) Nothing in this section prohibits the production of industrial hemp in this state if the commissioner declines to submit a plan, or if a submitted plan is not approved by the United States Department of Agriculture in accordance with other federal laws and regulations.

#### **§19-12E-11. Violations; negligent violations; notice.**

(a) A licensee in this state that does not comply with any approved plan is subject to §19-12E-11(b) of this code if the department determines the licensee has negligently violated the state plan by:

(1) Failing to provide a legal description of the land on which the licensee produces hemp;

(2) Failing to obtain a license or other required authorization from the West Virginia Department of Agriculture; or

(3) Producing industrial hemp containing more than 0.3% of tetrahydrocannabinol.

(b) A licensee described in subsection (a) of this section shall comply with any requirements established by the department to correct any negligent violation, including:

(1) A reasonable date by which the hemp producer shall correct the negligent violation; and

(2) In the discretion of the commissioner, any requirement that the licensee shall periodically report to the department the licensee's compliance with the state plan for at least two calendar years from the date of the negligent violation.

(c) A licensee that negligently violates the provisions of this article, legislative rules promulgated pursuant to this article, or this state's approved plan authorized pursuant to §19-12E-10 of this code three times in a five-year period, is ineligible to produce hemp in this state for a period of five years beginning on the date of the third violation.

(d) If the department determines that a licensee in this state has intentionally violated the provisions of this article, legislative rules promulgated pursuant to this article, or this state's approved plan authorized pursuant to §19-12E-10 of this code, the provisions of §19-12E-11(b) of this code shall not apply to the violation and the department shall report the licensee to:

(1) The attorney general;

(2) The sheriff of the county in which the hemp is being grown; and

(3) The local detachment of the West Virginia State Police.

(e) Absent a notification pursuant to subsection (d) of this section, a licensee that negligently violates state laws or rules is not subject to any criminal or civil enforcement action by any state, county, or municipal government.

The bill (Eng. Com. Sub. for H. B. 2694), as amended, was then ordered to third reading.

**Eng. House Bill 2709**, Relating to hunting licenses.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

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

## **CHAPTER 1. THE STATE AND ITS SUBDIVISIONS.**

### **ARTICLE 7. THE PROTECT OUR RIGHT TO UNITE ACT.**

#### **§1-7-1. Legislative purpose.**

(a) The purpose of this article is to protect an individual's right to support nonprofit organizations that represent their beliefs and the nonprofit organization's right to keep the names and addresses of its supporters confidential by codifying the landmark United States Supreme Court decision in *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449 (1958). If a public agency actor violates this protection by making an individual's name, address, and support for nonprofit groups public, either by publication on a public website or other type of broadcast, this article gives the citizen a right to bring suit for relief.

(b) It is the intent of this article to recognize that compelled disclosure of membership lists by a public agency actor is a trespass upon fundamental freedoms protected by the Due Process Clause of the Fourteenth Amendment, as held by the United States Supreme Court in *NAACP v. Alabama ex rel. Patterson*. Therefore, this article should be liberally construed in favor of the individual right to association to ensure that private association is not discouraged or suppressed by any actions of the public servants of this state.

### **§1-7-2. Definitions.**

For the purposes of this article:

“Citizen” means an individual who is a United States citizen and any entity domiciled in the United States, but does not include any foreign agent, foreign government, or noncitizen.

“Donor information” means any record which identifies the association of a citizen with an entity, including information that does not directly identify the citizen but which, in combination with other information, would allow a reasonable person to identify the citizen involved. Donor information includes, but is not limited to, a citizen’s name, address, occupation, employer, or any electronic or technical data, including social media accounts, email accounts, location data, or other identifying information.

“Public agency” means any department, office, commission, board, or division of state government; and any county, city, district, or other political subdivision or municipal corporation or any department, office, commission, court, or board or any other state or local government unit, however designated.

### **§1-7-3. Protecting privacy of association.**

(a) Except as otherwise provided in chapters 3 and 6B of this code, or as specified in subsection (c) or subsection (d) of this section, no public agency may require any entity organized under Section 501(c) of the Internal Revenue Code to provide it with donor information: *Provided*, That where the state or a public agency nevertheless obtains donor information, it may not be released unless otherwise permitted in chapters 3 and 6B of this code or as otherwise permitted under this section.

(1) The state or public agency may not release, allow to be released, nor be required to release any record which identifies the association of a citizen with an entity organized under Section 501(c) of the Internal Revenue Code, or which identifies the type or level of financial or nonfinancial support of a citizen for such an entity, without the express written permission of the entity or citizen or at the request of the citizen.

(2) All donor information is exempt from production under the state’s Freedom of Information Act, §29B-1-1 *et seq.* of this code.

(b) The state or a public agency may satisfy subsection (a) of this section by redacting from a record any donor information that would tend to show association of citizens, including nonspecific information that would allow a reasonable person to identify the citizen or citizens involved.

(c) This section does not preclude any lawful order or request for information issued by a court of competent jurisdiction.

(d) This section does not preclude any lawful request for discovery by a public agency in litigation: *Provided*, That both of the following qualifications are met:

(1) The requesting party demonstrates a compelling need for the donor information; and

(2) The donor information is subject to a protective order barring distribution of the donor information to any individual not directly involved in the litigation.

#### **§1-7-4. Enforcement by state or private citizen action.**

(a) A citizen has a cause of action to enjoin any violation of this article and to recover any actual damages incurred by him or her as a result of the violation.

(b) If the plaintiff prevails, he or she is entitled to be reimbursed by the state or public agency for costs and attorneys' fees he or she has incurred. If the defendant state or public agency prevails, each party is responsible for their own attorneys' fees and costs, except as determined by any applicable statutes or common law rule concerning frivolous cases.

(c) If the judge or jury finds that the violation by the state or public agency was intentional, the amount of the judgment, which for this purpose includes costs and attorneys' fees, may be trebled as punitive damages.

### **CHAPTER 20. NATURAL RESOURCES.**

#### **ARTICLE 2. WILDLIFE RESOURCES.**

##### **§20-2-27. Necessity for license.**

(a) Except as otherwise provided by law, no resident who has reached his or her 15th birthday and who has not reached his or her 65th birthday before January 1, 2012, and no nonresident shall at any time take, hunt, pursue, trap for, kill, or chase any wild animals, wild birds, or fish for, take, kill or catch any fish, amphibians, or aquatic life of any kind whatsoever in this state without first having secured a license or permit and then only during the respective open seasons, except that a nonresident who has not reached his or her 15th birthday may fish for, take, kill, or catch any fish, amphibians, or aquatic life of any kind whatsoever in this state without first having secured a license or permit. A person under the age of 15 years shall not hunt or chase any wild animals or wild birds upon lands of another unless accompanied by a licensed adult.

(b) A resident or nonresident member of any club, organization, or association or persons owning or leasing a game preserve or fish preserve, plant, or pond in this state shall not hunt or fish therein without first securing a license or permit as required by law: *Provided*, That resident landowners or their resident children, or bona fide resident tenants of land, may, without a permit or license, hunt and fish on their own land during open seasons in accordance with laws and rules applying to such hunting and fishing unless the lands have been designated as a wildlife refuge or preserve.

(c) Licenses and permits shall be of the kinds and classes set forth in this article and shall be conditioned upon the payment of the fees established for the licenses and permits.

(d) The list of names, addresses, and other contact information of all licensees compiled and maintained by the division as a result of the sale and issuance of any resident or nonresident

licenses or stamps under this chapter is exempt from disclosure under the Freedom of Information Act, §29B-1-1 et seq. of this code: *Provided*, That the records specified in this section shall be available to all law-enforcement agencies and other governmental entities authorized to request or receive such records.

The bill (Eng. H. B. 2709), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2761**, Modernizing the self-service storage lien law.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk:

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

#### **ARTICLE 14. SELF-SERVICE STORAGE LIEN ACT.**

##### **§38-14-2. Definitions.**

As used in this article, unless the context clearly requires otherwise:

(1) "Default" means the failure by the occupant to perform on time any obligation or duty set forth in the rental agreement or this article;

~~(2) "Late fee" means a fee or charge assessed for a default;~~

~~(3) "Leased space" means the individual storage space at the self-service facility which is leased or rented to an occupant pursuant to a rental agreement;~~

~~(4) "Occupant" means a person entitled to the use of a leased space at a self-service storage facility under a rental agreement, or the person's sublessee, successor or assign;~~

~~(5) "Owner" means the owner, operator, lessor or sublessor of a self-service storage facility or the person's agent or any other person authorized to manage the facility or to receive rent from any occupant under a rental agreement. The owner of a self-service storage facility is not a warehouseman as defined in section one hundred two, article seven, chapter forty-six of this code unless the owner issues a warehouse receipt, bill of lading or other document of title for the personal property stored, in which event the owner and the occupant are subject to the provisions of article seven, chapter forty-six of this code dealing with warehousemen;~~

~~(6) "Personal property" means movable property not affixed to land and includes, but is not limited to, goods, wares, merchandise, motor vehicles and household items and furnishings;~~

~~(7) "Primary address" means that address provided by the occupant in the rental agreement or the address provided by the occupant in a subsequent notice of a change of address;~~

~~(8) "Rental agreement" means any agreement or lease that establishes or modifies the terms, conditions or rules concerning the lawful and reasonable use and occupancy of a self-service storage facility;~~



~~(9) "Secondary address" means any address provided on the rental agreement and is in addition to the primary address;~~

~~(10) "Self-service storage facility" means any real property used for renting or leasing individual storage spaces, other than storage spaces which are leased or rented as an incident to the lease or rental of residential property or dwelling units, to which the occupants have access for storing or removing their personal property; and~~

~~(11) "Self-service storage lien" means a lien imposed on the personal property of an occupant by the owner of a self-service storage facility~~

(2) "Last known address" means that address or electronic mail address provided by the occupant in the rental agreement or the address or electronic mail address provided by the occupant in a subsequent written notice of a change of address;

(3) "Leased space" means the individual storage space at the self-service storage facility which is rented to an occupant pursuant to a rental agreement;

(4) "Occupant" means a person, a sublessee, successor, or assign, entitled to the use of a leased space at a self-service storage facility under a rental agreement;

(5) "Operator" means the owner, operator, lessor, or sublessor of a self-service storage facility, an agent, or any other person authorized to manage the facility. The operator is not a warehouseman, unless the operator issues a warehouse receipt, bill of lading, or other document of title for the personal property stored;

(6) "Personal property" means movable property, not affixed to land. Personal property includes goods, wares, merchandise, motor vehicles, trailers, watercraft, and household items and furnishings;

(7) "Rental agreement" means any written agreement that establishes or modifies the terms, conditions, or rules concerning the use and occupancy of leased space at a self-service storage facility;

(8) "Self-service storage facility" means any real property used for renting or leasing individual storage spaces in which the occupants themselves customarily store and remove their own personal property on a "self-service" basis; and

(9) "Verified mail" means any method of mailing that is offered by the United States Postal Service or private delivery service that provides evidence of mailing.

### **§38-14-3. Self-service storage lien.**

(a) The ~~owner~~ operator has a ~~self-service storage~~ lien on all personal property stored within each leased space for agreed rent, labor, ~~or late fees, and~~ other charges and for expenses reasonably incurred in its sale or ~~destruction~~ disposition pursuant to this article. The ~~self-service storage~~ lien attaches as of the date the personal property is stored within each leased space and remains a lien until the occupant has satisfied the terms of the rental agreement.

(b) In the case of any motor vehicle or watercraft which is subject to a lien previously recorded on the certificate of title, the ~~owner~~ operator has a ~~self-service storage~~ lien on the vehicle or watercraft ~~so~~ as long as the motor vehicle or watercraft remains stored within the leased space.

(c) The rental agreement ~~must~~ shall contain:

~~(1) A statement in bold type advising the occupant of the existence of the self-service storage lien and that the personal property stored within the leased space may be sold to satisfy the self-service storage lien or destroyed if the value of the property would not reasonably discharge the costs of the sale and self-service storage lien if the occupant is in default;~~

~~(2) A space for a secondary address immediately following the space provided for the primary address; and~~

~~(3) A statement that the occupant may not store hazardous waste or contraband in the leased space.~~

(2) A statement advising the occupant that personal property stored in the leased space may be towed or removed from the self-service storage facility if the personal property is a motor vehicle, trailer, or watercraft and the occupant is in default for more than 60 days; and

(3) A statement advising the occupant that a sale of personal property stored in the leased space to satisfy the lien if the occupant is in default may be advertised:

(A) In a newspaper of general circulation in the jurisdiction where the sale is to be held or where the self-service storage facility is located;

(B) By electronic mail or text; or

(C) On an online website.

#### **§38-14-4. Late fees.**

The ~~owner~~ operator may charge a late fee not to exceed ~~\$10 or ten~~ \$20 or 20 percent of the monthly rental fee, whichever is greater, for each month the occupant defaults for a period of ~~fifteen~~ five days or more.

