

West Virginia Legislature

JOURNAL  
of the  
HOUSE of DELEGATES

Eighty-Fifth Legislature  
First Regular Session

Held at Charleston  
Published by the Clerk of the House



April 7, 2021  
FIFTY-SEVENTH DAY



---

Wednesday, April 7, 2021

**FIFTY-SEVENTH DAY**

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

The House of Delegates was called to order by the Honorable Roger Hanshaw, Speaker.

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

The Clerk proceeded to read the Journal of Tuesday, April 6, 2021, being the first order of business, when the further reading thereof was dispensed with and the same approved.

**Reordering of the Calendar**

Pursuant to the action of the Committee on Rules, Delegate Summers announced that Com. Sub. for S. B. 562, on Third reading, Special Calendar, had been transferred to the House Calendar, and Com. Sub. for S. B. 34, Com. Sub. for S. B. 314, Com. Sub. for S. B. 368, and S. B. 718, on Second reading, Special Calendar had been transferred to the House Calendar; and Com. Sub. for S. B. 636, on Second reading, House Calendar, had been transferred to the Special Calendar.

**Committee Reports**

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

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 464**, Requiring composting of organic materials and commercial composting products comply with WV Fertilizer Law,

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

At the respective requests of Delegate Summers, and by unanimous consent, the bill (Com. Sub. for S. B. 464) was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 334**, Establishing license application process for needle exchange programs,

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

At the respective requests of Delegate Summers, and by unanimous consent, the bill (Com. Sub. for S. B. 334) was taken up for immediate consideration, read a first time and ordered to second reading.

### **Messages from the Senate**

A message from the Senate, by

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

**Com. Sub. for H. B. 2093**, Relating to exemptions for the United States Department of Veterans Affairs Medical Foster Homes.

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

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

#### **“ARTICLE 5E. REGISTRATION AND INSPECTION OF SERVICE PROVIDERS IN LEGALLY UNLICENSED HEALTH CARE HOMES.**

##### **§16-5E-3a. Exemption for the United States Department of Veterans Affairs Medical Foster Homes; reporting.**

(a) The provisions of this article do not apply to any home or facility approved and annually reviewed by the United States Department of Veterans Affairs as a Medical Foster Home, pursuant to 38 CFR §17.73, in which care is provided exclusively to three or fewer veterans.

(b) The West Virginia Department of Veterans Affairs shall report annually by December 1, to the Governor, outlining the scope and effectiveness of the Medical Foster Home Program for veterans in West Virginia.

#### **ARTICLE 49. WEST VIRGINIA CLEARANCE FOR ACCESS: REGISTRY AND EMPLOYMENT SCREENING ACT.**

##### **§16-49-1. Definitions.**

As used in this article:

‘Applicant’ means an individual who is being considered for employment or engagement with the department, a covered provider or covered contractor.

‘Background check’ means a prescreening of registries specified by the secretary by rule and a fingerprint-based search of state and federal criminal history record information.

‘Bureau’ means a division within the Department of Health and Human Resources.

‘Covered contractor’ means an individual or entity, including their employees and subcontractors, that contracts with a covered provider to perform services that include any direct access services.

'Covered provider' means the following facilities or providers:

- (i) A skilled nursing facility;
- (ii) A nursing facility;
- (iii) A home health agency;
- (iv) A provider of hospice care;
- (v) A long-term care hospital;
- (vi) A provider of personal care services;
- (vii) A provider of adult day care;
- (viii) A residential care provider that arranges for, or directly provides, long-term care services, including an assisted living facility;
- (ix) An intermediate care facility for individuals with intellectual disabilities; ~~and~~
- (x) Any other facility or provider required to participate in the West Virginia Clearance for Access: Registry and Employment Screening program as determined by the secretary by legislative rule-; and
- (xi) Excludes medical foster home approved and annually reviewed by the United States Department of Veterans Affairs pursuant to 38 CFR §17.73.

'Department' means the Department of Health and Human Resources.

'Department employee' means any prospective or current part-time employee, full-time employee, temporary employee, independent contractor, or volunteer of the department.

'Direct access' means physical contact with a resident, member, beneficiary, or client, or access to their property, personally identifiable information, protected health information, or financial information.

'Direct access personnel' means an individual who has direct access by virtue of ownership, employment, engagement or agreement with the department, a covered provider, or covered contractor. Direct access personnel does not include volunteers or students performing irregular or supervised functions or contractors performing repairs, deliveries, installations or similar services for the covered provider. The secretary shall determine by legislative rule whether the position in question involves direct access.

'Disqualifying offense' means:

- (A) A conviction of any crime described in 42 U. S. C. §1320a-7(a); or
- (B) A conviction of any other crime specified by the secretary in rule, which shall include crimes against care-dependent or vulnerable individuals, crimes of violence, sexual offenses, and financial crimes.

'Negative finding' means a finding in the prescreening that excludes an applicant from direct access personnel positions.

'Notice of ineligibility' means a notice pursuant to §16-49-3 of this code that the secretary's review of the applicant's criminal history record information reveals a disqualifying offense.

'Prescreening' means a mandatory search of databases and registries specified by the secretary in legislative rule for exclusions and licensure status prior to the submission of fingerprints for a criminal history record information check.

'Rap back' means the notification to the department when an individual who has undergone a fingerprint-based, state or federal criminal history record information check has a subsequent state or federal criminal history event.

'Secretary' means the Secretary of the West Virginia Department of Health and Human Resources, or his or her designee.

'State Police' means the West Virginia State Police Criminal Identification Bureau."

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 487**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2093) passed.

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

A message from the Senate, by

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

**Com. Sub. for H. B. 2770**, Including home confinement officers in definition of law-enforcement officers.

On motion of Delegate Kessinger, the House concurred in the following amendment of the bill by the Senate, with further amendment:

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

**“CHAPTER 15A DEPARTMENT OF HOMELAND SECURITY.**

**ARTICLE 7. BUREAU OF COMMUNITY CORRECTIONS.**

**§15A-7-5. Powers and duties of state parole officers.**

(a) Each state probation and parole officer employed by the Division of Corrections and Rehabilitation shall:

(1) Investigate all cases referred to him or her for investigation by the Commissioner of Corrections and Rehabilitation and report in writing on the investigation;

(2) Update the standardized risk and needs assessment adopted by the Division of Corrections and Rehabilitation pursuant to §62-12-13(h) of this code for each parolee for whom an assessment has not been conducted for parole by a specialized assessment officer;

(3) Supervise each parolee according to the assessment and supervision standards determined by the Commissioner of Corrections and Rehabilitation;

(4) Furnish to each parolee under his or her supervision a written statement of the conditions of his or her parole together with a copy of the rules prescribed by the Commissioner of Corrections and Rehabilitation for the supervision of parolees;

(5) Keep informed concerning the conduct and condition of each parolee under his or her supervision and report on the conduct and condition of each parolee in writing as often as required by the Commissioner of Corrections and Rehabilitation;

(6) Use all practicable and suitable methods to aid and encourage a parolee and to bring about improvement in his or her conduct and condition;

(7) Keep detailed records of his or her work;

(8) Keep accurate and complete accounts of, and give receipts for, all money collected from parolees under his or her supervision, and pay over the money to persons designated by a circuit court or the Commissioner of Corrections and Rehabilitation;

(9) Give bond with good security, to be approved by the Commissioner of Corrections and Rehabilitation, in a penalty of not less than \$1,000 nor more than \$3,000, as determined by the Commissioner of Corrections and Rehabilitation; and

(10) Perform any other duties required by the Commissioner of Corrections and Rehabilitation.