#### **§38-14-5. Enforcement of self-service storage lien.**

~~(a) (1) If an occupant is in default under a rental agreement and the owner wishes to enforce the lien, the owner shall notify the occupant of the default in a form as prescribed by subsection (c) of this section. If the default is not cured within sixty days after the service of the notice, the owner may:~~

~~(A) Proceed to enforce the self-service storage lien by selling the contents of the occupant's unit at public auction, for cash, and apply the proceeds to satisfaction of the self-service storage lien, with the surplus, if any, to be disbursed as provided in this article; or~~

~~(B) Destroy the personal property if he or she can demonstrate by photographs or other images and affidavit of a knowledgeable and credible person that the personal property lacks a value sufficient to cover the reasonable expense of a public auction plus the amount of the self-service storage lien;~~

~~(2) In the case of personal property having a fair market value in excess of \$1,000 and against which a secured party has filed a financing statement in the name of the occupant with the~~

~~Secretary of State or in the office of the clerk of the county commission in the county where the self-service storage facility is located or in the county in West Virginia shown as the last known address of the occupant or if the personal property is a motor vehicle or watercraft required by the laws of this state to be registered and the Division of Motor Vehicles shows a lien on the certificate of title, the owner shall notify the lienholder of record, by certified mail, at the address on the financing statement or certificate of title, of the time and place of the proposed public auction, at least thirty days prior to the auction. At any time prior to the public sale or destruction, a secured party may pay the reasonable fees and costs due to the person possessing the self-service storage lien and take possession of the personal property which is subject to the lien;~~

~~(3) If a lienholder of record of the personal property cannot be ascertained, the name of "Jane Doe" shall be substituted in the proceedings brought under this article and no written notice is required except as prescribed by subsection (c) of this section. Whenever a motor vehicle or watercraft is sold under the provisions of this article, the Division of Motor Vehicles shall issue a certificate of title and registration to the purchaser upon the purchaser's application containing the serial or motor number of the vehicle or watercraft purchased, together with an affidavit by the person conducting the public auction, evidencing compliance with the provisions of this article.~~

~~(b) The owner may, without judicial process, deny the occupant access to the personal property stored at the self-service storage facility if the occupant has been in default for fifteen days: *Provided*, That the owner clearly states in the rental agreement that he or she may deny the occupant access to the personal property stored in the rental space after a default lasting fifteen or more days and the owner maintains a conspicuous sign on the premises of the self-service storage facility stating the name, street address and telephone number of the owner or the owner's designated agent who the occupant may contact to redeem his or her personal property and upon redemption, the occupant or lienholder be permitted access to his or her personal property at a time not later than the close of business on the next following business day.~~

~~(c) Anytime after the occupant has been in default and before the owner can sell or destroy the occupant's personal property in accordance with the terms of this article, the owner shall send a notice of default, by regular mail, and registered or certified mail, postage prepaid, to the occupant at the occupant's last-known primary address and secondary address, if any. The notice of default shall include:~~

~~(1) An itemized statement of the owner's claim, indicating the charges due on the date of the notice, the date when the charges became due and those charges that will accrue through the date of sale or destruction of the occupant's personal property;~~

~~(2) A demand for payment of the charges due to the owner with an address where payment can be made;~~

~~(3) A statement that the contents of the occupant's leased space are subject to the owner's self-service storage lien;~~

~~(4) A conspicuous statement that unless the claim is paid prior to the enforcement of the self-storage lien:~~

~~(A) The personal property contained in the occupant's space will be sold at public auction at a specified time and place which may not be less than sixty days from the date of the service; or~~

~~(B) The personal property contained in the occupant's space will be disposed of at a commercially reasonable cost to the occupant at a specified time and place which may not be less than sixty days from the date of the service; and~~

~~(d) At any time prior to the public auction or destruction of the personal property pursuant to this section the occupant may pay the full amount necessary to satisfy the self-service storage lien. A lienholder of record may pay an amount not to exceed \$175 for incurred rental fees, late fees and safekeeping of the property in addition to an amount not to exceed \$75 for notice and redeem only the personal property subject to the lien.~~

~~(e)(1) Any owner who conducts a public auction pursuant to this section may satisfy the self-service storage lien from the proceeds of the public auction and hold the balance, if any, for delivery on demand to the occupant. If an owner complies with the provisions of this article, his or her liability to the occupant is limited to the net proceeds less the amount of the self-service storage lien and costs received at the public auction;~~

~~(2) If an owner conducts a public auction pursuant to this section, the owner's liability to a lienholder is limited to the proceeds received at the public auction, less the amount of the self-service storage lien and costs. If an owner complies with the provisions of this article, the owner is not liable to a lienholder who fails to claim an interest in the net proceeds within thirty days after the public auction.~~

~~(f) Any public auction of the personal property shall be held at the self-service storage facility or at the nearest suitable place to where the personal property is held or stored. An advertisement shall be published in a newspaper of general circulation in the county or municipality in which the public auction is to be held not less than twenty days prior to the public auction. The advertisement must state the:~~

~~(1) Fact that it is a public auction;~~

~~(2) Date, time and location of the public auction;~~

~~(3) Date, time and location which the property may be inspected; and~~

~~(4) Form of payment acceptable.~~

~~(g) A purchaser in good faith of any personal property sold or otherwise disposed of pursuant to this article takes the property free and clear of any rights of persons against whom the lien was valid.~~

~~(h) Any notice made pursuant to this section is presumed delivered when it is deposited with the United States postal service and properly addressed with postage prepaid.~~

(a)(1) If the occupant is in default for a period of more than 60 days, the operator may enforce the lien by selling the personal property stored in the leased space at a public sale or dispose of the personal property if the operator can demonstrate by photographs or other images and affidavit of a knowledgeable and credible person that the personal property lacks a value sufficient to cover the reasonable expense of a public auction plus the amount of the self-service storage lien.

(2) Proceeds from the sale shall be applied to satisfy the lien, and any surplus shall be disbursed as provided in subsection (e) of this section.

(b)(1) Before conducting a sale under subsection (a) of this section, the operator shall, subject to subdivision (2) of this subsection, notify the occupant of the default by hand delivery, verified mail, electronic mail, or text at the occupant's last known address.

(2)(A) The operator may not notify the occupant of the default by electronic mail unless:

(i) The rental agreement specifies, in bold type, that notice may be given by electronic mail or text; and

(ii) The occupant provides the occupant's initials next to the statement in the rental agreement specifying that notice of default may be given by electronic mail or text.

(B) If the operator notifies the occupant of the default by electronic mail or text at the occupant's last known address and does not receive a response, return receipt, or a confirmation of delivery, the operator shall send the notice of default to the occupant by hand delivery or by verified mail to the occupant's last known postal address.

(C) Additional requirements for members of the military apply under the Soldiers and Sailors Relief Act, 50 U.S.C. §§3901-4043.

(3) The notice shall include:

(A) A statement that the contents of the occupant's leased space are subject to the operator's lien;

(B) A statement of the operator's claim, indicating the charges due on the date of the notice, the amount of any additional charges which will become due before the date of sale, and the date those additional charges will become due;

(C) A demand for payment of the charges due within a specified time, not less than 14 days after the date that the notice was mailed;

(D) A statement that unless the claim is paid within the time stated, the contents of the occupant's space will be sold at a specified time and place; and

(E) The name, street address, and telephone number of the operator, or his or her designated agent, whom the occupant may contact to respond to the notice.

(4) (A) Subject to paragraph (B) of this subdivision, at least three days before conducting a sale under this section, the operator shall advertise the time, place, and terms of the sale:

(i) In a newspaper of general circulation in the jurisdiction where the sale is to be held;

(ii) By electronic mail; or

(iii) On an online website.

(B) The operator may not advertise the sale in the manner provided under subparagraph (ii) or (iii) of this paragraph unless the occupant provides the occupant's initials next to the statement in the rental agreement required under this article.

(c) The operator may dispose of the personal property if the operator has complied with subsection (b) of this section and the property has not been purchased.

(d) At any time before a sale under this section, the occupant may pay the amount necessary to satisfy the lien and redeem the occupant's personal property.

(e) A sale under this section shall be held at the self-service storage facility where the personal property is stored, on an online auction website, or at any other location reasonably determined by the operator.

(f)(1) If a sale is held under this section, the operator shall:

(A) Satisfy the lien from the proceeds of the sale; and

(B) Mail the balance, if any, by certified mail to the occupant at the occupant's last known address of the occupant.

(2) (A) If the balance is returned to the operator after the operator mailed the balance in the manner required under paragraph (B), subdivision (1) of this subsection, the operator shall hold the balance for one year after the date of sale for delivery on demand to the.

(B) After expiration of the one-year period, the balance is presumed abandoned.

(g) A purchaser in good faith of any personal property sold under this article takes the property free and clear of any rights of persons against whom the lien was valid.

(h) If the operator complies with the provisions of this article, the operator's liability to the occupant is limited to the net proceeds received from the sale of the personal property less the amount of the operator's lien.

(i) If an occupant is in default, the operator may deny the occupant access to the leased space.

(j)(1)(A) Notices sent to the operator shall be sent to the self-service storage facility where the occupant's personal property is stored by hand delivery or verified mail.

(B) Notices to the occupant shall be sent to the occupant at the occupant's last known address.

(2) Notices shall be considered delivered when:

(A) Deposited with the United States Postal Service or a private delivery service, properly addressed as provided in subsection (b) of this section, with postage prepaid; or

(B) Sent by electronic mail to the occupant's last known address.

(k)(1) If the occupant is in default for more than 60 days and the personal property stored in the leased space is a motor vehicle, trailer, or watercraft, the operator may have the personal property towed or removed from the self-service storage facility in lieu of a sale authorized under subsection (a) of this section.

(2) The operator is immune from civil liability for any damage to the personal property towed or removed from the self-service storage facility under subdivision (1) of this subsection that

occurs after the person that undertakes the towing or removal of the personal property takes possession of the personal property.

(l) If a rental agreement specifies a limit on the value of personal property that may be stored in the occupant's leased space, the limit is the maximum value of the stored personal property.

(m) Nothing in this article impairs or affects the rights of the parties to create additional rights, duties, and obligations in and by virtue of the rental agreement.

#### **§38-14-7. Duties; care, custody, and control of property.**

(a) The ~~owner~~ operator shall use reasonable care in maintaining the self-service storage facility for the purposes of storage of personal property. ~~and may not offer to sell insurance to the occupant to cover the owner's risk or lack of care~~

~~(b) Prior to the sale or destruction of personal property pursuant to this section, the owner shall prepare a detailed inventory of all personal property to be sold or destroyed and shall maintain the inventory listing for a period of two years from the date of the sale or destruction of the property. The occupant shall have access to the inventory listing for the period during which it is maintained by the owner~~

~~(c) (b)~~ Unless the rental agreement specifically provides otherwise, the exclusive care, custody, and control of all personal property stored in the leased space remains vested in the occupant.

~~(d) (c)~~ An occupant may not use a self-service storage facility for residential purposes.

~~(e) (d)~~ An occupant may not store hazardous waste or contraband in the leased space. ~~An owner who discovers hazardous waste or contraband in a leased space shall promptly notify the appropriate law enforcement agency and is authorized to deliver the hazardous waste or contraband to the appropriate law enforcement agency~~

#### **§38-14-8. Savings clause.**

All rental agreements entered into prior to July 1, ~~2004~~ 2019, which have not been extended or renewed after that date remain valid and may be enforced or terminated in accordance with their terms or as permitted by any other statute or law of this state.

#### **§38-14-9. Effective date and application of article.**

The provisions of this article apply to all rental agreements entered into or extended or renewed after July 1, ~~2004~~ 2019.

Senators Azinger and Tarr respectively requested a ruling from the Chair as to whether they should be excused from voting under Rule 43 of the Rules of the Senate.

The Chair replied that any impact on Senators Azinger and Tarr would be as members of a class of persons and that they would be required to vote.

The question being on the adoption of the Judiciary committee amendment to the bill, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 2761), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2770, Fairness in Cost-Sharing Calculation Act.**

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Health and Human Resources, was reported by the Clerk and adopted:

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

#### **ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.**

##### **§33-15-4t. Fairness in Cost-Sharing Calculation.**

(a) As used in this section:

“Cost sharing” means any copayment, coinsurance, or deductible required by or on behalf of an insured in order to receive a specific health care item or service covered by a health plan.

“Drug” means the same as the term is defined in §30-5-4(19).

“Person” means a natural person, corporation, mutual company, unincorporated association, partnership, joint venture, limited liability company, trust, estate, foundation, nonprofit corporation, unincorporated organization, or government or governmental subdivision or agency.

“Pharmacy benefits manager” means the same as that term is defined in §33-51-3 of this code.

(b) When calculating an insured’s contribution to any applicable cost sharing requirement, including, but not limited to, the annual limitation on cost sharing subject to 42 U.S.C. §18022(c) and 42 U.S.C. § 300gg-6(b):

(1) An insurer shall include any cost sharing amounts paid by the insured or on behalf of the insured by another person; and

(2) A pharmacy benefits manger shall include any cost sharing amounts paid by the insured or on behalf of the insured by another person.

(c) The commissioner is authorized to propose rules for legislative approval in accordance with §29A-3-1 et seq of this code, to implement the provisions of this section.

(d) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to this article that are delivered, executed, issued, amended, adjusted, or renewed in this state on or after the effective date of this section.

#### **ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.**

##### **§33-16-3ee. Fairness in Cost-Sharing Calculation.**

(a) As used in this section:



“Cost sharing” means any copayment, coinsurance, or deductible required by or on behalf of an insured in order to receive a specific health care item or service covered by a health plan.

“Drug” means the same as the term is defined in §30-5-4(19).

“Person” means a natural person, corporation, mutual company, unincorporated association, partnership, joint venture, limited liability company, trust, estate, foundation, nonprofit corporation, unincorporated organization, or government or governmental subdivision or agency.

“Pharmacy benefits manager” means the same as that term is defined in §33-51-3 of this code.

(b) When calculating an insured’s contribution to any applicable cost sharing requirement, including, but not limited to, the annual limitation on cost sharing subject to 42 U.S.C. §18022(c) and 42 U.S.C. § 300gg-6(b):

(1) An insurer shall include any cost sharing amounts paid by the insured or on behalf of the insured by another person; and

(2) A pharmacy benefits manger shall include any cost sharing amounts paid by the insured or on behalf of the insured by another person.

(c) The commissioner is authorized to propose rules for legislative approval in accordance with §29A-3-1 *et seq* of this code, to implement the provisions of this section.

(d) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to this article that are delivered, executed, issued, amended, adjusted, or renewed in this state on or after the effective date of this section.

## **ARTICLE 24. HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE CORPORATIONS, DENTAL SERVICE CORPORATIONS, AND HEALTH SERVICE CORPORATIONS.**

### **§33-24-7t. Fairness in Cost-Sharing Calculation.**

(a) As used in this section:

“Cost sharing” means any copayment, coinsurance, or deductible required by or on behalf of an insured in order to receive a specific health care item or service covered by a health plan.

“Drug” means the same as the term is defined in §30-5-4(19).

“Person” means a natural person, corporation, mutual company, unincorporated association, partnership, joint venture, limited liability company, trust, estate, foundation, nonprofit corporation, unincorporated organization, or government or governmental subdivision or agency.

“Pharmacy benefits manager” means the same as that term is defined in §33-51-3 of this code.

(b) When calculating an insured’s contribution to any applicable cost sharing requirement, including, but not limited to, the annual limitation on cost sharing subject to 42 U.S.C. §18022(c) and 42 U.S.C. § 300gg-6(b):

(1) An insurer shall include any cost sharing amounts paid by the insured or on behalf of the insured by another person; and

(2) A pharmacy benefits manger shall include any cost sharing amounts paid by the insured or on behalf of the insured by another person.

(c) The commissioner is authorized to propose rules for legislative approval in accordance with §29A-3-1 et seq of this code, to implement the provisions of this section.

(d) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to this article that are delivered, executed, issued, amended, adjusted, or renewed in this state on or after the effective date of this section.

## **ARTICLE 25. HEALTH CARE CORPORATIONS.**

### **§33-25-8q. Fairness in Cost-Sharing Calculation.**

(a) As used in this section:

“Cost sharing” means any copayment, coinsurance, or deductible required by or on behalf of an insured in order to receive a specific health care item or service covered by a health plan.

“Drug” means the same as the term is defined in §30-5-4(19).

“Person” means a natural person, corporation, mutual company, unincorporated association, partnership, joint venture, limited liability company, trust, estate, foundation, nonprofit corporation, unincorporated organization, or government or governmental subdivision or agency.

“Pharmacy benefits manager” means the same as that term is defined in §33-51-3 of this code.

(b) When calculating an insured’s contribution to any applicable cost sharing requirement, including, but not limited to, the annual limitation on cost sharing subject to 42 U.S.C. §18022(c) and 42 U.S.C. § 300gg-6(b):

(1) An insurer shall include any cost sharing amounts paid by the insured or on behalf of the insured by another person; and

(2) A pharmacy benefits manger shall include any cost sharing amounts paid by the insured or on behalf of the insured by another person.

(c) The commissioner is authorized to propose rules for legislative approval in accordance with §29A-3-1 et seq of this code, to implement the provisions of this section.

(d) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to this article that are delivered, executed, issued, amended, adjusted, or renewed in this state on or after the effective date of this section.

## **ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.**

**§33-25A-8t. Fairness in Cost-Sharing Calculation.**

(a) As used in this section:

“Cost sharing” means any copayment, coinsurance, or deductible required by or on behalf of an insured in order to receive a specific health care item or service covered by a health plan.

“Drug” means the same as the term is defined in §30-5-4(19).

“Person” means a natural person, corporation, mutual company, unincorporated association, partnership, joint venture, limited liability company, trust, estate, foundation, nonprofit corporation, unincorporated organization, or government or governmental subdivision or agency.

“Pharmacy benefits manager” means the same as that term is defined in §33-51-3 of this code.

(b) When calculating an insured’s contribution to any applicable cost sharing requirement, including, but not limited to, the annual limitation on cost sharing subject to 42 U.S.C. §18022(c) and 42 U.S.C. § 300gg-6(b):

(1) An insurer shall include any cost sharing amounts paid by the insured or on behalf of the insured by another person; and

(2) A pharmacy benefits manger shall include any cost sharing amounts paid by the insured or on behalf of the insured by another person.

(c) The commissioner is authorized to propose rules for legislative approval in accordance with §29A-3-1 *et seq* of this code, to implement the provisions of this section.

(d) This section is effective for policy, contract, plans, or agreements beginning on or after January 1, 2020. This section applies to all policies, contracts, plans, or agreements, subject to this article that are delivered, executed, issued, amended, adjusted, or renewed in this state on or after the effective date of this section

The bill (Eng. Com. Sub. for H. B. 2770), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2779**, Providing that proceeds from certain oil and gas wells to persons whose name or address are unknown are to be kept in a special fund.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

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

**CHAPTER 22. ENVIRONMENTAL RESOURCES.****ARTICLE 10. ABANDONED WELL ACT.****§22-10-6. Establishment of priorities for plugging expenditures.**

(a) Within one year of the effective date of this article, the director shall promulgate legislative rules establishing a priority system by which available funds from the Oil and Gas Reclamation Fund, established pursuant to §22-6-29 of this code, will be expended to plug abandoned wells. The rules shall, at a minimum, establish three primary classifications to be as follows:

(1) Wells which are an immediate threat to the environment or which may hinder or impede the development of mineral resources of this state so as to require immediate plugging;

(2) Wells which are not an immediate threat to the environment or which do not hinder or impede the development of mineral resources of this state, but which should be plugged consistent with available resources; and

(3) Wells which are not a threat to the environment and which do not hinder or impede the development of mineral resources of this state and for which plugging may be deferred for an indefinite period.

(b) ~~Such~~ The classifications shall, among other things, take into consideration the following factors, as appropriate:

(1) The age of the well;

(2) The length of time the well has been abandoned;

(3) The casing remaining in the well;

(4) The presence of any leaks either at the surface or underground;

(5) The possibility or existence of groundwater contamination;

(6) Whether the well is located in an area to be developed for enhanced recovery;

(7) Whether the well hinders or impedes mineral development; and

(8) Whether the well is located in close proximity to population.

(c) Notwithstanding the other provisions of this section, the bond posted for a specific well shall first be used to plug the well or correct or mitigate problems or issues on the land where the well is located if:

(1) The bond is forfeited as a result of failure to plug an abandoned well or repair a well that is causing immediate threat to the environment or which hinders or impedes the development of mineral resources of this state;

(2) The operator was cited for and then failed to correct an immediate threat to the environment or hinderance or impediment to the development of mineral resources of this state with the well or the well site; or

(3) The operator failed to reclaim surface disturbance causing immediate threat to the environment or which hinders or impedes the development of mineral resources of this state.

#### CHAPTER 37. REAL PROPERTY.

**ARTICLE 4. PARTITION.****§37-4-9. Disposition of funds due to unknown or unlocatable interest owners; rule-making.**

Notwithstanding the requirements of §36-8-1 et seq. of this code, all funds and proceeds due under this article to owners of severed oil and natural gas interests with their appurtenant rights, whose name or location is unknown and who does not make a claim for those funds for seven years after the date of the order of the court authorizing the distribution of the funds, shall be paid to the Oil and Gas Reclamation Fund established pursuant to §22-6-29 of this code. The funds shall be paid by the special or general receiver or other person or entity holding the funds on or before November 1 of each year for all funds that became payable before July 1 of that year. The Department of Environmental Protection may propose rules for legislative approval in accordance with §29A-3-1 et seq. of this code to carry out the provisions of this section.

**CHAPTER 55. ACTIONS, SUITS AND ARBITRATION; JUDICIAL SALE.****ARTICLE 12A. LEASE AND CONVEYANCE OF MINERAL INTERESTS OWNED BY MISSING OR UNKNOWN OWNERS OR ABANDONING OWNERS.****§55-12A-7. When special commissioner may convey title in mineral interest to surface owner; form of deed; payment to surface owner; final report of special commissioner; unknown owners; transfer of funds; rule-making.**

(a) (1) If an owner of any mineral interest leased under section six of this article remains unknown or missing, or does not disavow the abandonment, for a period of seven years from the date of the special commissioner's lease, the special receiver shall report the same to the court, whereupon the court shall enter an order naming those who then appear to be surface owners as additional parties and giving notice to them, pursuant to the West Virginia rules of civil procedure, of an opportunity to appear and present proof of ownership in fee of the surface estate. Upon a finding by the court of the present ownership in fee of the surface estate, the court shall (i) order the special commissioner to convey to the proven surface owner, subject to the special commissioner's lease, the mineral interest specified in the motion, by a deed substantially in the form specified in subsection (b) of this section and (ii) order the special receiver to pay to the ~~surface owner~~ Oil and Gas Reclamation Fund established pursuant to §22-6-29 the funds which have accrued to the credit of the mineral interests specified in the motion to the date of his or her report after payment of all allowable fees, expenses and court costs, including special commissioner's fees paid or to be paid in amounts determined by the court. After the date of the special commissioner's deed, the surface owner grantee shall be entitled to receive all proceeds under the lease attributable to the mineral interests specified in the deed.

(2) If the boundaries of the mineral tract subject to the special commissioner's lease encompass two or more surface tracts, a separate deed shall be made for the mineral interest underlying each surface tract. If a surface tract is ~~owner~~ owned by more than one person, the deed respecting that surface tract shall convey the mineral interest according to the surface estate and interest of each surface owner.

(b) The special commissioner's deed may be made in the following form, or to the same effect:

This deed, made the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, between \_\_\_\_\_, special commissioner, grantor, and \_\_\_\_\_, grantee,

Witnesseth, that whereas, grantor, in pursuance of the authority vested in him or her by an order of the circuit court of \_\_\_\_\_ county, West Virginia, entered on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, in civil action no. \_\_\_\_\_ therein pending, to convey the mineral interest more particularly described below to the grantee,

Now, therefore, this deed witnesseth: That grantor grants unto grantee, subject to the special commissioner's lease mentioned below, and further subject to all other liens and encumbrances of record, that certain mineral interest in \_\_\_\_\_ county, West Virginia, more particularly described in the cited order of the circuit court as follows: (here insert the description in the order); and being (here specify "all" or "a portion") of the mineral interest described in that certain special commissioner's lease dated \_\_\_\_\_, 19\_\_\_\_, of record in the office of the clerk of \_\_\_\_\_ county, in \_\_\_\_\_ book \_\_\_\_\_, at page \_\_\_\_\_.

Witness the following signature.

\_\_\_\_\_

Special Commissioner

(c) Upon the delivery of the deed or deeds and the payment or payments as directed in subsection (a) of this section, the special commissioner shall make a final report to the court; and upon approval thereof, the court shall order the discharge of the special commissioner's bond.

(d) Prior to the delivery of the special commissioner's deed, no deed from a surface owner to another shall sever ownership of the surface as such from ownership of any benefits under this article. Any The provisions of any deed granting or reserving an interest purporting to create such a severance shall be void.

(e) The amendments to this section made during the 2019 regular session of the Legislature which provided for certain accumulated proceeds to be payable to the Oil and Gas Reclamation Fund, shall take effect July 1, 2019, and any funds shall be transferred that have been unclaimed for seven years or more after the date of the special commissioner's lease whether or not the special commissioner's lease was signed before or after the effective date of the amendments.

(f) The Department of Environmental Protection may propose rules for legislative approval in accordance with §29A-3-1 et seq. of this code to carry out the provisions of this section relating to transfer of funds to the Oil and Gas Reclamation Fund.

The bill (Eng. Com. Sub. for H. B. 2779), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2807**, Creating an additional modification to the West Virginia adjusted gross income of shareholders of S corporations engaged in banking.

On second reading, coming up in regular order, was read a second time.

The following amendments to the bill, from the Committee on Banking and Insurance, were reported by the Clerk, considered simultaneously, and adopted:

On page one, section twelve-j, line eleven, by striking out the word "obligation's" and inserting in lieu thereof the word "obligations";

On page one, section twelve-j, line twelve, by striking out “1120S” and by inserting in lieu thereof “1120S”;

On page two, section twelve-j, line thirty-three, by striking out the words “by the adjustment authorized under §11-24-6 of this code or §11-21-37c(f) of this code”;

On page three, section twelve-j, line forty-six, after “§11-24-3a(a)(14)” by inserting the words “of this code”;

And,

On page three, section twelve-j, line forty-nine, after “§11-24-3a(a)(14)” by inserting the words “of this code”.

The following amendments to the bill, from the Committee on Finance, were next reported by the Clerk, considered simultaneously, and adopted:

On page two, section twelve-j, line forty, by striking out “§11-24-6” and inserting in lieu thereof “§11-21-12j(a)”;

On page three, section twelve-j, lines forty-one through forty-three, after the word “section.” by striking out the remainder of the subsection;

And,

On page three, section twelve-j, line fifty-one, by striking out “§11-24-6(f)(1)(A), (B), (C) and (D)” and inserting in lieu thereof “§11-21-12j(a)”.

The bill (Eng. Com. Sub. for H. B. 2807), as amended, was then ordered to third reading.

**Eng. House Bill 2828**, Relating to Qualified Opportunity Zones.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Finance, was reported by the Clerk:

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

## **CHAPTER 11. TAXATION.**

### **ARTICLE 21. PERSONAL INCOME TAX.**

#### **§11-21-12j. Decreasing modification reducing federal adjusted gross income for the net income of Qualified Opportunity Zone Businesses; effective date.**

(a) General. – In addition to the amounts authorized to be subtracted from federal adjusted gross income pursuant to §11-21-12(c) of this code, a modification reducing federal adjusted gross income is hereby authorized for taxable years beginning on and after January 1, 2020:

(1) For individuals: in an amount equal to and limited to that portion of net income included in federal adjusted gross income by a taxpayer in the taxable year that is directly derived from a

qualified opportunity zone business located in a qualified opportunity zone which is located in West Virginia;

(2) For partners or members of limited liability companies that are treated as partnerships for federal income tax purposes, and other pass-through entities: in an amount equal to and limited to that portion of the distributive share of the partner or member that is attributable to the flow through income directly derived from the qualified opportunity zone business located in West Virginia. A similar rule applies to shareholders in corporations taxed under subchapter S of the Internal Revenue Code.

(b) Eligibility. — To be entitled to modification provided for in subsection (a) of this section, the qualified opportunity zone business must be a newly registered business in West Virginia registered on or after January 1, 2020, or an existing West Virginia business that has qualified as a qualified opportunity zone business in West Virginia on or after that date. Limited liability companies that are treated as corporations for purposes of the federal income tax and West Virginia corporation net income tax and which otherwise qualify in accordance with the requirements and limitations of this section may qualify for the modification authorized under this section.

(c) Duration. – The modification provided for in subsection (a) of this section shall apply with respect to a taxpayer for a 10-year period beginning with the first full taxable year during which the qualified opportunity zone business first qualifies as a qualified opportunity zone business, or the first year in which the qualified opportunity zone business reports net income: *Provided*, That the qualified opportunity zone business first qualifies as such on or after January 1, 2020.

(d) The following definitions apply to this section:

(1) “Qualified Opportunity Zone Business” means “Qualified Opportunity Zone Business” as that term is defined in 26 U.S.C. §1400Z-2.

(2) “Qualified Opportunity Zone” means “Qualified Opportunity Zone” as that term is defined in 26 U.S.C. §1400Z-1.

(e) The Tax Commissioner may propose rules necessary to carry out the provisions of this section and to provide guidelines and requirements to ensure uniform administrative practices statewide to effect the intent of this section, all in accordance with the provisions of §29A-3-1 *et seq.* of this code.

## **ARTICLE 24. CORPORATION NET INCOME TAX.**

### **§11-24-6b. Decreasing modification reducing federal taxable income for the income of Qualified Opportunity Zone Businesses; effective date.**

(a) General. - In addition to the amounts authorized to be subtracted from federal taxable income pursuant to §11-24-6(c) of this article, there shall be subtracted from federal taxable income, an amount equal to net income included in federal taxable income by a corporate taxpayer in a taxable year that is ordinary income derived from a qualified opportunity zone business located in a qualified opportunity zone located in West Virginia: *Provided*, That In any case in which a consolidated or combined return is filed, or required to be filed, the amount subtracted from federal taxable income under this section may not exceed that member's proportionate share of the affiliated, combined or unitary group's tax liability under this article, that



is ordinary income derived from a qualified opportunity zone business located in a qualified opportunity zone located in West Virginia for the taxable year. The provisions of this section are effective for taxable years beginning on and after January 1, 2020.

(b) Eligibility. - To be entitled to modification provided for in subsection (a), the qualified opportunity zone business must be a newly registered business in West Virginia registered on or after January 1, 2020, or an existing West Virginia business that has qualified as a qualified opportunity zone business in West Virginia on or after that date. Limited liability companies that are treated as corporations for purposes of the federal income tax and West Virginia corporation net income tax and which otherwise qualify in accordance with the requirements and limitations of this section may qualify for the modification authorized under this section.

(c) Duration. - The modification provided for in subsection (a) of this section shall apply with respect to a taxpayer during the 10-year period beginning with the first full taxable year during which the qualified opportunity zone business first qualifies as a qualified opportunity zone business, or the first year in which the qualified opportunity zone business reports net income: Provided, That the qualified opportunity zone business first qualifies as such on or after January 1, 2020.

(d) The following definitions apply to this section:

(1) "Qualified Opportunity Zone Business" means "Qualified Opportunity Zone Business" as that term is defined in 26 U.S.C. §1400Z-2.