(b) Each probation and parole officer, as described in this article, may, with or without an order or warrant: (1) Arrest or order confinement of any parolee or probationer under his or her supervision; and (2) search a parolee or probationer, or a parolee or probationer's residence or property, under his or her supervision. A probation and parole officer may apply for a search warrant, and execute the search warrant, in connection to a parolee's whereabouts, or a parolee's activities. He or she has all the powers of a notary public, with authority to act anywhere within the state.

(c) The Commissioner of Corrections and Rehabilitation may issue a certificate authorizing any state parole officer who has successfully completed the Division of Corrections and Rehabilitation's training program for firearms certification, which is the equivalent of that required of any correctional employee under §15A-3-10 of this code, to carry firearms or concealed weapons. Any parole officer authorized by the Commissioner of Corrections and Rehabilitation may, without a state license, carry firearms and concealed weapons. Each state parole officer, authorized by the Commissioner of Corrections and Rehabilitation, shall carry with him or her a certificate authorizing him or her to carry a firearm or concealed weapon bearing the official signature of the Commissioner of Corrections and Rehabilitation.

(d) In recognition of their duties in their employment which constitute law enforcement, state parole officers are determined to be qualified law enforcement officers as that term is used in §30-29-12 of this code.

(e) Any state parole officer may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. §92B if the following criteria are met:

(A) The Division of Corrections and Rehabilitation has a written policy authorizing a state parole officer to carry a concealed firearm for self-defense purposes;

(B) There shall be in place in the Division of Corrections and Rehabilitation a requirement that state parole officers must annually qualify in the use of a firearm with standards which are equal to or exceed those required of sheriff's deputies by the Law-Enforcement Professional Standards Program;

(C) The home incarceration program issues a photographic identification and certification card which identify the home incarceration supervisors as law-enforcement employees of the home incarceration program pursuant to the provisions of §30-29-12 of this code.

(4) Any policy instituted pursuant to paragraph (A), subdivision (3) of this subsection includes provisions which: (i) Preclude or remove a person from participation in the concealed firearm program; (ii) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and; (iii) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defined in §17C-5-2 of this code.

(5) Any home incarceration supervisor who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(6) It is the intent of the Legislature in enacting the amendments to this section during the 2021 regular session of the Legislature to authorize state parole officers wishing to do so to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §926B.

(f) The privileges authorized by the amendments in this section enacted during the 2021 regular session of the legislature are wholly within the discretion of the Commissioner of Corrections and Rehabilitation.

## **CHAPTER 61. CRIMES AND THEIR PUNISHMENT.**

### **ARTICLE 7. DANGEROUS WEAPONS.**

#### **§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver's license; possessing deadly weapons on premises housing courts of law and family law courts.**

(a) The Legislature finds that the safety and welfare of the citizens of this state are inextricably dependent upon assurances of safety for children attending and persons employed by schools in this state and for persons employed by the judicial department of this state. It is for the purpose of providing assurances of safety that §61-7-11a(b), §61-7-11a(g), and §61-7-11a(h), of this code and §61-7-11a(b)(2)(l) of this code, are enacted as a reasonable regulation of the manner in which



citizens may exercise the rights accorded to them pursuant to section 22, article III of the Constitution of the State of West Virginia.

(b) (1) It is unlawful to possess a firearm or other deadly weapon:

(A) On a school bus as defined in §17A-1-1 of this code;

(B) In or on the grounds of any primary or secondary educational facility of any type: *Provided*, That it shall not be unlawful to possess a firearm or other deadly weapon in or on the grounds of any private primary or secondary school, if such institution has adopted a written policy allowing for possession of firearms or other deadly weapons in the facility or on the grounds ~~thereof~~ of the facility; or

(C) At a school-sponsored function that is taking place in a specific area that is owned, rented, or leased by the West Virginia Department of Education, the West Virginia Secondary Schools Activities Commission, a county school board, or local public school for the actual period of time the function is occurring;

(2) This subsection does not apply to:

(A) A law-enforcement officer employed by a federal, state, county, or municipal law-enforcement agency;

(B) Any probation officer appointed pursuant to §62-12-5 or chapter 49 of this code, in the performance of his or her duties;

(C) Any home incarceration supervisor employed by a county commission or a sheriff pursuant to §61-11B-7a of this code in the performance of his or her duties;

(D) A state parole officer appointed pursuant to §15A-7-5 of this code, while in performance of his or her official duties;

~~(C)~~ (F) A retired law-enforcement officer who meets all the requirements to carry a firearm as a qualified retired law-enforcement officer under the Law-Enforcement Officer Safety Act of 2004, as amended, pursuant to 18 U.S.C. §926C(c), carries that firearm in a concealed manner, and has on his or her person official identification in accordance with that act;

~~(D)~~ (G) A person, other than a student of a primary and secondary facility, specifically authorized by the board of education of the county or principal of the school where the property is located to conduct programs with valid educational purposes;

~~(E)~~ (H) A person who, as otherwise permitted by the provisions of this article, possesses an unloaded firearm or deadly weapon in a motor vehicle or leaves an unloaded firearm or deadly weapon in a locked motor vehicle;

~~(F)~~ (I) Programs or raffles conducted with the approval of the county board of education or school which include the display of unloaded firearms;

~~(G)~~ (J) The official mascot of West Virginia University, commonly known as the Mountaineer, acting in his or her official capacity;

~~(H)~~ ~~(K)~~ The official mascot of Parkersburg South High School, commonly known as the Patriot, acting in his or her official capacity; or

~~(H)~~ ~~(L)~~ Any person, 21 years old or older, who has a valid concealed handgun permit. That person may possess a concealed handgun while in a motor vehicle in a parking lot, traffic circle, or other areas of vehicular ingress or egress to a public school: *Provided, That:*

(i) When he or she is occupying the vehicle the person stores the handgun out of view from persons outside the vehicle; or

(ii) When he or she is not occupying the vehicle the person stores the handgun out of view from persons outside the vehicle, the vehicle is locked, and the handgun is in a glove box or other interior compartment, or in a locked trunk, or in a locked container securely fixed to the vehicle.

(3) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.

(c) A school principal subject to the authority of the State Board of Education who discovers a violation of §61-7-11a(b) of this code shall report the violation as soon as possible to:

(1) The State Superintendent of Schools. The State Board of Education shall keep and maintain these reports and may prescribe rules establishing policy and procedures for making and delivering the reports as required by this subsection; and

(2) The appropriate local office of the State Police, county sheriff or municipal police agency.

(d) In addition to the methods of disposition provided by §49-5-1 *et seq.* of this code, a court which adjudicates a person who is 14 years of age or older as delinquent for a violation of §61-7-11a(b) of this code, may order the Division of Motor Vehicles to suspend a driver's license or instruction permit issued to the person for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. If the person has not been issued a driver's license or instruction permit by this state, a court may order the Division of Motor Vehicles to deny the person's application for a license or permit for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. A suspension ordered by the court pursuant to this subsection is effective upon the date of entry of the order. Where the court orders the suspension of a driver's license or instruction permit pursuant to this subsection, the court shall confiscate any driver's license or instruction permit in the adjudicated person's possession and forward it to the Division of Motor Vehicles.

(e)(1) If a person 18 years of age or older is convicted of violating §61-7-11a(b) of this code, and if the person does not act to appeal the conviction within the time periods described in §61-7-11a(e)(2) of this code, the person's license or privilege to operate a motor vehicle in this state shall be revoked in accordance with the provisions of this section.

(2) The clerk of the court in which the person is convicted as described in §61-7-11a(e)(1) of this code shall forward to the commissioner a transcript of the judgment of conviction. If the conviction is the judgment of a magistrate court, the magistrate court clerk shall forward the transcript when the person convicted has not requested an appeal within 20 days of the sentencing for the conviction. If the conviction is the judgment of a circuit court, the circuit clerk shall forward a transcript of the judgment of conviction when the person convicted has not filed a

notice of intent to file a petition for appeal or writ of error within 30 days after the judgment was entered.