(2) "Qualified Opportunity Zone" means "Qualified Opportunity Zone" as that term is defined in 26 U.S.C. §1400Z-1.

(e) The Tax Commissioner may propose rules necessary to carry out the provisions of this section and to provide guidelines and requirements to ensure uniform administrative practices statewide to carry out the intent of this section, all in accordance with the provisions of §29A-3-1 et seq. of this code.

## CHAPTER 31. CORPORATIONS.

### ARTICLE 15D. WEST VIRGINIA BUSINESS GROWTH IN LOW-INCOME COMMUNITIES TAX CREDIT.

#### §31-15D-1. Title.

The provisions of this article shall be known as, and may be cited as, the "West Virginia New Markets Jobs Act".

#### §31-15D-2. Definitions.

(a) Any term used in this article has the meaning ascribed by this section unless a different meaning is clearly required by the context of its use or by definition in this article.

(b) For purposes of this article, the term:

(1) "Affiliate" means an entity that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with the entity specified;

(2) “Aggregate offset” shall mean the sum of the West Virginia New Market Jobs offset reported in each annual report to the authority pursuant to § 31-15D-6(a)(10).

(3) “Annual jobs retained” means the number of full-time equivalent employees that existed before the initial qualified low-income community investment in the qualified active low-income community business that are paid a high wage and for which:

(A) The qualified active low-income community business’s chief executive officer or similar officer certifies that the full-time equivalent employee positions would have been eliminated but for the initial qualified low-income community investment; and

(B) The qualified community development entity receives approval from the authority of the satisfaction of this definition;

(4) “Applicable percentage” means zero percent for the first three credit allowance dates and 15 percent of the qualified equity investment for the next four credit allowance dates;

(5) “Authority” means the West Virginia Economic Development Authority as provided in §31-15-4 of this code;

(6) “Credit allowance date” means with respect to any qualified equity investment:

(A) The date on which the investment is initially made; and

(B) Each of the six anniversary dates of such date thereafter;

(7) “Full-time equivalent employee” means the quotient obtained by dividing the total number of hours for which employees were compensated for employment over the preceding 12 month period by 2,080;

(8) “High wage” means an hourly wage rate of at least 150 percent of the federal minimum wage;

(9) “Insurance Commissioner” means the Insurance Commissioner of West Virginia or his or her designee as provided in §33-2-1 of this code;

(10) “Investor allocation” means the allocation of tax credits to insurance companies pursuant to §31-15D-3.

(11) “Long-term debt security” means any debt instrument issued by a qualified community development entity with an original maturity date of at least seven years from the date of its issuance, with no repayment, amortization or prepayment features prior to its original maturity date. The qualified community development entity that issues the debt instrument may not make cash interest payments on the debt instrument during the period beginning on the date of issuance and ending on the final credit allowance date in an amount that exceeds the cumulative operating income, as defined by regulations adopted under 26 U. S. C. § 45D, as amended, of the qualified community development entity for that period prior to giving effect to the interest expense of the long-term debt security. The foregoing shall in no way limit the holder’s ability to accelerate payments on the debt instrument in situations where the qualified community development entity has defaulted on covenants designed to ensure compliance with this 26 U. S. C. § 45D, as amended;

(12) “New annual jobs” means the difference, provided that if such difference is less than zero, the new annual jobs shall be zero, between:

(A)(i) The monthly average of full-time equivalent employees that are paid a high wage at a qualified low-income community business for the preceding calendar year; or

(ii) If the preceding calendar year contains the initial low-income community investment, the monthly average of full-time employees that are paid a high-wage at a qualified active low-income community investment, the monthly average of full-time employees that are paid a high wage at a qualified low-income community business for the months including and after the initial low-income community investment and before the end of the preceding calendar year;

(B) The number of full-time equivalent employees at the qualified active low-income community business on the day of the initial qualified low-income community investment;

(13) “Opportunity zone” means the low-income census tracts located in West Virginia receiving such designation from the U.S. Treasury Department;

(14) “Principal business operations” of business is the location or locations where at least 60 percent of the business’s employees work or where the employees who are paid at least 60 percent of the business’s payroll are located. A business that agrees to relocate or hire new employees using the proceeds of a qualified low-income community investment to establish its principal business operations at a location is deemed to have its principal business operations in the new location provided it satisfies this definition within 180 days after receiving the qualified low-income community investment, unless the authority agrees to a later date;

(15) “Purchase price” means the amount paid to the qualified community development entity for a qualified equity investment, which may not exceed the amount of qualified equity investment authority certified pursuant to §31-15D-4 of this code;

(16) “Qualified active low-income community business” has the meaning given the term in 26 U. S. C. § 45D, as amended, and 26 C. F. R. § 1.45D-1 (2012). Any business that is nonprofit or derives, or projects to derive, 15 percent or more of its annual revenue from the rental or sale of real estate is not considered to be a qualified active low-income community business. The real estate exception does not apply to a business that is controlled by or under common control with another business if the second business: (A) Does not derive or project to derive 15 percent or more of its annual revenue from the rental or sale of real estate; and (B) is the primary tenant of the real estate leased from the initial business. A business shall be considered a qualified active low-income community business for the duration of the qualified community development entity’s investment in, or loan to, the business if the entity reasonably expects, at the time it makes the investment or loan, that the business will continue to satisfy the requirements of being a qualified active low-income community business, other than the size and net income standards, throughout the entire period of the investment or loan;

(17) “Qualified community development entity” has the meaning given the term in 26 U. S. C. § 45D, as amended: *Provided*, That the entity has entered into an allocation agreement with the Community Development Financial Institutions Fund of the U. S. Treasury Department with respect to credits authorized by 26 U. S. C. § 45D, as amended, which includes the State of West Virginia within the service area set forth in the allocation agreement. An entity may not be deemed to be controlled by another entity solely as a result of the entity having made a direct or indirect equity investment in the other entity that earns tax credits under 26 U.S.C. § 45D, as amended,

or similar state program. The term shall include subsidiary qualified community development entities of any qualified community development entity and transferees of qualified equity investment authority pursuant to §31-15D-4 of this code;

(18) "Qualified equity investment" means any equity investment in, or long-term debt security issued by, a qualified community development entity that:

(A) Is acquired after the effective date of this act at its original issuance solely in exchange for cash;

(B) Has 100 percent of its cash purchase price used by the qualified community development entity to make qualified low-income community investments in qualified active low-income community businesses located in this state by the first anniversary of the initial credit allowance date; and

(C) Is designated by the qualified community development entity as a qualified equity investment hereunder and is certified by the authority pursuant to §31-15D-4 of this code. This term shall include any qualified equity investment that does not meet the provisions of paragraph (A) of this subdivision if the investment was a qualified equity investment in the hands of a prior holder;

(19) "Qualified low-income community investment" means any capital or equity investment in, or loan to, any qualified active low-income community business: *Provided*, That with respect to any one qualified active low-income community business, the maximum amount of qualified low-income community investments made in the business, on a collective basis with all of the businesses' affiliates, with the proceeds of qualified equity investments certified under §31-15D-4 of this code, shall be \$5 million, exclusive of qualified low-income community investments made with repaid or redeemed qualified low-income community investments or interest or profits realized thereon;

(20) "State premium tax liability" means any liability incurred by any entity under §33-3-14, §33-3-14a, §33-3-15, §33-3-16 or §33-3-17 of this code: *Provided*, That if the tax liability imposed under these sections is eliminated or reduced, the term "state premium tax liability" shall also include any tax liability imposed by this state on an insurance company or other person that had premium tax liability under the laws of this state for the purpose of making up tax revenue lost by the state as a result of the elimination or reduction of the taxes imposed under these sections: *Provided, however*, That the issuance of tax credits pursuant to §33-3-14e of this code shall in no way affect the funding of any fire department or volunteer fire department that receives any moneys from revenues generated by any of the taxes for which credits are issued pursuant to §33-3-14e of this code.

(21) "State reimbursement amount" means the difference, provided that if such difference is less than zero, the state reimbursement amount shall be zero, between:

(A) The product of the amount of qualified equity investment authority certified and 60 percent; and

(B) The aggregate offset;

(22) "Tier One Job" means a new annual job held by an employee who served in the active military, naval or air service and who was discharged or released under conditions other than

dishonorable, suffers from a disability, was found guilty of a crime and sentenced by a court to a prison term, or was a non-West Virginia resident within the prior 12 months;

(23) "Tier Two Job" means a new annual job held by an employee who received or had a family member receive, with neither still receiving, benefits under West Virginia Medicaid, West Virginia Unemployment Insurance, the West Virginia Supplemental Nutrition Assistance Program, the West Virginia Children's Health Insurance Program, and West Virginia Head Start;

(24) "Tier Three Job" means all new annual jobs that are not Tier One Jobs or Two Tier Jobs.

### **§31-15D-3. Transferability.**

No tax credit earned under this article is transferrable to another entity other than an affiliate subject to state premium tax liability or saleable on the open market: *Provided*, That tax credits earned by or allocated to a partnership, limited liability company or S-corporation may be further allocated to the partners, members or shareholders of the entity in accordance with the provisions of any agreement among the partners, members or shareholders. The allocation shall not be considered a sale for purposes of this article.

### **§31-15D-4. Certification of qualified equity investments.**

(a) A qualified community development entity that seeks to have an equity investment or long-term debt security designated as a qualified equity investment and eligible for tax credits under this article shall first file a credit application with the authority. The authority shall begin accepting applications on July 1, 2019. The application filed by the qualified community development entity shall include the following:

(1) The amount of qualified equity investment authority requested;

(2) The amount of qualified equity investment authority requested that the applicant agrees to designate as a federal qualified equity investment with the Community Development Financial

Institutions Fund;

(3) Evidence of the applicant's certification as a qualified community development entity, including evidence of the service area of the entity that includes this state;

(4) A copy of an allocation agreement executed by the applicant, or its controlling entity, and the Community Development Financial Institutions Fund;

(5) A certificate executed by an executive officer of the applicant attesting that the allocation agreement remains in effect and has not been revoked or canceled by the Community

Development Financial Institutions Fund;

(6) A business plan that includes a revenue impact assessment projecting state and local tax revenue to be generated by the applicant's proposed qualified low-income community investments prepared by a nationally recognized third-party independent economic forecasting firm using a dynamic economic forecasting model that analyzes the applicant's business plan over the 10 years following the date the application is submitted to the authority; and

(7) A signed affidavit from each insurance company stating the amount of investor allocation the insurance company commits to receiving;

(8) A nonrefundable application fee of \$10,000. This fee shall be paid to the authority and shall be required of each application submitted.

(b) Within 30 days of receipt of a completed application containing the information set forth in subsection (a) of this section, the authority shall grant or deny the application in full or in part. The authority shall deny an application if the business plan submitted with the application does not project revenue neutrality against the proposed tax credit utilization or if the applicant does not submit affidavits committing to the allocations equal to 60 percent of the amount of qualified equity authority requested. If the authority denies any part of the application, the authority shall inform the qualified community development entity of the grounds for the denial. If the qualified community development entity provides any additional information required by the authority or otherwise completes its application within days of the notice of denial, the application shall be considered complete as of the original date of submission. If the qualified community development entity fails to provide the information or complete its application within the 15 day period, the application remains denied and must be resubmitted in full with a new submission date.

(c) If the application is complete, the authority shall certify the proposed equity investment or long-term debt security as a qualified equity investment that is eligible for tax credits under this article, subject to the limitations contained in subsection (f) of this section. The Tax Commissioner shall provide written notice of the certification to the qualified community development entity.

(d) The authority shall certify qualified equity investments in the order applications are received by the authority. Applications received on the same day shall be deemed to have been received simultaneously.

(e) For applications that are complete and received on the same day, the authority shall first certify applications by applicants that agree to designate qualified equity investments as federal qualified equity investments in proportionate percentages based on the ratio of the amount of qualified equity investments requested in an application to be designated as a federal qualified equity investment to the total amount of qualified equity investments to be designated as federal qualified equity investments in all applications in which applicants agree to designate qualified equity investments. Thereafter, the authority shall certify the qualified equity investments of all other applicants, including the remaining qualified equity investment authority requested by applicants not designated as federal qualified equity investments, in proportionate percentages based on the ratio of the amount of qualified equity investments not requested in an application to be designated as a federal qualified equity investment to the total amount of qualified equity investments not requested in applications to be designated as federal qualified equity investments.

(f) The authority shall certify no more than \$60 million in qualified equity investments pursuant to this article.

(g) An approved applicant may transfer all or a portion of its certified qualified equity investment authority to its controlling entity or any subsidiary qualified community development entity of the controlling entity: *Provided*, That the applicant and the transferee notify the authority of the transfer with the notice set forth in §31-15D-4(h) of this code and include the information required in the application with respect to such transferee with such notice.

(h) Within one calendar year of the applicant receiving notice of certification, the qualified community development entity shall issue the qualified equity investment and receive cash in the amount of the certified amount and, if applicable, designate the required amount of qualified equity investment authority as a federal qualified equity investment. The qualified community development entity must provide the authority with evidence of the receipt of the cash investment and designation as a federal qualified equity investment, if applicable and the allocation of tax credits to insurance companies that submitted affidavits in the qualified community development entity's application at least equal to 60 percent of the amount of qualified equity investment authority certified by the authority, within one calendar year and five days of the applicant receiving notice of certification. If the qualified community development entity does not receive the cash investment, issue the qualified equity investment and, if applicable, designate the qualified equity investment as a federal qualified equity investment and make such allocation of tax credits to insurance companies within such time period following receipt of the certification notice, the certification shall lapse and the entity may not issue the qualified equity investment without reapplying to the authority for certification.

(i) Lapsed certifications revert to the authority and shall be reissued:

(1) First, pro rata to applicants whose qualified equity investment allocations were reduced pursuant to §31-15D-4(e) of this code with a preference to applicants who have agreed to designate qualified equity investments as federal qualified equity investments; and

(2) Thereafter, in accordance with the provisions of this article.

(j) Recaptured tax credits and the related qualified equity investment authority are eligible for reissuance to qualified community development entities under the provisions of this article and recaptured tax credits shall be reissued:

(1) First, pro rata to applicants whose qualified equity investment allocations were reduced pursuant to §31-15D-4(e) of this code, with a preference to applicants who agreed to designate qualified equity investments as federal qualified equity investments; and

(2) Thereafter, in accordance with the provisions of this article.

(k) The authority must notify the Insurance Commissioner of the names of the entities that are eligible to use tax credits provided under §31-15D-3 of this code, pursuant to an allocation of tax credits or change in allocation of tax credits or due to a transfer of a qualified equity investment upon the allocation, change or transfer.