(3) If, upon examination of the transcript of the judgment of conviction, the commissioner determines that the person was convicted as described in §61-7-11a(e)(1) of this code, the commissioner shall make and enter an order revoking the person's license or privilege to operate a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled in a secondary school, for a period of one year or until the person's twentieth birthday, whichever is the greater period. The order shall contain the reasons for the revocation and the revocation period. The order of suspension shall advise the person that because of the receipt of the court's transcript, a presumption exists that the person named in the order of suspension is the same person named in the transcript. The commissioner may grant an administrative hearing which substantially complies with the requirements of the provisions of §17C-5A-2 of this code upon a preliminary showing that a possibility exists that the person named in the notice of conviction is not the same person whose license is being suspended. The request for hearing shall be made within 10 days after receipt of a copy of the order of suspension. The sole purpose of this hearing is for the person requesting the hearing to present evidence that he or she is not the person named in the notice. If the commissioner grants an administrative hearing, the commissioner shall stay the license suspension pending the commissioner's order resulting from the hearing.

(4) For the purposes of this subsection, a person is convicted when he or she enters a plea of guilty or is found guilty by a court or jury.

(f)(1) It is unlawful for a parent, guardian, or custodian of a person less than 18 years of age who knows that the person is in violation of §61-7-11a(b) of this code or has reasonable cause to believe that the person's violation of §61-7-11a(b) of this code is imminent to fail to immediately report his or her knowledge or belief to the appropriate school or law-enforcement officials.

(2) A person violating this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or shall be confined in jail not more than one year, or both fined and confined.

(g)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts.

(2) This subsection does not apply to:

(A) A law-enforcement officer acting in his or her official capacity; and

(B) A person exempted from the provisions of this subsection by order of record entered by a court with jurisdiction over the premises or offices.

(3) A person violating this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or shall be confined in jail not more than one year, or both fined and confined.

(h)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts, with the intent to commit a crime.

(2) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.

(i) Nothing in this section may be construed to be in conflict with the provisions of federal law.

## CHAPTER 62. CRIMINAL PROCEDURE.

### ARTICLE 11B. HOME INCARCERATION ACT.

#### §62-11B-7a. Employment by county commission of home incarceration supervisors; authority of supervisors.

(a) The county commission may employ one or more persons with the approval of the circuit court and who ~~shall be~~ is subject to the supervision of the sheriff as a home incarceration supervisor or may designate the county sheriff to supervise offenders ordered to undergo home incarceration and to administer the county's home incarceration program. Any ~~person so supervising~~ supervisor shall have authority, equivalent to that granted to a probation officer pursuant to §62-12-10 of this code, to arrest a home incarceration participant when reasonable cause exists to believe that ~~such~~ the participant has violated the conditions of his or her home incarceration. Unless otherwise specified, the use of the term "supervisor" in this article shall refer to a home incarceration supervisor.

(b) In recognition of their duties in their employment which constitute law enforcement, home confinement supervisors are determined to be qualified law enforcement officers as that term is used in §30-29-12 of this code.

(c) Any home incarceration supervisor may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. §926B if the following criteria are met:

(A) The home incarceration program has a written policy authorizing home incarceration supervisors to carry a concealed firearm for self-defense purposes.

(B) There is in place in the home incarceration program a requirement that the home incarceration supervisors must regularly qualify in the use of a firearm with standards for qualification which are equal to, or exceed those required of sheriff's deputies in the county in which the home incarceration supervisors are employed; and

(C) The home incarceration program issues a photographic identification and certification card which identify the home incarceration supervisors as law-enforcement employees of the home incarceration program pursuant to the provisions of §30-29-12 of this code.

(4) Any policy instituted pursuant to paragraph (A), subdivision (3) of this subsection shall include provisions which: (i) Preclude or remove a person from participation in the concealed firearm program; (ii) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and; (iii) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defines in §17C-5-2 of this code.

(5) Any home incarceration supervisor who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(6) The privileges authorized by the amendments to this section enacted during the 2021 regular session of the Legislature are wholly within the discretion of the supervising authority over the home confinement supervisors.

(7) It is the intent of the Legislature in enacting the amendments to this section during the 2021 regular session of the Legislature to authorize home incarceration programs wishing to do so to allow home incarceration supervisors to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §926B.

## **ARTICLE 12. PROBATION AND PAROLE.**

### **§62-12-5. Probation officers and assistants.**

(a) Each circuit court, subject to the approval of the Supreme Court of Appeals and in accordance with its rules, is authorized to appoint one or more probation officers and clerical assistants.

(b) The appointment of probation officers and clerical assistants shall be in writing and entered on the order book of the court by the judge making such appointment and a copy of ~~said the~~ order of appointment shall be delivered to the Administrative Director of the Supreme Court of Appeals. The order of appointment shall state the annual salary, fixed by the judge and approved by the Supreme Court of Appeals, to be paid to the appointed probation officer or clerical ~~assistants so~~ appointed.

(c) The salary of probation officers and clerical assistants shall be paid at least twice per month, as the Supreme Court of Appeals by rule may direct and they shall be reimbursed for all reasonable and necessary expenses actually incurred in the line of duty in the field. The salary and expenses shall be paid by the state from the judicial accounts thereof. The county commission shall provide adequate office space for the probation officer and his or her assistants to be approved by the appointing court. The equipment and supplies as may be needed by the probation officer and his or her assistants shall be provided by the state and the cost thereof shall be charged against the judicial accounts of the state.

(d) ~~No~~ A judge may not appoint any probation officer, assistant probation officer or clerical assistant who is related to him or her either by consanguinity or affinity.

(e) Subject to the approval of the Supreme Court of Appeals and in accordance with its rules, a judge of a circuit court whose circuit comprises more than one county may appoint a probation officer and a clerical assistant in each county of the circuit or may appoint the same persons to serve in these respective positions in two or more counties in the circuit.

(f) Nothing contained in this section alters, modifies, affects or supersedes the appointment or tenure of any probation officer, medical assistant or psychiatric assistant appointed by any court under any special act of the Legislature heretofore enacted, and the salary or compensation of those persons shall remain as specified in the most recent amendment of any special act until changed by the court, with approval of the Supreme Court of Appeals, by order entered of record, and any such salary or compensation shall be paid out of the State Treasury.

(g) In order to carry out the supervision responsibilities set forth in §62-26-12 of this code, the Administrative Director of the Supreme Court of Appeals, or his or her designee, in accordance with the court's procedures, ~~is authorized~~ may to hire multijudicial-circuit probation officers, to be

employed through the court's Division of Probation Services. Such officers may also supervise probationers who are on probation for sexual offences with the approval of the administrative director of the Supreme Court of Appeals or his or her designee.

(h) In recognition of their duties in their employment which constitute law enforcement, state probation officers are determined to be qualified law enforcement officers as that term is used in §30-29-12 of this code.

(i) Any state probation officer may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. §926B if the following criteria are met:

(A) The Supreme Court of Appeals has a written policy authorizing probation officers to carry a concealed firearm for self-defense purposes.

(B) There is in place a requirement that the probation officers annually qualify in the use of a firearm with standards for qualification which are equal to, or exceed those required of sheriff's deputies by the Law-Enforcement Professional Standards Program;

(C) The Supreme Courts of Appeals issues a photographic identification and certification card which identify the home incarceration supervisors as qualified law-enforcement employees pursuant to the provisions of §30-29-12 of this code.

(4) Any policy instituted pursuant to paragraph (A), subdivision (3) of this subsection shall include provisions which: (i) Preclude or remove a person from participation in the concealed firearm program; (ii) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and; (iii) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defines in §17C-5-2 of this code.

(5) Any probation officer who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(6) It is the intent of the Legislature in enacting the amendments to this section during the 2021 regular session of the Legislature to authorize state probation officers wishing to do so to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §926B.

(j) The privileges authorized by the amendments to this section enacted during the 2021 regular session of the Legislature are wholly within the discretion of the Supreme Court of Appeals."

And,

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

**Com. Sub. for H. B. 2770** – "A Bill to amend and reenact §15A-7-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §61-7-11a of said code; to amend and reenact §62-11B-7a of said code, and to amend and reenact §62-12-5 of said code, all relating generally to qualifying for protection under the Law-Enforcement Officers Safety Act; clarifying that home confinement supervisors, state probation officers, and state parole officers are qualified enforcement officers who may carry a concealed firearm nationwide, as authorized by the federal Law-Enforcement Officers Safety Act; exempting certain persons from prohibition for carrying

deadly weapons on the premises of educational facilities; providing the statutory authority necessary to give home confinement supervisors, state probation officers, and parole officers the option to carry firearms pursuant to federal law; requiring annual firearm training pursuant to federal law; clarifying that supervisory entities retain sole discretion as to authorizing participation in a program and setting forth duties of supervising authorities as to participation of home confinement supervisors, state probation officers, and state parole officers.”

With the further amendment, sponsored by Delegate Summers, being as follows:

On page one, immediately following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

**“CHAPTER 15A DEPARTMENT OF HOMELAND SECURITY.**

**ARTICLE 7. BUREAU OF COMMUNITY CORRECTIONS.**

**§15A-7-5. Powers and duties of state parole officers.**

(a) Each state probation and parole officer employed by the Division of Corrections and Rehabilitation shall:

(1) Investigate all cases referred to him or her for investigation by the Commissioner of Corrections and Rehabilitation and report in writing on the investigation;

(2) Update the standardized risk and needs assessment adopted by the Division of Corrections and Rehabilitation pursuant to §62-12-13(h) of this code for each parolee for whom an assessment has not been conducted for parole by a specialized assessment officer;

(3) Supervise each parolee according to the assessment and supervision standards determined by the Commissioner of Corrections and Rehabilitation;

(4) Furnish to each parolee under his or her supervision a written statement of the conditions of his or her parole together with a copy of the rules prescribed by the Commissioner of Corrections and Rehabilitation for the supervision of parolees;

(5) Keep informed concerning the conduct and condition of each parolee under his or her supervision and report on the conduct and condition of each parolee in writing as often as required by the Commissioner of Corrections and Rehabilitation;

(6) Use all practicable and suitable methods to aid and encourage a parolee and to bring about improvement in his or her conduct and condition;

(7) Keep detailed records of his or her work;

(8) Keep accurate and complete accounts of, and give receipts for, all money collected from parolees under his or her supervision, and pay over the money to persons designated by a circuit court or the Commissioner of Corrections and Rehabilitation;

(9) Give bond with good security, to be approved by the Commissioner of Corrections and Rehabilitation, in a penalty of not less than \$1,000 nor more than \$3,000, as determined by the Commissioner of Corrections and Rehabilitation; and

(10) Perform any other duties required by the Commissioner of Corrections and Rehabilitation.

(b) Each probation and parole officer, as described in this article, may, with or without an order or warrant:

(1) Arrest or order confinement of any parolee or probationer under his or her supervision; and

(2) search a parolee or probationer, or a parolee or probationer's residence or property, under his or her supervision. A probation and parole officer may apply for a search warrant, and execute the search warrant, in connection to a parolee's whereabouts, or a parolee's activities. He or she has all the powers of a notary public, with authority to act anywhere within the state.

(c) (1) Notwithstanding any other provision of this Code, the Commissioner of Corrections and Rehabilitation may issue a certificate authorizing any state parole officer who has successfully completed the Division of Corrections and Rehabilitation's training program for firearms certification, which is the equivalent of that required of any correctional employee under §15A-3-10 of this code, to carry firearms or concealed weapons. Any parole officer authorized by the Commissioner of Corrections and Rehabilitation may, without a state license, carry firearms and concealed weapons. Each state parole officer, authorized by the Commissioner of Corrections and Rehabilitation, shall carry with him or her a certificate authorizing him or her to carry a firearm or concealed weapon bearing the official signature of the Commissioner of Corrections and Rehabilitation.

(2) Additionally, any state parole officer may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. §92B if the following criteria are met:

(A) The Division of Corrections and Rehabilitation has a written policy authorizing a state parole officer to carry a concealed firearm for self-defense purposes; including provisions which:

(i) Preclude or remove a person from participation in the concealed firearm program;

(ii) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and;

(iii) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defined in §17C-5-2 of this code.

(B) For those state parole officers wishing to avail themselves of the provisions of this subdivision, there shall be in place in the Division of Corrections and Rehabilitation a requirement that those state parole officers must annually qualify in the use of a firearm with standards which are equal to or exceed those required of sheriff's deputies by the Law-Enforcement Professional Standards Program; and

(C) The Division of Corrections and Rehabilitation issues a photographic identification and certification card which identify the state parole officers who meet the provisions of this subdivision, as law-enforcement employees of the Division of Corrections and Rehabilitation pursuant to the provisions of §30-29-12 of this code.



(3) Any state parole officer who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(4) It is the intent of the Legislature in enacting the amendments to this section during the 2021 regular session of the Legislature to authorize those state parole officers wishing to do so to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §926B: Provided, That it is the intent of the Legislature in enacting this section during the 2021 regular session of the Legislature that state parole officers, in recognition of those duties in their employment supervising incarceration and supervised release and the inherent arrest powers for violation of the same which constitute law enforcement, are determined to be qualified law enforcement officers as that term is used in §30-29-12 of this code.

(5) The privileges authorized by the amendments in this section enacted during the 2021 regular session of the legislature are wholly within the discretion of the Commissioner of Corrections and Rehabilitation.

## CHAPTER 49. CHILD WELFARE.

### ARTICLE 4. COURT ACTIONS.

#### **§49-4-719. Juvenile probation officers; appointment; salary; facilities; expenses; duties; powers.**

(a)(1) Each circuit court, subject to the approval of the Supreme Court of Appeals and in accordance with the rules of the Supreme Court of Appeals, shall appoint one or more juvenile probation officers and clerical assistants for the circuit. A probation officer or clerical assistant may not be related by blood or marriage to the appointing judge.

(2) The salary for juvenile probation officers and clerical assistants shall be determined and fixed by the Supreme Court of Appeals. All expenses and costs incurred by the juvenile probation officers and their staff shall be paid by the Supreme Court of Appeals in accordance with its rules. The county commission of each county shall provide adequate office facilities for juvenile probation officers and their staff. All equipment and supplies required by juvenile probation officers and their staff shall be provided by the Supreme Court of Appeals.

~~(3) A juvenile probation officer may not be considered a law enforcement official under this chapter.~~

(b) (1) Any juvenile probation officers may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. §926B if the following criteria are met:

(A) The Supreme Court of Appeals has a written policy authorizing juvenile probation officers to carry a concealed firearm for self-defense purposes, including provisions which:

(i) Preclude or remove a person from participation in the concealed firearm program;

(ii) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and;

(iii) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defined in §17C-5-2 of this code.

(B) There is in place a requirement that the juvenile probation officers annually qualify in the use of a firearm with standards for qualification which are equal to, or exceed those required of sheriff's deputies by the Law-Enforcement Professional Standards Program; and

(C) The Supreme Court of Appeals issues a photographic identification and certification card which identify the juvenile probation officers as qualified law-enforcement employees pursuant to the provisions of §30-29-12 of this code.