#### **§31-15D-5. New capital requirement.**

No qualified active low-income community business that receives a qualified low-income community investment from a qualified community development entity that issues qualified equity investments under this article, or any affiliates of such a qualified active low-income community business, may directly or indirectly: (1) Own or have the right to acquire an ownership interest in a qualified community development entity or member or affiliate of a qualified community development entity, including, but not limited to, a holder of a qualified equity investment issued by the qualified community development entity; or (2) loan to or invest in a qualified community development entity or member or affiliate of a qualified community development entity, including, but not limited to, a holder of a qualified equity investment issued by a qualified community development entity, where the proceeds of such loan or investment are directly or indirectly used

to fund or refinance the purchase of a qualified equity investment hereunder. For purposes of this section, a qualified community development entity shall not be considered an affiliate of a qualified active low-income community business solely as a result of its qualified low-income community investment in such business.

#### **§31-15D-6. Reporting.**

Qualified community development entities shall submit a report to the authority within the first five business days after each anniversary of the initial credit allowance date. The report due for the second anniversary of the credit allowance date shall provide documentation as to the investment of 100 percent of the purchase price of the qualified equity investment in qualified low-income community investments in qualified active low-income community businesses located in West Virginia. Each report shall include:

(1) The location of the qualified active low-income community business;

(2) A bank statement of the qualified community development entity evidencing each qualified low-income community investment if such qualified low-income community investment occurred after the prior annual report;

(3) Evidence that the business was a qualified active low-income community business at the time of the qualified low-income community investment if evidence was not submitted in a prior annual report;

(4) Any information regarding the recapture under 26 U. S. C. § 45D, as amended, of a federal tax credit available with respect to a qualified equity investment that is eligible for a credit under this article;

(5) Any information regarding the qualified community development entity redeeming or making principal repayment with respect to a qualified equity investment prior to the seventh anniversary of the issuance of such qualified equity investment;

(6) Any information that the qualified community development entity failed to invest an amount equal to 100 percent of the purchase price of the qualified equity investment in qualified low-income community investments in West Virginia within 24 months of the issuance of the qualified equity investment and maintain the level of investment in qualified low-income community investments in West Virginia until the last credit allowance date for the qualified equity investment. For purposes of this article, an investment shall be considered held by a qualified community development entity even if the investment has been sold or repaid, if the qualified community development entity reinvests an amount equal to the capital returned to or recovered by the qualified community development entity from the original investment, exclusive of any profits realized, in another qualified low-income community investment within 12 months of the receipt of the capital. Periodic amounts received as repayment of principal pursuant to regularly scheduled amortization payments on a loan that is a qualified low-income community investment shall be treated as continuously invested in a qualified low-income community investment if the amounts are reinvested in one or more qualified low-income community investments by the end of the following calendar year. A qualified community development entity shall not be required to reinvest capital returned from qualified low-income community investments after the sixth anniversary of the issuance of the qualified equity investment, and the qualified low-income community investment shall be considered held by the qualified community development entity through the seventh anniversary of the qualified equity investment's issuance;



(7) Number of new annual jobs and annual jobs retained as a result of qualified low-income community investments;

(8) Average annual salary of employment positions described in this subsection;

(9) In the event the authority is provided any information required by subdivision (4), (5) or (6) of this subsection, the authority shall provide that information to the insurance commissioner; and

(10) A qualified community development entity shall calculate the West Virginia New Market Jobs offset annually and include such amount in its annual report. A qualified community development entity may include new annual jobs and annual jobs retained at qualified active low-income community businesses that have repaid or redeemed their qualified low-income community investment. The West Virginia New Markets Job offset shall equal the sum of the following:

(A) The product of the number of new annual jobs that are Tier 1 Jobs and \$50,000;

(B) The product of the number of new annual jobs that are Tier 2 Jobs and \$40,000;

(C) The product of the number of new annual jobs that are Tier 3 Jobs and \$25,000;

(D) The product of the number of annual jobs retained and \$10,000; and

(E) A \$10,000 bonus added to the West Virginia New Markets offset of each of the following:

(I) Each new annual job at qualified active low-income community businesses whose principal business operations are in an opportunity zone; and

(II) Each new annual job held by an employee who has received workforce training either internally or externally, provided such training is verified by the president or similar officer of the qualified low-income community business and approved by the authority.

#### **§ 31-15D-7. Penalty for Job Creation Underperformance.**

(a) At any time after the seventh anniversary of the initial credit allowance date and prior to making any distributions or payments that exceed the qualified community development entity's qualified equity investment authority, the qualified community development entity shall calculate the state reimbursement amount and submit such calculation to the authority.

(b) Thereafter, prior to any distribution or payment, the qualified community development entity must remit the state reimbursement amount to the authority.

(c) All amounts received by the authority under this section shall be submitted to the general revenue fund.

### **CHAPTER 33. INSURANCE.**

#### **ARTICLE 3. LICENSING, FEES AND TAXATION OF INSURERS.**

##### **§33-3-14e. Credits against premium tax for investment pursuant to the West Virginia New Market Jobs Acts.**

(a) For the purpose of this section, the term:

(1) “Applicable percentage” means zero percent for the first three credit allowance dates and 15 percent of the qualified equity investment for the next four credit allowance dates;

(2) “Credit allowance date” means with respect to any qualified equity investment:

(A) The date on which the investment is initially made; and

(B) Each of the six anniversary dates of the date thereafter;

(3) “Insurance Commissioner” means the Insurance Commissioner of West Virginia or his or her designee as provided in §33-2-1 of this code;

(4) “Long-term debt security” means any debt instrument issued by a qualified community development entity with an original maturity date of at least seven years from the date of its issuance, with no repayment, amortization or prepayment features prior to its original maturity date. The qualified community development entity that issues the debt instrument may not make cash interest payments on the debt instrument during the period beginning on the date of issuance and ending on the final credit allowance date in an amount that exceeds the cumulative operating income, as defined by regulations adopted under 26 U. S. C. § 45D, as amended, of the qualified community development entity for that period prior to giving effect to the interest expense of the long-term debt security. The foregoing shall in no way limit the holder’s ability to accelerate payments on the debt instrument in situations where the qualified community development entity has defaulted on covenants designed to ensure compliance with 26 U. S. C. § 45D, as amended;

(5) “Purchase price” means the amount paid to the qualified community development entity for a qualified equity investment, which may not exceed the amount of qualified equity investment authority certified pursuant to §31-15D-4 of this code;

(6) “Qualified active low-income community business” has the meaning given the term in 26 U. S. C. § 45D, as amended, and 26 C. F. R. § 1.45D-1 (2012). Any business that is a nonprofit or derives or projects to derive 15 percent or more of its annual revenue from the rental or sale of real estate is not considered to be a qualified active low-income community business. The real estate exception does not apply to a business that is controlled by or under common control with another business if the second business: (A) Does not derive or project to derive 15 percent or more of its annual revenue from the rental or sale of real estate; and (B) is the primary tenant of the real estate leased from the initial business. A business shall be considered a qualified active low-income community business for the duration of the qualified community development entity’s investment in, or loan to, the business if the entity reasonably expects, at the time it makes the investment or loan, that the business will continue to satisfy the requirements for being a qualified active low-income community business, other than the size and net income standards, throughout the entire period of the investment or loan;

(7) “Qualified community development entity” has the meaning given the term in Section 26 U. S. C § 45D, as amended: *Provided*, That the entity has entered into an allocation agreement with the Community Development Financial Institutions Fund of the U. S. Treasury Department with respect to credits authorized by 26 U. S. C § 45D, as amended, which includes the State of West Virginia within the service area set forth in the allocation agreement. An entity may not be deemed to be controlled by another entity solely as a result of the entity having made a direct or indirect equity investment in the other entity that earns tax credits under 26 U. S. C § 45D, as amended, or similar state program. The term shall include subsidiary community development

entities of any such qualified community development entity and transferees of qualified equity investment pursuant to §31-15D-4 of this code;

(8) “Qualified Equity Investment” means any equity investment in, or long-term debt security issued by, a qualified community development entity that:

(A) Is acquired after the effective date of this act at its original issuance solely in exchange for cash;

(B) Has 100 percent of its cash purchase price used by the qualified community development entity to make qualified low-income community investments in qualified active low-income community businesses located in this state by the first anniversary of the initial credit allowance date; and

(C) Is designated by the qualified community development entity as a qualified equity investment hereunder and is certified by the Economic Development Authority pursuant to §31-15D-4 of this code. This term shall include any qualified equity investment that does not meet the provisions of §33-3-14e(a)(9) of this code if the investment was a qualified equity investment in the hands of a prior holder;

(9) “Qualified low-income community investment” means any capital or equity investment in, or loan to, any qualified active low-income community business: *Provided*, That with respect to any one qualified active low-income community business, the maximum amount of qualified low-income community investments made in the business, on a collective basis with all of the businesses’ affiliates, with the proceeds of qualified equity investments certified under §31-15D-4 of this code, shall be \$5 million, exclusive of qualified low-income community investments made with repaid or redeemed qualified low-income community investments or interest or profits realized thereon;

(10) “State premium tax liability” means any liability incurred by any entity under §33-3-14, §33-3-14a, §33-3-15, §33-3-16 or §33-3-17 of this code: *Provided*, that if the tax liability imposed under these sections is eliminated or reduced, the term “state premium tax liability” shall also include any tax liability imposed by this state on an insurance company or other person that had premium tax liability under the laws of this state for the purpose of making up tax revenue lost by the state as a result of the elimination or reduction of the taxes imposed under said sections.

(b) Any entity that makes a qualified equity investment pursuant to §31-15D-4 of this code shall be allowed an earned and vested tax credit against the entity’s state premium tax liability that may be used as follows:

(1) The amount of tax credit allowable on each credit allowance date to an entity that makes a qualified equity investment, or to a subsequent holder of the qualified equity investment, shall be annually computed by multiplying the purchase price paid to the qualified community development entity for the qualified equity investment by the applicable percentage for the credit allowance date;

(2) The annual credit allowance, computed pursuant to §33-3-14e(a)(1) of this code, may be used to offset the entity’s state premium tax liability for tax periods ending on or after the credit allowance date; and

(3) The amount of the credit claimed by an entity shall not exceed the amount of the entity’s state premium tax liability for the tax year for which the credit is claimed. Any amount of tax credit

remaining, after the credit is used as provided in this section, may be carried forward for use in any subsequent taxable year.

(c) The Insurance Commissioner may recapture, from the entity that claimed the credit on a return, the tax credit allowed under this article if:

(1) Any amount of a federal tax credit available with respect to a qualified equity investment that is eligible for a credit under this article is recaptured under 26 U. S. C. § 45D, as amended. In such case the Insurance Commissioner's recapture shall be proportionate to the federal recapture with respect to such qualified equity investment;

(2) The qualified community development entity redeems or makes principal repayment with respect to a qualified equity investment prior to the seventh anniversary of the issuance of the qualified equity investment. In such case the Insurance Commissioner's recapture shall be proportionate to the amount of the redemption or repayment with respect to the qualified equity investment;

(3) The qualified community development entity fails to invest an amount equal to 100 percent of the purchase price of the qualified equity investment in qualified low-income community investments in West Virginia within 24 months of the issuance of the qualified equity investment and maintain that level of investment in qualified low-income community investments in West Virginia until the last credit allowance date for the qualified equity investment. For purposes of this article, an investment shall be considered held by a qualified community development entity even if the investment has been sold or repaid, if the qualified community development entity reinvests an amount equal to the capital returned to or recovered by the qualified community development entity from the original investment, exclusive of any profits realized, in another qualified low-income community investment within 12 months of the receipt of such capital. Periodic amounts received as repayment of principal pursuant to regularly scheduled amortization payments on a loan that is a qualified low-income community investment shall be treated as continuously invested in a qualified low-income community investment if the amounts are reinvested in one or more qualified low-income community investments by the end of the following calendar year. A qualified community development entity may not be required to reinvest capital returned from qualified low-income community investments after the sixth anniversary of the issuance of the qualified equity investment, and the qualified low-income community investment shall be considered held by the qualified community development entity through the seventh anniversary of the qualified equity investment's issuance; or

(4) As a result of any violation of §31-15D-5 of this code.

(d) Recaptured tax credits and the related qualified equity investment authority are eligible for reissuance to qualified community development entities under the provisions of this article and recaptured tax credits shall be reissued:

(1) First, pro rata to applicants whose qualified equity investment allocations were reduced pursuant to §31-15D-4(e) of this code, with a preference to applicants who agreed to designate qualified equity investments as federal qualified equity investments; and

(2) Thereafter, in accordance with the provisions of this article.

(e) Enforcement of the recapture provisions set forth in this section shall be subject to a six-month cure period. No recapture shall occur until the qualified community development entity shall

have been given notice of noncompliance and afforded six months from the date of such notice to cure the noncompliance.

(f) In rendering letter rulings and making other determinations under this section, to the extent applicable, the Insurance Commissioner shall look for guidance in 26 U. S. C. § 45D, as amended, and the rules and regulations issued thereunder.

On motion of Senator Blair, the following amendments to the Finance committee amendment to the bill, were reported by the Clerk, considered simultaneously, and adopted:

On page five, section two, subsection (b), by striking out all of subdivision (4) and inserting in lieu thereof the following:

“(4) “Applicable percentage” means zero percent of the qualified equity investment for the first two credit allowance dates, five percent of the qualified equity investment for the third credit allowance date, and ten percent of the qualified equity investment for each of the final four credit allowance dates;”;

On page nine, section two, subsection (b), subdivision (21), paragraph (A), by striking out “60” and inserting in lieu thereof “45”;

On page eleven, section four, subsection (b), by striking out “60” and inserting in lieu thereof “45”;

On page twelve, section four, subsection (h), by striking out “60” and inserting in lieu thereof “45”;

And,

On page seventeen, section fourteen-e, subsection (a), subdivision (1), by striking out all of subdivision (1) and inserting in lieu thereof the following:

“(1) “Applicable percentage” means zero percent of the qualified equity investment for the first two credit allowance dates, five percent of the qualified equity investment for the third credit allowance date, and ten percent of the qualified equity investment for each of the final four credit allowance dates;”.

The question now being on the adoption of the Finance committee amendment to the bill, as amended, the same was put and prevailed.

The bill (Eng. for H. B. 2828), as amended, was then ordered to third reading.

**Eng. House Bill 2856**, Relating to the administration of the operating fund of the securities division of the Auditor’s office.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. Com. Sub. for House Bill 2933**, Modifying the criminal penalties imposed on a parent, guardian or custodian for child abuse resulting in injury.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

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

#### **ARTICLE 8D. CHILD ABUSE.**

##### **§61-8D-3. Child abuse resulting in injury; child abuse creating risk of injury; criminal penalties.**

(a) If any a parent, guardian or custodian ~~shall abuse~~ abuses a child and by ~~such the~~ the abuse ~~cause such~~ causes the child bodily injury as ~~such the~~ the term is defined in §61-8B-1 of this code, then ~~such the~~ the parent, guardian or custodian ~~shall be is~~ is guilty of a felony and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 and imprisoned in a state correctional facility for not less than ~~one~~ two nor more than ~~five~~ 10 years, or in the discretion of the court, be confined in jail for not more than one year.