(2) Any juvenile probation officer who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(3) It is the intent of the Legislature in enacting the amendments to this section during the 2021 regular session of the Legislature to authorize those juvenile probation officers wishing to do so to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §926B: *Provided*, That it is the intent of the Legislature in enacting this section during the 2021 regular session of the Legislature that juvenile probation officers, in recognition of those duties in their employment supervising incarceration and supervised release and the inherent arrest powers for violation of the same which constitute law enforcement, are determined to be qualified law enforcement officers as that term is used in §30-29-12 of this code.

(4) The privileges authorized by the amendments to this section enacted during the 2021 regular session of the Legislature are wholly within the discretion of the Supreme Court of Appeals.

~~(b)~~ (c) The clerk of a court shall notify, if practicable, the chief probation officer of the county, or his or her designee, when a juvenile is brought before the court or judge for proceedings under this article. When notified, or if the probation officer otherwise obtains knowledge of such fact, he or she or one of his or her assistants shall:

(1) Make investigation of the case; and

(2) Furnish information and assistance that the court or judge may require.

~~(e)~~ (d) (1) The Supreme Court of Appeals may develop a system of community-based juvenile probation sanctions and incentives to be used by probation officers in response to violations of terms and conditions of probation and to award incentives for positive behavior.

(2) The community-based juvenile probation sanctions and incentives may consist of a continuum of responses from the least restrictive to the most restrictive, designed to respond swiftly, proportionally and consistently to violations of the terms and conditions of probation and to reward compliance therewith.

(3) The purpose of community-based juvenile probation sanctions and incentives is to reduce the amount of resources and time spent by the court addressing probation violations, to reduce the likelihood of a new status or delinquent act, and to encourage and reward positive behavior by the juvenile on probation prior to any attempt to place a juvenile in an out-of-home placement.

**CHAPTER 61. CRIMES AND THEIR PUNISHMENT.****ARTICLE 7. DANGEROUS WEAPONS.****§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver's license; possessing deadly weapons on premises housing courts of law and family law courts.**

(a) The Legislature finds that the safety and welfare of the citizens of this state are inextricably dependent upon assurances of safety for children attending and persons employed by schools in this state and for persons employed by the judicial department of this state. It is for the purpose of providing assurances of safety that §61-7-11a(b), §61-7-11a(g), and §61-7-11a(h), of this code and §61-7-11a(b)(2)(l) of this code, are enacted as a reasonable regulation of the manner in which citizens may exercise the rights accorded to them pursuant to section 22, article III of the Constitution of the State of West Virginia.

(b) (1) It is unlawful to possess a firearm or other deadly weapon:

(A) On a school bus as defined in §17A-1-1 of this code;

(B) In or on the grounds of any primary or secondary educational facility of any type: *Provided*, That it shall not be unlawful to possess a firearm or other deadly weapon in or on the grounds of any private primary or secondary school, if such institution has adopted a written policy allowing for possession of firearms or other deadly weapons in the facility or on the grounds ~~thereof~~ of the facility; or

(C) At a school-sponsored function that is taking place in a specific area that is owned, rented, or leased by the West Virginia Department of Education, the West Virginia Secondary Schools Activities Commission, a county school board, or local public school for the actual period of time the function is occurring;

(2) This subsection does not apply to:

(A) A law-enforcement officer employed by a federal, state, county, or municipal law-enforcement agency;

(B) Any probation officer appointed pursuant to §62-12-5 or ~~§49-4-719 chapter 49~~ of this code, in the performance of his or her duties;

(C) Any home incarceration supervisor employed by a county commission or a sheriff pursuant to §61-11B-7a of this code, in the performance of his or her duties;

(D) A state parole officer appointed pursuant to §15A-7-5 of this code, in performance of his or her duties;

~~(C)~~ (E) A retired law-enforcement officer who meets all the requirements to carry a firearm as a qualified retired law-enforcement officer under the Law-Enforcement Officer Safety Act of 2004, as amended, pursuant to 18 U.S.C. §926C(c), carries that firearm in a concealed manner, and has on his or her person official identification in accordance with that act;

~~(D)~~ (F) A person, other than a student of a primary and secondary facility, specifically authorized by the board of education of the county or principal of the school where the property is located to conduct programs with valid educational purposes;

~~(E)~~ (G) A person who, as otherwise permitted by the provisions of this article, possesses an unloaded firearm or deadly weapon in a motor vehicle or leaves an unloaded firearm or deadly weapon in a locked motor vehicle;

~~(F)~~ (H) Programs or raffles conducted with the approval of the county board of education or school which include the display of unloaded firearms;

~~(G)~~ (I) The official mascot of West Virginia University, commonly known as the Mountaineer, acting in his or her official capacity;

~~(H)~~ (J) The official mascot of Parkersburg South High School, commonly known as the Patriot, acting in his or her official capacity; or

~~(I)~~ (K) Any person, 21 years old or older, who has a valid concealed handgun permit. That person may possess a concealed handgun while in a motor vehicle in a parking lot, traffic circle, or other areas of vehicular ingress or egress to a public school: *Provided, That:*

(i) When he or she is occupying the vehicle, the person stores the handgun out of view from persons outside the vehicle; or

(ii) When he or she is not occupying the vehicle, the person stores the handgun out of view from persons outside the vehicle, the vehicle is locked, and the handgun is in a glove box or other interior compartment, or in a locked trunk, or in a locked container securely fixed to the vehicle.

(3) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.

(c) A school principal subject to the authority of the State Board of Education who discovers a violation of §61-7-11a(b) of this code shall report the violation as soon as possible to:

(1) The State Superintendent of Schools. The State Board of Education shall keep and maintain these reports and may prescribe rules establishing policy and procedures for making and delivering the reports as required by this subsection; and

(2) The appropriate local office of the State Police, county sheriff or municipal police agency.

(d) In addition to the methods of disposition provided by §49-5-1 *et seq.* of this code, a court which adjudicates a person who is 14 years of age or older as delinquent for a violation of §61-7-11a(b) of this code, may order the Division of Motor Vehicles to suspend a driver's license or instruction permit issued to the person for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. If the person has not been issued a driver's license or instruction permit by this state, a court may order the Division of Motor Vehicles to deny the person's application for a license or permit for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. A suspension ordered by the court pursuant to this subsection is effective upon the date of entry of the order. Where the court orders the suspension of a driver's license or instruction permit pursuant to this subsection, the

court shall confiscate any driver's license or instruction permit in the adjudicated person's possession and forward it to the Division of Motor Vehicles.

(e)(1) If a person 18 years of age or older is convicted of violating §61-7-11a(b) of this code, and if the person does not act to appeal the conviction within the time periods described in §61-7-11a(e)(2) of this code, the person's license or privilege to operate a motor vehicle in this state shall be revoked in accordance with the provisions of this section.

(2) The clerk of the court in which the person is convicted as described in §61-7-11a(e)(1) of this code shall forward to the commissioner a transcript of the judgment of conviction. If the conviction is the judgment of a magistrate court, the magistrate court clerk shall forward the transcript when the person convicted has not requested an appeal within 20 days of the sentencing for the conviction. If the conviction is the judgment of a circuit court, the circuit clerk shall forward a transcript of the judgment of conviction when the person convicted has not filed a notice of intent to file a petition for appeal or writ of error within 30 days after the judgment was entered.

(3) If, upon examination of the transcript of the judgment of conviction, the commissioner determines that the person was convicted as described in §61-7-11a(e)(1) of this code, the commissioner shall make and enter an order revoking the person's license or privilege to operate a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled in a secondary school, for a period of one year or until the person's twentieth birthday, whichever is the greater period. The order shall contain the reasons for the revocation and the revocation period. The order of suspension shall advise the person that because of the receipt of the court's transcript, a presumption exists that the person named in the order of suspension is the same person named in the transcript. The commissioner may grant an administrative hearing which substantially complies with the requirements of the provisions of §17C-5A-2 of this code upon a preliminary showing that a possibility exists that the person named in the notice of conviction is not the same person whose license is being suspended. The request for hearing shall be made within 10 days after receipt of a copy of the order of suspension. The sole purpose of this hearing is for the person requesting the hearing to present evidence that he or she is not the person named in the notice. If the commissioner grants an administrative hearing, the commissioner shall stay the license suspension pending the commissioner's order resulting from the hearing.

(4) For the purposes of this subsection, a person is convicted when he or she enters a plea of guilty or is found guilty by a court or jury.

(f)(1) It is unlawful for a parent, guardian, or custodian of a person less than 18 years of age who knows that the person is in violation of §61-7-11a(b) of this code or has reasonable cause to believe that the person's violation of §61-7-11a(b) of this code is imminent to fail to immediately report his or her knowledge or belief to the appropriate school or law-enforcement officials.

(2) A person violating this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or shall be confined in jail not more than one year, or both fined and confined.

(g)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts.

(2) This subsection does not apply to:

(A) A law-enforcement officer acting in his or her official capacity; and

(B) A person exempted from the provisions of this subsection by order of record entered by a court with jurisdiction over the premises or offices.

(3) A person violating this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or shall be confined in jail not more than one year, or both fined and confined.

(h)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts, with the intent to commit a crime.

(2) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.

(i) Nothing in this section may be construed to be in conflict with the provisions of federal law.

## CHAPTER 62. CRIMINAL PROCEDURE.

### ARTICLE 11B. HOME INCARCERATION ACT

#### **§62-11B-7a. Employment by county commission of home incarceration supervisors; authority of supervisors.**

(a) The county commission may employ one or more persons with the approval of the circuit court and who ~~shall be~~ is subject to the supervision of the sheriff as a home incarceration supervisor or may designate the county sheriff to supervise offenders ordered to undergo home incarceration and to administer the county's home incarceration program. Any ~~person so supervising~~ supervisor shall have authority, equivalent to that granted to a probation officer pursuant to §62-12-10 of this code, to arrest a home incarceration participant when reasonable cause exists to believe that ~~such~~ the participant has violated the conditions of his or her home incarceration. Unless otherwise specified, the use of the term "supervisor" in this article shall refer to a home incarceration supervisor.

(b) (1) Any home incarceration supervisor may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. §926B if the following criteria are met:

(A) The home incarceration program has a written policy authorizing home incarceration supervisors to carry a concealed firearm for self-defense purposes; including provisions which:

(i) Preclude or remove a person from participation in the concealed firearm program;

(ii) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and;

(iii) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defined in §17C-5-2 of this code.

(B) There is in place in the home incarceration program a requirement that the home incarceration supervisors must regularly qualify in the use of a firearm with standards for

qualification which are equal to, or exceed those required of sheriff's deputies in the county in which the home incarceration supervisors are employed; and

(C) The home incarceration program issues a photographic identification and certification card which identify the home incarceration supervisors as law-enforcement employees of the home incarceration program pursuant to the provisions of §30-29-12 of this code.

(2) Any home incarceration supervisor who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(3) It is the intent of the Legislature in enacting the amendments to this section during the 2021 regular session of the Legislature to authorize those home incarceration programs wishing to do so to allow home incarceration supervisors to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §926B: *Provided*, That it is the intent of the Legislature in enacting this section during the 2021 regular session of the Legislature that home incarceration supervisors, in recognition of those duties in their employment supervising incarceration and supervised release and the inherent arrest powers for violation of the same which constitute law enforcement, are determined to be qualified law enforcement officers as that term is used in §30-29-12 of this code.

(4) The privileges authorized by the amendments to this section enacted during the 2021 regular session of the Legislature are wholly within the discretion of the supervising authority over the home confinement supervisors.

## **ARTICLE 12. PROBATION AND PAROLE.**

### **§62-12-5. Probation officers and assistants.**

(a) Each circuit court, subject to the approval of the Supreme Court of Appeals and in accordance with its rules, is authorized to appoint one or more probation officers and clerical assistants.

(b) The appointment of probation officers and clerical assistants shall be in writing and entered on the order book of the court by the judge making such appointment and a copy of ~~said the~~ order of appointment shall be delivered to the Administrative Director of the Supreme Court of Appeals. The order of appointment shall state the annual salary, fixed by the judge and approved by the Supreme Court of Appeals, to be paid to the appointed probation officer or clerical assistants-~~so appointed~~.

(c) The salary of probation officers and clerical assistants shall be paid at least twice per month, as the Supreme Court of Appeals by rule may direct and they shall be reimbursed for all reasonable and necessary expenses actually incurred in the line of duty in the field. The salary and expenses shall be paid by the state from the judicial accounts thereof. The county commission shall provide adequate office space for the probation officer and his or her assistants to be approved by the appointing court. The equipment and supplies as may be needed by the probation officer and his or her assistants shall be provided by the state and the cost thereof shall be charged against the judicial accounts of the state.

(d) ~~No~~ A judge may not appoint any probation officer, assistant probation officer or clerical assistant who is related to him or her either by consanguinity or affinity.

(e) Subject to the approval of the Supreme Court of Appeals and in accordance with its rules, a judge of a circuit court whose circuit comprises more than one county may appoint a probation officer and a clerical assistant in each county of the circuit or may appoint the same persons to serve in these respective positions in two or more counties in the circuit.

(f) Nothing contained in this section alters, modifies, affects or supersedes the appointment or tenure of any probation officer, medical assistant or psychiatric assistant appointed by any court under any special act of the Legislature heretofore enacted, and the salary or compensation of those persons shall remain as specified in the most recent amendment of any special act until changed by the court, with approval of the Supreme Court of Appeals, by order entered of record, and any such salary or compensation shall be paid out of the State Treasury.

(g) In order to carry out the supervision responsibilities set forth in §62-26-12 of this code, the Administrative Director of the Supreme Court of Appeals, or his or her designee, in accordance with the court's procedures, ~~is authorized~~ may to hire multijudicial-circuit probation officers, to be employed through the court's Division of Probation Services. Such officers may also supervise probationers who are on probation for sexual offences with the approval of the administrative director of the Supreme Court of Appeals or his or her designee.

(h) (1) Any state probation officer may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. §926B if the following criteria are met:

(A) The Supreme Court of Appeals has a written policy authorizing probation officers to carry a concealed firearm for self-defense purposes, including provisions which:

(i) Preclude or remove a person from participation in the concealed firearm program;

(ii) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and;

(iii) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defined in §17C-5-2 of this code.

(B) There is in place a requirement that the probation officers annually qualify in the use of a firearm with standards for qualification which are equal to, or exceed those required of sheriff's deputies by the Law-Enforcement Professional Standards Program; and

(C) The Supreme Court of Appeals issues a photographic identification and certification card which identify the probation officers as qualified law-enforcement employees pursuant to the provisions of §30-29-12 of this code.

(2) Any probation officer who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(3) It is the intent of the Legislature in enacting the amendments to this section during the 2021 regular session of the Legislature to authorize those state probation officers wishing to do so to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §926B: *Provided*, That it is the intent of the Legislature in enacting this section during the 2021 regular session of the Legislature that state probation officers, in recognition of those duties in their employment supervising incarceration and supervised release and the inherent arrest



powers for violation of the same which constitute law enforcement, are determined to be qualified law enforcement officers as that term is used in §30-29-12 of this code.

(4) The privileges authorized by the amendments to this section enacted during the 2021 regular session of the Legislature are wholly within the discretion of the Supreme Court of Appeals.”