(b) If any a parent, guardian, or custodian ~~shall abuse~~ abuses a child and by ~~such the~~ the abuse ~~cause said~~ causes the child serious bodily injury as ~~such the~~ the term is defined in §61-8B-1 of this code, then ~~such the~~ the parent, guardian or custodian ~~shall be is~~ is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 and committed to the custody of the Division of Corrections and Rehabilitation not less than ~~two~~ five nor more than ~~ten~~ 15 years.

(c) Any A parent, guardian or custodian who abuses a child and by the abuse creates a substantial risk of death or serious bodily injury, as serious bodily injury is defined in §61-8B-1 of this code, to the child is guilty of a felony and, upon conviction thereof, shall be fined not more than \$3,000 or imprisoned in a state correctional facility for not less than ~~one~~ two nor more than ~~five~~ ten years, or both fined and imprisoned.

~~(d)(1) If a parent, guardian or custodian who has not previously been convicted under this section, section four of this article or a law of another state or the federal government with the same essential elements abuses a child and by the abuse creates a substantial risk of bodily injury, as bodily injury is defined in section one, article eight-b of this chapter, to the child is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 or confined in jail not more than six months, or both.~~

~~(2) For a second offense under this subsection or for a person with one prior conviction under this section, section four of this article or a law of another state or the federal government with the same essential elements, the parent, guardian or custodian is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,500 and confined in jail not less than thirty days nor more than one year, or both.~~

~~(3) For a third or subsequent offense under this subsection or for a person with two or more prior convictions under this section, section four of this article or a law of another state or the federal government with the same essential elements, the parent, guardian or custodian is guilty of a felony and, upon conviction thereof, shall be fined not more than \$3,000 and imprisoned in a state correctional facility not less than one year nor more than three years, or both~~

(d) A person convicted of any offense under this section with any prior conviction under this section, §61-8D-4 of this code, or a law of another state or the federal government with the same essential elements is subject to the following increased penalties:

(1) A person with one prior conviction is guilty of a felony and, upon conviction thereof, shall be fined not more than \$3,000 or imprisoned in a state correctional facility for not less than three nor more than 15 years, or both fined and imprisoned. *Provided, however,* That a person convicted of a crime under subsection (b) of this section is subject to the higher penalty in that subsection.

(2) A person with two or more prior convictions is guilty of a felony and, upon conviction thereof, shall be fined not more than \$3,000 and imprisoned in a state correctional facility for not less than five years nor more than 15 years, or both fined and imprisoned.

(e) Any person convicted of a ~~misdemeanor~~ an offense under this section:

(1) May be required to complete parenting classes, substance abuse counseling, anger management counseling, or other appropriate services, or any combination thereof, as determined by Department of Health and Human Resources, Bureau for Children and Families through its services assessment evaluation, which shall be submitted to the court of conviction upon written request;

(2) ~~Shall not be~~ is not required to register pursuant to §15-13-1 *et seq.* of this code; and

(3) ~~Shall~~ May not, solely by virtue of the conviction, have their custody, visitation or parental rights automatically restricted.

(f) ~~Nothing in~~ This section ~~shall~~ does not preclude a parent, guardian, or custodian from providing reasonable discipline to a child.

**§61-8D-4. Child neglect resulting in injury; child neglect creating risk of injury; criminal penalties.**

(a) If a parent, guardian, or custodian neglects a child and by such neglect causes the child bodily injury, as bodily injury is defined in §61-8B-1 of this code, then the parent, guardian, or custodian is guilty of a felony and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 dollars or imprisoned in a state correctional facility for not less than one nor more than three years, or in the discretion of the court, be confined in jail for not more than one year, or both fined and confined.

(b) If a parent, guardian, or custodian neglects a child and by such neglect ~~cause~~ causes the child serious bodily injury, as serious bodily injury is defined in §61-8B-1 of this code, then the parent, guardian, or custodian is guilty of a felony and, upon conviction thereof, shall be fined not less than \$300 nor more than \$3,000 ~~dollars~~ or imprisoned in a state correctional facility for not less than one nor more than 10 years, or both fined and imprisoned.

(c) If a parent, guardian, or custodian ~~grossly~~ neglects a child and by that ~~gross~~ neglect creates a substantial risk of death or serious bodily injury, as serious bodily injury is defined in §61-8B-1 of this code, of the child, then the parent, guardian, or custodian is guilty of a felony and, upon conviction thereof, ~~shall be fined not less than \$1,000 nor more than \$3,000 dollars or imprisoned in a state correctional facility for not less than one nor more than five years, or both.~~ shall be fined not less than \$100 nor more than \$1,000 or confined in jail not more than two years, or both fined and confined.

~~(d)(1) If a parent, guardian or custodian who has not been previously convicted under this section, section three of this article or a law of another state or the federal government with the same essential elements neglects a child and by that neglect creates a substantial risk of bodily injury, as defined in section one, article eight b of this chapter, to the child, then the parent, guardian or custodian, is guilty of a misdemeanor and, upon conviction thereof, for a first offense, shall be fined not less than \$100 nor more than \$1,000 or confined in jail not more than six months, or both fined and confined.~~

~~(2) For a second offense under this subsection or for a person with one prior conviction under this section, section three of this article or a law of another state or the federal government with the same essential elements, the parent, guardian or custodian is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 and confined in jail not less than thirty days nor more than one year, or both.~~

~~(3) For a third or subsequent offense under this subsection or for a person with two or more prior convictions under this section, section three of this article or a law of another state or the federal government with the same essential elements, the parent, guardian or custodian is guilty of a felony and, upon conviction thereof, shall be fined not more than \$2,000 and imprisoned in a state correctional facility not less than one year nor more than three years, or both fined and imprisoned.~~

(d) A person convicted of any offense under this section with any prior conviction is subject to the following increased penalties. A prior conviction includes any offense under this section, §61-8D-3 of this code, or a law of another state or the federal government with the same essential elements:

(1) A person with one prior conviction shall be fined not more than \$3,000 or imprisoned in a state correctional facility for not less than three nor more than 15 years, or both fined and imprisoned.

(2) A person with two or more prior convictions is guilty of a felony and, upon conviction thereof, shall be fined not more than \$3,000 and imprisoned in a state correctional facility not less than five years nor more than 15 years, or both fined and imprisoned.

(e) The provisions of this section shall not apply if the neglect by the parent, guardian, or custodian is due primarily to a lack of financial means on the part of such parent, guardian, or custodian.

(f) Any person convicted of a misdemeanor offense under this section:

(1) May be required to complete parenting classes, substance abuse counseling, anger management counseling, or other appropriate services, or any combination thereof, as determined by Department of Health and Human Resources, Bureau for Children and Families through its services assessment evaluation, which shall be submitted to the court of conviction upon written request;

(2) Shall not be required to register pursuant to the requirements of §15-13-1 *et seq.* of this code; and

(3) Shall not, solely by virtue of the conviction, have their custody, visitation, or parental rights automatically restricted.



The bill (Eng. Com. Sub. for H. B. 2933), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 2945**, Relating to vendors paying a single annual fee for a permit issued by a local health department.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. Com. Sub. for House Bill 2947**, Relating generally to telemedicine prescription practice requirements and exceptions.

On second reading, coming up in regular order, was read a second time.

At the request of Senator Maroney, as chair of the Committee on Health and Human Resources, and by unanimous consent, the unreported Health and Human Resources committee amendment to the bill was withdrawn.

On motion of Senator Maroney, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

On page five, section thirteen-a, line ninety-eight, after the word "do not apply" by inserting "to a hospital, excluding the emergency department,";

And,

On page ten, section twelve-d, line ninety-five, after the words "do not apply" by inserting "to a hospital, excluding the emergency department,".

The bill (Eng. Com. Sub. for H. B. 2947), as amended, was then ordered to third reading.

**Eng. House Bill 2968**, Adding remote service unit to the definition of customer bank communications terminals.

On second reading, coming up in regular order, was read a second time.

The following amendments to the bill, from the Committee on the Judiciary, were reported by the Clerk and considered simultaneously:

On page two, section twelve-b, lines thirty-nine and forty, by striking out the words "That the operator of an RSU shall maintain a physical location in this state: *Provided, however,*";

And,

On page two, section twelve-b, line forty, after "ATM" by inserting "or RSU".

Senator Trump requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate.

The Chair replied that any impact on Senator Trump would be as a member of a class of persons and that he would be required to vote.

The question being on the adoption of the Judiciary committee amendment to the bill, the same was put and prevailed.

The bill (Eng. H. B. 2968), as amended, was then ordered to third reading.

**Eng. House Bill 3020**, Relating to sole source contracts for goods and services with nonprofit corporations affiliated with the respective education institutions.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Government Organization, was reported by the Clerk and adopted:

On page one, section three, lines ten through seventeen, by striking out all of subsection (b) and inserting in lieu thereof the following:

(b) When a governing board, the commission, or the council determines that a contract for financial services is necessary and proper, it may enter into such a contract with an affiliated nonprofit corporation under such financial terms as the governing board, commission, or council determines are reasonable and proper in the sound administration of their financial responsibilities to the state. In so doing, the affiliated nonprofit corporation shall be deemed a sole source in respect to any applicable law or regulation relating to expenditures of public funds.

The bill (Eng. H. B. 3020), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 3024**, West Virginia Business Ready Sites Program.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Government Organization, was reported by the Clerk and adopted:

On page four, section one-n, line seventy-six, after the word "section" by changing the period to a colon and inserting the following proviso: Provided further, That if the number of congressional districts is reduced to two, that no more than five Industrial Development Sites shall be located in any one congressional district.

The bill (Eng. Com. Sub. for H. B. 3024), as amended, was then ordered to third reading.

**Eng. House Bill 3044**, Requiring the Commissioner of Highways to develop a formula for allocating road funds.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Transportation and Infrastructure, was reported by the Clerk and adopted:

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

### **ARTICLE 30. ALLOCATION OF FUNDS.**

#### **§17-30-1. Findings.**

The Legislature finds that:

(1) According to an independent audit report submitted to the Joint Committee on Government and Finance on January 10, 2016, the West Virginia Division of Highways currently has no formula in place to allocate and distribute road funds among districts and counties. The audit report recommended that in order to more effectively distribute funds, the division should create a framework to allocate and distribute road funds to each of the districts and county organizations; that a baseline maintenance capital plan should be reexamined and revised periodically; and that metrics for the allocation process should be transparent.

(2) A transparent process to develop an official formula for allocating road funds among districts in the state is crucial to ensure that funds are distributed in an effective and efficient manner, based on the needs of the counties within the districts.

### **§17-30-2. Definitions.**

For the purposes of this article:

“Commissioner” means the West Virginia Commissioner of Highways.

“District” means one of the management areas of the state, which include one or more counties, established by the West Virginia Division of Highways, with each district headed by a separate district engineer or manager.

“Heavy truck” means an on-road vehicle with a gross vehicle weight rating of 50,000 pounds or more.

“Road funds” means state funds appropriated or otherwise available to the West Virginia Division of Highways for the purpose of:

(A) New construction;

(B) Maintenance; or

(C) New capacity improvements.

### **§17-30-3. Formula for allocation of funds.**

(a) Prior to the beginning of the regular legislative session in 2020, the commissioner shall develop and propose a formula for the effective and efficient allocation of state road funds among the districts and counties in this state, to be promulgated as a legislative rule.

(b) The commissioner shall include, but not be limited to, the following factors in the formula developed pursuant to this section:

(1) The amount of population growth in each county according to the most recent United States Census projection;

(2) The number of total lane miles in a county;

(3) The approximate number of vehicle miles travelled within a county;

(4) The approximate number of heavy truck miles travelled within a county; and

(5) The number of bridges in a county and their condition.

(c) Before developing the formula required by this section, the commissioner shall review and consider all public comments submitted to the commissioner pursuant to §17-30-4 of this code.

**§17-30-4. Public comment period.**

(a) On or before October 1, 2019, the commissioner shall develop and implement a mechanism to proactively seek public comments and recommendations regarding the division's current allocation of road funds.

(b) In developing and implementing a mechanism to seek public comments, the commissioner shall, at a minimum:

(1) Use multimedia resources to publicize the public comment period;

(2) Allow a period of six weeks for members of the public to submit comments to the commissioner through written and electronic forms of communication; and

(3) Make all public comments received by the commissioner available for the public to view on the department's website.

(c) The commissioner shall issue targeted communications to the following entities to encourage representatives of those entities to participate in the public comment period required by this subsection:

(1) Division of Highways district offices;

(2) County commissions; and

(3) Metropolitan planning organizations.

**§17-30-5. Legislative rule.**

(a) For approval during the regular legislative session of 2021, the commissioner shall propose rules for legislative approval in accordance with the requirements of §29A-3-1 *et seq.* of this code, including the formula developed pursuant to this section.

(b) The proposed legislative rule shall allow districts to exercise discretion over how to distribute funds among counties within the district over a period of five years: *Provided*, That at the end of the five-year period, all counties within the district shall have received the funds apportioned to them by the formula developed pursuant to this article.

(c) On or before June 30, 2020, the commissioner shall present the proposed legislative rule containing the formula developed pursuant to this section to the Joint Legislative Oversight Commission on Department of Transportation Accountability.

The bill (Eng. H. B. 3044), as amended, was then ordered to third reading.

**Eng. Com. Sub. for House Bill 3131**, Relating to providing salary adjustments to employees of the Department of Health and Human Resources.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Health and Human Resources, was reported by the Clerk and adopted:

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

**§5-5-4a. Psychiatrists, nurses and aides Department of Health and Human Resources facility employee classifications.**

(a) The Legislature finds that ~~Mildred Mitchell-Bateman Hospital and William R. Sharpe, Jr. Hospital state-operated acute care, long-term care, psychiatric care, clinical, and medical facilities~~ have extreme difficulty in recruiting and retaining physicians, physician specialists, nurses, nursing directors, health service workers, health service assistants, ~~health service associates~~ and other employees who assist in the direct ~~or indirect~~ provision of medical care to patients in those facilities.

(b) ~~The West Virginia Division of Personnel and the Department of Health and Human Resources jointly shall develop pay rates and employment requirements to support the recruitment and retention of a special merit-based system, including an application and appointment procedure for physicians, physician specialists, nurses, nursing directors, health service workers, health service assistants, health service associates or other positions at Mildred Mitchell-Bateman Hospital and William R. Sharpe, Jr. Hospital and other employees who assist in the direct provision of medical care to patients at state-operated acute care, long-term care, psychiatric care, clinical, and medical facilities. Pay rates shall reflect the regional market rates for relevant positions. The procedure shall include classification specifications, and may include compensation adjustments, retention incentives, and hiring approval by the secretary. The secretary shall have the full authority to evaluate applicants for employment or promotion or make classification determinations for positions within the special merit-based system. The special merit-based system shall be approved by the State Personnel Board. The pay rates and employment requirements shall be put into effect by July 1, 2009. no sooner than January 1, 2020, and no later than July 1, 2020.~~

(c) Funding for the pay rates and employment requirements shall be provided from the appropriation to the Department of Health and Human Resources. ~~Due to the limits of funding, the implementation of the pay rates and employment requirements shall not be subject to the provisions of §6C-2-1 et seq. of this code.~~ The provisions of this section are rehabilitative in nature and it is the specific intent of the Legislature that no private cause of action, either express or implied, shall arise pursuant to the provisions or implementation of this section.

(d) The provisions of §6C-2-1 et seq. of this code shall be applicable to the employees of the special merit-based system: *Provided*, That the Division of Personnel shall not be a mandatory party to any public employee grievance filed by any employee in the special merit-based system.

(e) The department may conduct periodic wage and compensation analysis of identified market rates for the above positions as determined necessary by the secretary.

(f) The secretary may promulgate emergency rules and shall propose legislative rules pursuant to the provisions of §29A-3-1 et seq. of this code as may be necessary to implement and comply with the provisions of this section.

The bill (Eng. Com. Sub. for H. B. 3131), as amended, was then ordered to third reading.

**Eng. House Bill 3139**, Relating to funding of the Public Employees Health Insurance Program.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on Health and Human Resources, was reported by the Clerk and adopted:

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

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE GOVERNOR, SECRETARY OF STATE, AND ATTORNEY GENERAL; BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES, COMMISSIONS, OFFICES, PROGRAMS, ETC.**

**ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.**

**§5-16-25. Reserve fund.**

Upon the effective date of this section, the finance board shall establish and maintain a reserve fund for the purposes of offsetting unanticipated claim losses in any fiscal year. Beginning with the fiscal year 2002 plan and for each succeeding fiscal year plan, the finance board shall ~~transfer~~ maintain the actuarially recommended reserve in an amount no less than 10 percent of the projected total plan costs for that fiscal year ~~into~~ in the reserve fund, which is to be certified by the actuary and included in the final, approved financial plan submitted to the Governor and Legislature in accordance with the provisions of this article. ~~Any moneys saved in a plan year shall be transferred into the reserve fund. At the close of any fiscal year in which the balance in the reserve fund exceeds the recommended reserve amount by fifteen percent, the executive director shall transfer that amount to the West Virginia Retiree Health Benefit Trust Fund created in section two, article sixteen-d of this chapter~~

**CHAPTER 11B. DEPARTMENT OF REVENUE.**

**ARTICLE 2. STATE BUDGET OFFICE.**

**§11B-2-15a. PEIA Rainy Day Fund.**

(a) There is hereby created in the State Treasury a special account, designated the PEIA Rainy Day Fund, which is an interest-bearing account administered by the Secretary of Revenue in accordance with the provisions of this section.

(b) The PEIA Rainy Day Fund shall consist of moneys collected from income from investment of moneys held in the special revenue account, and all other sums available for deposit to the account, public or private. Any balance remaining in the special revenue account at the end of the fiscal year does not revert to the General Revenue Fund but remains in the special revenue account and may be used in a manner consistent with this article.

(c) The Secretary of Revenue, upon the written approval of the Governor, may transfer moneys from the PEIA Rainy Day Fund to the Public Employees Insurance Agency only to (1) reduce or prevent benefit cuts, (2) reduce premium increases, or (3) any combination thereof. The

amount of moneys transferred may be included in the calculation of any plan year aggregate premium cost-sharing percentages between employers and employees.

(d) The Secretary of Revenue may contract with the West Virginia Investment Management Board, or the West Virginia Board of Treasury Investments, for any services with respect to fund investments which the secretary considers necessary.

(e) The Secretary of Revenue may promulgate legislative rules, and emergency rules as provided in §29A-3-15 of this code, as the secretary considers necessary to implement and administer the provisions of this section.

The bill (Eng. H. B. 3139), as amended, was then ordered to third reading.

**Eng. House Bill 3142**, Relating to reducing the severance tax on thermal or steam coal.

On second reading, coming up in regular order, was read a second time.

The following amendments to the bill, from the Committee on Finance, were reported by the Clerk, considered simultaneously, and adopted:

On page one, section three, lines ten through fourteen, by striking out the provisos and inserting in lieu thereof a new proviso to read as follows: *Provided*, That effective July 1, 2019, the tax rate imposed by this subsection on the gross value of thermal or steam coal produced shall be reduced incrementally over the next three tax years for a total reduction of two percent by July 1, 2021. That on July 1, 2019, the reduction shall occur at the rate of 35 percent of the two percent reduction, on July 1, 2020, the reduction shall occur at the rate of 65 percent of the two percent reduction, and on July 1, 2021, at the rate of 100 percent of the two percent reduction.;

On page three, section three, after line sixty-one, by inserting the following:

(i) *Termination and expiration of the privilege tax on limestone or sandstone.* — The taxes imposed under this section for persons exercising the privilege of engaging or continuing within this state in the business of severing, extracting, reducing to possession and producing for sale, profit or commercial use limestone or sandstone shall cease, terminate and be of no further force or effect on and after July 1, 2019. Termination of the taxes imposed under this section do not relieve any person of any liability or duty to pay tax imposed under this article with respect to privileges exercised before the effective date of the termination.;

And,

On pages ten and eleven, section six-a, lines fifty-one through eighty, by striking out all of subsection (f) and inserting in lieu thereof a new subsection (f) to read as follows:

(f) (1) No distribution made to a county under this section may be deposited into the county's general revenue fund. The county commission of each county receiving a distribution under this section shall establish a special account to be known as the "(Name of County) Coal County Reallocated Severance Tax Fund" into which all distributions made to that county under this section shall be deposited.

(2) Moneys in the county's coal county reallocated severance tax fund shall be expended by the county commission solely for economic development projects and infrastructure projects.

(3) For purposes of this section:

(A) "Economic development project" means a project in the state which is likely to foster economic growth and development in the area in which the project is developed for commercial, industrial, community improvement or preservation or other proper purposes.

(B) "Infrastructure project" means a project in the state which is likely to foster infrastructure improvements including, but not limited to, post-mining land use, any water or wastewater facilities or any part thereof, storm water systems, steam, gas, telephone and telecommunications, broadband development, electric lines and installations, roads, bridges, railroad spurs, drainage and flood control facilities, industrial park development or buildings that promote job creation and retention.

(4) A county commission may not expend any of the funds available in its coal county reallocated severance tax fund for personal services, for the costs of issuing bonds, or for the payment of bond debt service, and shall direct the total funds available in its coal county reallocated severance tax fund to project development, which may include the costs of architectural and engineering plans, site assessments, site remediation, specifications and surveys, and any other expenses necessary or incidental to determining the feasibility or practicability of any economic development project or infrastructure project.

(5) On or before December 31, 2013, and December 1 of each year thereafter, the county commission of each county receiving a distribution of funds under this section shall deliver to the Joint Committee on Government and Finance a written report setting forth the specific projects for which those funds were expended during the next preceding fiscal year, a detailed account of those expenditures, and a showing that the expenditures were made for the purposes required by this section.

On motion of Senator Ihlenfeld, the following amendment to the bill (Eng. H. B. 3142) was next reported by the Clerk:

On page two, section three, lines thirty-six through forty-three, by striking all of subdivision (1), and inserting a new subdivision, designated (1) to read as follows:

(1) For coal mined by underground methods from seams with an average thickness of 37 inches to 45 inches, the tax imposed in subsection (a) of this section shall be two percent of the gross value of the coal produced: Provided, That effective July 1, 2019, the tax rate imposed by this subsection on coal mined by underground methods from seams with an average thickness of thirty-seven inches to forty-five inches shall be three percent of the gross value of the coal produced: *Provided, however,* That effective July 1, 2020, the tax rate imposed by this subsection on coal mined by underground methods from seams with an average thickness of thirty-seven inches to forty-five inches shall be four percent of the gross value of the coal produced: *Provided, further,* That effective July 1, 2021, the tax rate imposed by this subsection on coal mined by underground methods from seams with an average thickness of thirty-seven inches to forty-five inches shall be five percent of the gross value of the coal produced. For coal mined by underground methods from seams with an average thickness of less than 37 inches, the tax imposed in subsection (a) of this section shall be one percent of the gross value of the coal produced: *Provided, That effective July 1, 2019, the tax rate imposed by this subsection on coal mined by underground methods from seams with an average thickness of less than thirty-seven inches shall be three percent of the gross value of the coal produced: *Provided, however,* That effective July 1, 2020, the tax rate imposed by this subsection on coal mined by underground*



methods from seams with an average thickness of less than thirty-seven inches shall be four percent of the gross value of the coal produced: *Provided, however,* That effective July 1, 2021 the tax rate imposed by this subsection on coal mined by underground methods from seams with an average thickness of less than thirty-seven inches shall be five percent of the gross value of the coal produced. Gross value is determined from the sale of the mined coal by the producer. This rate of tax includes the thirty-five one hundredths of one percent additional severance tax imposed by the state for the benefit of counties and municipalities as provided in §11-13A-6 of this code.

Following discussion,

Senator Takubo moved the previous question, which motion prevailed.

The previous question having been ordered, that being on the adoption of Senator Ihlenfeld's amendment to the bill, the same was put and did not prevail.

The bill (Eng. H. B. 3142), as amended, was then ordered to third reading.

On motion of Senator Ferns, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Boley, Mann, and Woelfel—3.

Having been engrossed, the bill (Eng. H. B. 3142) was then read a third time and put upon its passage.

Pending discussion,

The question being "Shall Engrossed House Bill 3142 pass?"

On the passage of the bill, the yeas were: Azinger, Blair, Boso, Clements, Cline, Hardesty, Maroney, Maynard, Plymale, Roberts, Rucker, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Carmichael (Mr. President)—19.

The nays were: Baldwin, Beach, Facemire, Hamilton, Ihlenfeld, Jeffries, Lindsay, Palumbo, Prezioso, Romano, Smith, and Unger—12.

Absent: Boley, Mann, and Woelfel—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3142) passed.

The following amendment to the title of the bill, from the Committee on Finance, was reported by the Clerk and adopted:

**Eng. House Bill 3142**—A Bill to amend and reenact §11-13A-3, §11-13A-6 and §11-13A-6a of the Code of West Virginia, 1931, as amended, all relating to severance taxes; reducing the severance tax on thermal or steam coal to incrementally over three years; providing for a total reduction of two percent of the coal severance tax at the conclusion of the three year period; providing for a reduction of thirty-five percent of the two percent reduction in the first year; providing for a reduction of sixty-five percent of the two percent reduction in the second year; providing for a the full two percent reduction in the third year; providing for an elimination of the severance tax on limestone or sandstone; and establishing minimum amounts of distribution of portion of severance taxes on coal dedicated for use and benefit of coal-producing counties.

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

**Eng. House Bill 3143**, Relating to requirements for consumer loans in West Virginia.

On second reading, coming up in regular order, was read a second time.

The following amendment to the bill, from the Committee on the Judiciary, was reported by the Clerk and adopted:

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

#### **ARTICLE 4. REGULATED CONSUMER LENDERS.**

##### **§46A-4-107. Loan finance charge for regulated consumer lenders.**

(1) With respect to a regulated consumer loan, including a revolving loan account, a regulated consumer lender may contract for and receive a loan finance charge not exceeding that permitted by this section.

(2) On a loan of ~~\$2,000~~ \$3,500 or less which is unsecured by real property, the loan finance charge, calculated according to the actuarial method, may not exceed 31 percent per year on the unpaid balance of the principal amount.

(3) On a loan greater than ~~\$2,000~~ \$3,500 but less than or equal to \$15,000, or which is secured by real property, the loan finance charge, calculated according to the actuarial method, may not exceed 27 percent per year on the unpaid balance of the principal amount: *Provided*, That the loan finance charge on any loan greater than ~~\$40,000~~ \$15,000 may not exceed 18 percent per year on the unpaid balance of the principal amount. Loans made by regulated consumer lenders shall be subject to the restrictions and supervision set forth in this article irrespective of their rate of finance charges.

(4) Where the loan is nonrevolving and is greater than ~~\$2,000~~ \$3,500, the permitted finance charge may include a charge of not more than a total of two percent of the amount financed for any origination fee, points, or investigation fee: *Provided*, That where any loan, revolving or nonrevolving, is secured by real estate, the permitted finance charge may include a charge of not more than a total of five percent of the amount financed for any origination fee, points, or investigation fee. In any loan secured by real estate, the charges may not be imposed again by the same or affiliated lender in any refinancing of that loan made within 24 months thereof, unless these earlier charges have been rebated by payment or credit to the consumer under the actuarial method or the total of the earlier and proposed charges does not exceed five percent of the

amount financed. Charges permitted under this subsection shall be included in the calculation of the loan finance charge. The financing of the charges ~~may be~~ is permissible and ~~may~~ does not constitute charging interest on interest. In a revolving home equity loan, the amount of the credit line extended ~~shall~~ is, for purposes of this subsection, ~~constitute~~ the amount financed. Other than herein provided, no points, origination fee, investigation fee, or other similar prepaid finance charges attributable to the lender or its affiliates may be levied. Except as provided for by §46A-3-109 of this code, no additional charges may be made; nor may any charge permitted by this section be assessed unless the loan is made. To the extent that this section overrides the preemption on limiting points and other charges on first lien residential mortgages contained in Section 501 of the United States Depository Institutions Deregulation and Monetary Control Act of 1980, the state law limitations contained in this section shall apply. If the loan is precomputed:

(a) The loan finance charge may be calculated on the assumption that all scheduled payments will be made when due; and

(b) The effect of prepayment, refinancing, or consolidation is governed by the provisions on rebate upon prepayment, refinancing, or consolidation contained in §46A-3-111 of this code.

(5) For the purposes of this section, the term of a loan commences on the date the loan is made. Differences in the lengths of months are disregarded and a day may be counted as one thirtieth of a month. Subject to classifications and differentiations the licensee may reasonably establish, a part of a month in excess of 15 days may be treated as a full month if periods of 15 days or less are disregarded and if that procedure is not consistently used to obtain a greater yield than would otherwise be permitted.

(6) With respect to a revolving loan account:

(a) A charge may be made by a regulated consumer lender in each monthly billing cycle which is one-twelfth of the maximum annual rates permitted by this section computed on an amount not exceeding the greatest of:

(i) The average daily balance of the debt; or

(ii) The balance of the debt at the beginning of the first day of the billing cycle, less all payments on and credits to such debt during such billing cycle and excluding all additional borrowings during the billing cycle.

For the purpose of this subdivision, a billing cycle is monthly if the billing statement dates are on the same day each month or do not vary by more than four days therefrom.