With the further title amendment, sponsored by Delegate Summers, being as follows:

**Com. Sub. for H. B. 2770** – “A Bill to amend and reenact §15A-7-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §49-4-719 of said code; to amend and reenact §61-7-11a of said code; to amend and reenact §62-11B-7a of said code, and to amend and reenact §62-12-5 of said code, all relating generally to additional persons qualifying for the provisions of the Law-Enforcement Officers Safety Act; clarifying that home incarceration supervisors, state probation officers, juvenile probation officers, and state parole officers are qualified law enforcement officers who may carry a concealed firearm nationwide, as authorized by the federal Law-Enforcement Officers Safety Act; exempting certain persons from prohibition for carrying deadly weapons on the premises of educational facilities; providing the statutory authority to give home incarceration supervisors, state probation officers, juvenile probation officers, and parole officers the option to carry firearms pursuant to federal law; requiring annual firearm training pursuant to federal law; clarifying that supervisory entities retain sole discretion as to authorizing participation of qualified officers in such program; providing findings delineating the rationale by which home incarceration supervisors, state probation officers, juvenile probation officers, and parole officers are to be considered as law enforcement officers; and setting forth the duties of supervising authorities as to participation of home incarceration supervisors, state probation officers, juvenile probation officers, and state parole officers.”

The bill, as amended by the Senate, and further amended by the House of Delegates, was then put upon its passage.

On passage of the bill, the yeas and nays were taken (**Roll No. 488**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2770) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect from passage, a bill of the House of Delegates, as follows:

**H. B. 3175**, Relating to removing certain felonies than can prohibit vehicle salespersons from receiving a license.

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

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

**“ARTICLE 6E. MOTOR VEHICLE SALESPERSON LICENSE.**

**§17A-6E-1. Findings and purpose.**

[Repealed.]

**§17A-6E-2. Definitions.**

[Repealed.]

**§17A-6E-3. License required.**

[Repealed.]

**§17A-6E-4. Eligibility and issuance of license.**

[Repealed.]

**§17A-6E-5. Expiration of license, renewal and expired license.**

[Repealed.]

**§17A-6E-6. Change of employer.**

[Repealed.]

**§17A-6E-7. Change of address, lost or stolen license, duplicate license.**

[Repealed.]

**§17A-6E-8. Display of license.**

[Repealed.]

**§17A-6E-9. Revocation, suspension, or refusal to renew license.**

[Repealed.]

**§17A-6E-10. Administrative due process.**

[Repealed.]

**§17A-6E-11. Investigation, matters, confidential.**

[Repealed.]

**§17A-6E-12. Injunctive relief.**

[Repealed.]

**§17A-6E-13. Authority for rules.**

[Repealed.]

**§17A-6E-14. Motor Vehicle Salesperson License Fund.**

[Repealed.]”

And,

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

**H. B. 3175** – “A Bill to repeal §17A-6E-1, §17A-6E-2, §17A-6E-3, §17A-6E-4, §17A-6E-5, §17A-6E-6, §17A-6E-7, §17A-6E-8, §17A-6E-9, §17A-6E-10, §17A-6E-11, §17A-6E-12, §17A-6E-13, and §17A-6E-14 of the Code of West Virginia, 1931, as amended, all relating to repeal of the motor vehicle salesperson license.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 489**), and there were—yeas 92, nays 8, absent and not voting none, with the nays being as follows:

Nays: Doyle, Fleischauer, Gearheart, Hansen, Kimes, Martin, Miller and Rowe.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3175) passed.

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

On this question, the yeas and nays were taken (**Roll No. 490**), and there were—yeas 94, nays 6, absent and not voting none, with the nays being as follows:

Nays: Doyle, Gearheart, Hansen, Kimes, Martin and Miller.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3175) takes effect from its passage.

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

A message from the Senate, by

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

**H. B. 3191**, Requiring employers to send certain notifications when retirants are hired as temporary, part-time employees.

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

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

**“CHAPTER 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 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.**

**§5-10-19. Employers to file information as to employees' service.**

(a) Each participating public employer shall file with the board of trustees, in such form as the board shall from time to time prescribe, a detailed statement of all service rendered to participating public employers by each of its employees and by any retirant who retired under section twenty-two-c of this article and who is working for the employer on a contract basis, as defined in section twenty-two-c of this article, and such other information as the board shall require in the operation of the retirement system.

(b) Prior to any retirant subsequently becoming employed on a temporary full-time or temporary part-time basis by a participating public employer, the employer shall notify the board and the retirant, in writing, if and when the retirant's potential temporary employment will negatively impact the retirant's retired status or benefits. Upon the retirant's acceptance of either temporary full-time or temporary part-time employment, the employer shall notify the board, in writing, of the retirant's subsequent employment.

**CHAPTER 18. EDUCATION.**

**ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.**

**§18-7A-13a. Resumption of service by retired teachers.**

(a) For the purpose of this section, reemployment of a former or retired teacher as a teacher shall in no way impair the teacher's eligibility for a prior service pension or any other benefit provided by this article.

(b) Retired teachers who qualified for an annuity because of age or service may not receive prior service allowance from the retirement board when employed as a teacher and when regularly employed by the State of West Virginia. The payment of the allowance shall be discontinued on the first day of the month within which such employment begins and shall be resumed on the first day of the month succeeding the month within which such employment ceases. The annuity paid the teacher on first retirement resulting from the Teachers' Accumulation Fund and the Employers' Accumulation Fund shall continue throughout the governmental service and thereafter according to the option selected by the teacher upon first retirement.

(c) Retired teachers who qualified for an annuity because of disability shall receive no further retirement payments if the retirement board finds that the disability of the teacher no longer exists; payment shall be discontinued on the first day of the month within which the finding is made. If the retired teacher returns to service as a teacher, he or she shall contribute to the Teachers' Accumulation Fund as a member of the system. His or her prior service eligibility, if any, shall not be impaired because of his or her disability retirement. His or her accumulated contributions which were transferred to the benefit fund upon his or her retirement shall be returned to his or her individual account in the Teachers' Accumulation Fund, minus retirement payments received which were not supported by such contributions and interest. Upon subsequent retirement, he or

she shall receive credit for all of his or her contributory experience, anything to the contrary in this article notwithstanding.

(d) Notwithstanding any provision of this code to the contrary, a person who retires under the system provided by this article may subsequently become employed on either a full-time basis, part-time basis or contract basis by any institution of higher education without any loss of retirement annuity or retirement benefits if the person's retirement commences between the effective date of the enactment of this section in 2002 and December 31, 2002: *Provided, That* the person shall not be eligible to participate in any other state retirement system provided by this code.

(e) The retirement board is herewith authorized to require of the retired teachers and their employers such reports as it deems necessary to effectuate the provisions of this section.

(f) Prior to any retirant subsequently becoming employed on a substitute or temporary basis which if full-time would qualify the retirant as a teacher member or a nonteaching member, the employer shall notify the retirement board and the retirant, in writing, if and when the retirant's potential substitute or temporary employment will negatively impact the retirant's retired status or benefits. Upon the retirant's acceptance of either substitute or temporary employment, the employer shall notify the retirement board, in writing, of the retirant's subsequent employment."

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 491**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3191) passed.

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

A message from the Senate, by

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

**Com. Sub. for S. B. 375**, Relating to county boards of education policies for open enrollment.

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

On page two, after the word "code", by changing the period to a colon and adding the following proviso: "*Provided*, That nothing in this paragraph shall be construed to allow a county board to give an enrollment preference to a student transferring from a private, parochial, church, or religious school holding an exemption approved pursuant to §18-8-1(k) of this code."