(b) If the billing cycle is not monthly, the maximum loan finance charge which may be made by a regulated consumer lender is that percentage which bears the same relation to an applicable monthly percentage as the number of days in the billing cycle bears to 30.

(c) Notwithstanding subdivisions (a) and (b) of this subsection, if there is an unpaid balance on the date as of which the loan finance charge is applied, the licensee may contract for and receive a charge not exceeding 50 cents if the billing cycle is monthly or longer or the pro rata part of 50 cents which bears the same relation to 50 cents as the number of days in the billing cycle bears to 30 if the billing cycle is shorter than monthly, but no charge may be made pursuant to this subdivision if the lender has made an annual charge for the same period as permitted by the provisions on additional charges.

(7) As an alternative to the loan finance charges allowed by subsections (2) and (4) of this section, a regulated consumer lender may on a loan not secured by real estate of ~~\$2,000~~ \$3,500 or less contract for and receive interest at a rate of up to 31 percent per year on the unpaid balance of the principal amount, together with a nonrefundable loan processing fee of not more than two percent of the amount financed: *Provided*, That no other finance charges are imposed on the loan. The processing fee permitted under this subsection shall be included in the calculation of the loan finance charge and the financing of the fee shall be permissible and may not constitute charging interest on interest.

(8) Notwithstanding any contrary provision in this section, a licensed regulated consumer lender who is the assignee of a nonrevolving consumer loan unsecured by real property located in this state, which loan contract was applied for by the consumer when he or she was in another state, and which was executed and had its proceeds distributed in that other state, may collect, receive, and enforce the loan finance charge and other charges, including late fees, provided in the contract under the laws of the state where executed: *Provided*, That the consumer was not induced by the assignee or its in-state affiliates to apply and obtain the loan from an out-of-state source affiliated with the assignee in an effort to evade the consumer protections afforded by this chapter. Such charges may not be considered to be usurious or in violation of the provisions of this chapter or any other provisions of this code.

The bill (Eng. H. B. 3143), as amended, was then ordered to third reading.

The end of today's second reading calendar having been reached, the Senate returned to the consideration of

**Eng. Com. Sub. for House Bill 3057**, Relating to the Adult Drug Court Participation Fund.

Having been read a third time in earlier proceedings today, and now coming up in deferred order, was again reported by the Clerk.

At the request of Senator Trump, unanimous consent was granted to offer an amendment to the bill on third reading.

Thereupon, on motion of Senator Trump, the following amendment to the bill was reported by the Clerk:

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

## **ARTICLE 15. DRUG OFFENDER ACCOUNTABILITY AND TREATMENT ACT.**

### **§62-15-9a. Adult Drug Court Participation Fund created.**

(a) ~~There is created within the State Treasury a~~ The special revenue fund created within the State Treasury designated the Adult Drug Court Participation Fund to be administered by the West Virginia Supreme Court of Appeals is hereby continued. The fund shall consist of moneys received from individuals participating in an adult drug court program.

(b) ~~The fund shall consist of moneys received from individuals participating in an adult drug court program.~~ All moneys collected by the Administrator of the Supreme Court of Appeals for participation in the court's adult drug court program shall be deposited into the Adult Drug Court

Participation Fund. Any moneys remaining in the fund at the end of a fiscal year shall remain in the fund and be available for expenditure during the ensuing fiscal year.

(c) All moneys deposited into the State Treasury and credited to the Adult Drug Court Participation Fund shall be used to pay the costs associated with maintaining and administering the court's adult drug court programs.

~~(d) All moneys collected by the Administrator of the Supreme Court of Appeals for participation in the court's adult drug court program shall be deposited into the Adult Drug Court Participation Fund. Expenditures from the fund shall be for the purpose set forth in subsection (c) of this section and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with article three, chapter twelve of this code and upon fulfillment of the requirements of article two, chapter eleven-b of this code: *Provided*, That for the fiscal year ending June 30, 2017, expenditures are authorized from collections rather than pursuant to appropriation by the Legislature~~

## **ARTICLE 15B. FAMILY DRUG TREATMENT COURT ACT**

### **§62-15B-1. Oversight and implementation of family drug treatment courts.**

(a) The Supreme Court of Appeals of West Virginia may implement a Family Drug Treatment Court pilot program in at least four circuits.

(b) Family drug treatment courts are specialized court dockets within the existing structure of West Virginia's court system offering judicial monitoring of intensive treatment and strict supervision of individuals with substance use disorder involved in a child abuse and neglect case pursuant to §49-4-601, et. seq.

(c) The Supreme Court of Appeals of West Virginia may:

(1) Provide oversight for the distribution of funds for family drug treatment courts;

(2) Provide technical assistance to family drug treatment courts;

(3) Provide training for judges who preside over family drug treatment courts;

(4) Provide training to the providers of administrative, case management, and treatment services to family drug treatment courts; and

(5) Monitor the completion of evaluations of the effectiveness and efficiency of family drug treatment courts in the state.

(d) A state family drug treatment court advisory committee shall be established to

(1) evaluate and recommend standards for the planning and implementation of family drug treatment courts;

(2) assist in the evaluation of their effectiveness and efficiency;

(3) encourage and enhance cooperation among agencies that participate in their planning and implementation; and.

(4) report by January 1, annually, to the Legislative Oversight Commission on Health and Human Resources Accountability regarding legislation to enhance family drug treatment courts.

(e) The committee shall be chaired by the Chief Justice of the Supreme Court of Appeals of West Virginia or his or her designee and shall include a circuit court judge who presides over a family drug treatment court; the Director of the Office of Drug Control Policy or the executive assistant to the director; Cabinet Secretary of the Department of Health and Human Resources or his or her designee; the commissioners or their designee of the following bureaus: the Bureau for Children and Families; the Bureau for Public Health; and the Bureau for Behavioral Health; the Executive Director of the West Virginia Prosecuting Attorneys Institute or his or her designee; the Executive Director of the West Virginia Public Defender Services or his or her designee; and the Executive Director of West Virginia CASA Association or his or her designee.

(f) Each circuit selected to establish a family drug treatment court shall establish and maintain a local family drug treatment court advisory committee. Each advisory committee shall ensure quality, efficiency, and fairness in the planning, implementation, and operation of the family drug treatment court or courts that serve the jurisdiction or combination of jurisdictions. Advisory committee membership shall include, but shall not be limited to the following people or their designees:

(1) the family drug treatment court judge;

(2) the prosecuting attorney of the county;

(3) the public defender or a member of the county bar who represents individuals in child abuse and neglect cases;

(4) the Community Service Manager of the Bureau of Children and Families of the Department of Health and Human Resources;

(5) a court appointed special advocate, as applicable; and

(6) any other individuals selected by the family drug treatment court advisory committee.

#### **§62-15B-2. Establish eligibility and policies procedures.**

(a) Each local family drug treatment court advisory committee shall establish criteria for the eligibility and participation of adult respondents who have been adjudicated an abusing or neglecting parent pursuant to § 49-4-601(i) and who have been granted a post-adjudicatory improvement period pursuant to § 49-4-610(2) and who have a substance use disorder. Adult respondents who have been adjudicated for such abuse that the department is not required to make reasonable efforts to preserve the family as defined in § 49-4-604(b)(7) shall not be eligible for participation in any family drug treatment court.

(b) Participation by an adult respondent in a family drug treatment court shall be voluntary and made pursuant only to a written agreement into by and between the adult respondent and the department with concurrence of the court.

Following discussion,

The question being on the adoption of the Judiciary committee amendment to the bill, the same was put and prevailed.

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 3057), as just amended, was then read a third time and put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Blair, Boso, Clements, Cline, Facemire, Hamilton, Hardesty, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Palumbo, Plymale, Prezioso, Roberts, Romano, Rucker, Smith, Stollings, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, and Carmichael (Mr. President)—31.

The nays were: None.

Absent: Boley, Mann, and Woelfel—3.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 3057) passed.

On motion of Senator Trump, the following amendment to the title of the bill was reported by the Clerk and adopted:

**Eng. Com. Sub. for House Bill 3057**—A Bill to amend and reenact §62-15-9a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §62-15B-1 and §62-15B-2, all relating generally to drug courts; removing certain restrictions on Drug Court Participation Fund expenditures; providing for disposition of moneys from said fund at the end of a fiscal year; permitting the Supreme Court of Appeals of West Virginia to create a family drug treatment court pilot program; permitting the implementation of a family drug treatment court pilot program in at least four circuits; restricting family drug treatment courts to individuals with substance use disorders who are involved in a child abuse and neglect case; permitting the Supreme Court of Appeals of West Virginia provide oversight, technical assistance and training; establishing a state family drug treatment court advisory committee; establishing a local family drug treatment court advisory committee; requiring each local family drug treatment court advisory committee to establish criteria for the eligibility and participation of adult responders who have been adjudicated to be an abusive or neglectful parent and who have been granted a post-adjudicatory improvement period and who have a substance use disorder; prohibiting certain respondents from being eligible for participation in a family drug treatment court; and providing that participation by an adult respondent in a family drug treatment court shall be voluntary and made pursuant only to a written agreement by and between the adult respondent and the department with the concurrence of the court.

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

### **Filed Conference Committee Reports**

The Clerk announced the following conference committee report had been filed at 10:52 p.m. tonight:

**Eng. Com. Sub. for Senate Bill 295**, Relating to crimes against public justice

The Senate proceeded to the twelfth order of business.

Remarks were made by Senators Azinger, Prezioso, and Smith.

Thereafter, at the request of Senator Tarr, and by unanimous consent, the remarks by Senator Azinger were ordered printed in the Appendix to the Journal.

At the request of Senator Beach, unanimous consent being granted, the remarks by Senator Prezioso were ordered printed in the Appendix to the Journal.

The Senate proceeded to the thirteenth order of business.

At the request of Senator Plymale, unanimous consent being granted, it was ordered that the Journal show had Senator Plymale been present in the chamber on yesterday, Thursday, March 7, 2019, he would have voted "yea" on the passage of Engrossed Committee Substitute for Committee Substitute for Senate Bill 1, Engrossed Committee Substitute for Committee Substitute for Senate Bill 285, Engrossed Committee Substitute for Senate Bill 546, Engrossed Senate Bill 617, Engrossed Committee Substitute for Senate Bill 653, Senate Bill 677, Senate Bill 678, Senate Bill 679, Senate Bill 680, Senate Bill 681, Engrossed House Bill 2009, Engrossed Committee Substitute for House Bill 2001, Engrossed Committee Substitute for House Bill 2363, Engrossed Committee Substitute for House Bill 2452, Engrossed House Bill 2480, Engrossed Committee Substitute for House Bill 2579, Engrossed House Bill 2667, Engrossed Committee Substitute for House Bill 2703, Engrossed House Bill 2853, Engrossed House Bill 2954, Engrossed House Bill 2992, and Engrossed House Bill 3135,

At the request of Senator Lindsay, unanimous consent being granted, the Senate returned to the eleventh order of business and the introduction of guests.

Pending announcement of a meeting of the Committee on Rules,

On motion of Senator Takubo, at 11:00 p.m., the Senate adjourned until tomorrow, Saturday, March 9, 2019, at 10 a.m.

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**SENATE CALENDAR**

**Saturday, March 09, 2019  
10:00 AM**

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**SPECIAL ORDER OF BUSINESS**

**Saturday, March 09, 2019 – 11:00 AM**

Consideration of executive nominations

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**THIRD READING**

- Eng. Com. Sub. for H. B. 2049 - Relating to a prime contractor's responsibility for wages and benefits - (Com. title amend. pending)
- Eng. H. B. 2474 - Relating to a reserving methodology for health insurance and annuity contracts
- Eng. Com. Sub. for H. B. 2479 - Corporate Governance Annual Disclosure Act
- Eng. Com. Sub. for H. B. 2490 - Preventing proposing or enforcing rules that prevent recreational water facilities from making necessary upgrades
- Eng. Com. Sub. for H. B. 2540 - Prohibiting the waste of game animals, game birds or game fish - (Com. title amend. pending)
- Eng. Com. Sub. for H. B. 2583 - Family Planning Access Act
- Eng. Com. Sub. for H. B. 2618 - Including undue influence as a factor in the definition of financial exploitation of an elderly person or protected person - (Com. title amend. pending)
- Eng. H. B. 2665 - Supplemental appropriation for PEIA Rainy Day Fee
- Eng. Com. Sub. for H. B. 2670 - Relating to damages for medical monitoring - (Com. title amend. pending)
- Eng. Com. Sub. for H. B. 2673 - Creating the Oil and Gas Abandoned Well Plugging Fund
- Eng. Com. Sub. for H. B. 2674 - Creating a student loan repayment program for a mental health provider - (Com. title amend. pending)
- Eng. Com. Sub. for H. B. 2694 - Relating to the state's ability to regulate hemp - (Com. title amend. pending) (original similar to SB629)
- Eng. H. B. 2709 - Relating to hunting licenses - (Com. title amend. pending)
- Eng. Com. Sub. for H. B. 2761 - Modernizing the self-service storage lien law
- Eng. Com. Sub. for H. B. 2770 - Fairness in Cost-Sharing Calculation Act (original similar to SB509)

Eng. Com. Sub. for H. B. 2779 - Providing that proceeds from certain oil and gas wells to persons whose name or address are unknown are to be kept in a special fund - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 2807 - Creating an additional modification to the West Virginia adjusted gross income of shareholders of S corporations engaged in banking - (Com. title amend. pending) (original similar to SB505)

Eng. H. B. 2828 - Relating to Qualified Opportunity Zones - (Com. title amend. pending)

Eng. H. B. 2856 - Relating to the administration of the operating fund of the securities division of the Auditor's office

Eng. Com. Sub. for H. B. 2933 - Modifying the criminal penalties imposed on a parent, guardian or custodian for child abuse resulting in injury

Eng. Com. Sub. for H. B. 2945 - Relating to vendors paying a single annual fee for a permit issued by a local health department

Eng. Com. Sub. for H. B. 2947 - Relating generally to telemedicine prescription practice requirements and exceptions

Eng. H. B. 2968 - Adding remote service unit to the definition of customer bank communications terminals - (Com. title amend. pending) (original similar to SB634)

Eng. H. B. 3020 - Relating to sole source contracts for goods and services with nonprofit corporations affiliated with the respective education institutions - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 3024 - West Virginia Business Ready Sites Program (original similar to HB3092)

Eng. H. B. 3044 - Requiring the Commissioner of Highways to develop a formula for allocating road funds

Eng. Com. Sub. for H. B. 3131 - Relating to providing salary adjustments to employees of the Department of Health and Human Resources

Eng. H. B. 3139 - Relating to funding of the Public Employees Health Insurance Program

Eng. H. B. 3143 - Relating to requirements for consumer loans in West Virginia

**ANNOUNCED SENATE COMMITTEE MEETINGS**

**Regular Session 2019**

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**Saturday, March 9, 2019**

9:45 a.m.

Rules

(Room 219M)