The bill, as amended by the House, and further amended by the Senate, was put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 492**), and there were—yeas 84, nays 15, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Brown, Dean, Doyle, Fleischauer, Hornbuckle, J. Kelly, Lovejoy, Paynter, Pushkin, Rowe, Statler, Thompson, Walker, Young and Zukoff.

Absent and Not Voting: Graves.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 375) passed.

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

A message from the Senate, by  
The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates, with further amendment, and the passage, as amended, of

**Com. Sub. for S. B. 439**, Allowing use or nonuse of safety belt as admissible evidence in civil actions.

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

On page six, section forty-nine-a, subsection (c), subdivision (4), after the word “violated”, by striking out the words “any statute in Chapter 61” and inserting in lieu thereof “§61-5-17(h), §61-5-17(i), or §61-5-17(j)”.

The bill, as amended by the House, and further amended by the Senate, was put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 493**), and there were—yeas 59, nays 40, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Barach, Barrett, Bates, Boggs, Bridges, Brown, Bruce, Dean, Diserio, Doyle, Evans, Fast, Ferrell, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Horst, Howell, Lovejoy, Mazzocchi, McGeehan, Nestor, Paynter, Pethtel, Phillips, Pushkin, Reynolds, Rowe, Skaff, Steele, Thompson, Toney, Walker, G. Ward, Williams, Young and Zukoff.

Absent and Not Voting: Graves.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 439) passed.

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

### **Resolutions Introduced**

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

**H. R. 22** - “Calling for the construction of a licensed Off Highway Vehicle semi-contiguous trail to parallel the Appalachian Hiking Trail on the western side.”

Whereas, The U.S. Department of Commerce's Bureau of Economic Analysis shows that the outdoor recreation economy accounted for 2.2 percent (\$412 billion) of current-dollar GDP in 2016; and

Whereas, In 2017 Backcountry Discovery Routes generated \$17.3 million in new tourism expenditures, with the average traveling party spending \$3,769 per trip; and

Whereas, The construction of a licensed Off Highway Vehicle (OHV) semi-contiguous trail to parallel the Appalachian Hiking Trail on the western side connecting existing OHV trails, and off-road parks where possible, would bring in significant tourism dollars. The proposed trail should enter West Virginia in the southern part of the state and exit in the Potomac Highlands; and

Whereas, The Legislature believes that the OHV trail will generate much needed economic stimulus to the state, create new jobs and increase tax revenue; therefore, be it

*Resolved by the House of Delegates:*

That the construction of a licensed Off Highway Vehicle semi-contiguous trail to parallel the Appalachian Hiking Trail on the western side should be a high priority for State Government; and, be it

*Further Resolved*, That the construction of a licensed Off Highway Vehicle semi-contiguous trail to parallel the Appalachian Hiking Trail on the western side can be supported by all West Virginians; and, be it

*Further Resolved*, That the Clerk of the House forward a copy of this resolution to the Governor and the state legislatures of the states where the Appalachian Trail traverses, Georgia, North Carolina, Tennessee, Virginia, Maryland, Pennsylvania, New Jersey, New York, Massachusetts, Vermont, New Hampshire and Maine with the addition of Alabama which lies to the west of Georgia and the trail.

Delegates Thompson, Griffith, Barach, Young and Pushkin offered the following resolution, which was read by its title and referred to the Committee on the Judiciary then Rules:

**H. R. 23** - "Urging members of the United States Congress to enact federal legislation granting statehood to the people of Washington, D.C."

Whereas, The people living on the land that would eventually be designated as the District of Columbia were provided the right to vote for representation in Congress when the United States Constitution was ratified in 1788; and

Whereas, The passage of the Organic Act of 1801 placed the District of Columbia under the exclusive authority of the United States Congress and abolished residents' right to vote for members of Congress and the President and Vice President of the United States; and

Whereas, Residents of the District of Columbia were granted the right to vote for the President and Vice President through passage of the Twenty-Third Amendment to the United States Constitution in 1961; and

Whereas, As of 2020, the U.S. Census Bureau data estimates that the District of Columbia's population at approximately 712,000 residents is comparable to the populations of Wyoming (582,000), Vermont (623,000), Alaska (731,000), and North Dakota (765,000); and

Whereas, Residents of the District of Columbia share all the responsibilities of United States citizenship, including paying more federal taxes than residents of 22 states, service on federal juries, and defending the United States as members of the United States armed forces in every war since the War for Independence, yet they are denied full representation in Congress; and

Whereas, The residents of the District of Columbia themselves have endorsed statehood for the District of Columbia and passed a District-wide referendum on November 8, 2016, which favored statehood by 6%; and

Whereas, No other democratic nation denies the right of self-government, including participation in its National Legislature, to the residents of its capital; and

Whereas, The residents of the District of Columbia lack full democracy, equality, and citizenship enjoyed by the residents of the 50 states; and

Whereas, The United States Congress repeatedly has interfered with the District of Columbia's limited self-government by enacting laws that affect the District of Columbia's expenditure of its locally raised tax revenue, including barring the usage of locally raised revenue, thus violating the fundamental principle that states and local governments are best suited to enact legislation that represents the will of their citizens; and

Whereas, Although the District of Columbia has passed consecutive balanced budgets since FY1997, it still faces the possibility of being shut down yearly because of Congressional deliberations over the federal budget; and

Whereas, District of Columbia Delegate Eleanor Holmes Norton and Delaware U.S. Senator Tom Carper introduced in the 117th Congress H.R. 51 and S. 51, the Washington, D.C. Admission Act, that provides that the State of Washington, D.C. would have all the rights of citizenship as taxpaying American citizens, including two Senators and at least one House member; and

Whereas, The United Nations Human Rights Committee has called on the United States Congress to address the District of Columbia's lack of political equality, and the Organization of American States has declared the disenfranchisement of the District of Columbia residents a violation of its charter agreement, to which the United States is a signatory; therefore, be it

*Resolved by the House of Delegates:*

That the State of West Virginia supports admitting Washington, D.C. into the Union as a state of the United States of America; and, be it

*Further Resolved,* That the members of the United States Congress are urged to enact federal legislation granting statehood to the people of Washington, D.C.

Delegates Hamrick, B. Ward, Haynes, Ferrell and Clark offered the following resolution, which was read by its title and referred to the Committee on Rules:



**H. C. R. 102** - “Requesting the Joint Committee on Government and Finance study means by which to attract and retain remote workers in the State of West Virginia.”

Whereas, The COVID-19 pandemic has caused many of those in the workforce across the country to shift to remote working, with some jobs moving to permanent remote positions; and

Whereas, The Legislature recognizes the important role that tourism plays in each of our communities and in the state as a whole; and

Whereas, The State of West Virginia has a unique geographic location as the weighted center of population of the eastern United States; and

Whereas, The Legislature sees value in attracting those from across the country who may be considering remote working in a state such as West Virginia; and

Whereas, The Legislature recognizes the beauty and value in our state parks, and over the last year during the COVID-19 crisis, we have had an increase of residents and out of state visitors enjoying our state parks; and

Whereas, It is only natural that those persons who may be visiting or touring the state consider working in West Virginia remotely as their “home” state; and

Whereas, The Legislature notes that expanding our employment base to those remote workers will have fantastic benefits for our economy and our state as a whole; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance study means by which to attract and retain remote workers in the State of West Virginia; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2022, on its findings, conclusions, and recommendations, together with drafts of any legislation or resolutions 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 the legislative appropriations to the Joint Committee on Government and Finance.

### **Special Calendar**

### **Unfinished Business**

**H. C. R. 91**, To study considering methods of retaining native businesses; coming up in regular order, as unfinished business, was reported by the Clerk and adopted.

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

**H. C. R. 98**, For West Virginias Public Employee Insurance Agency (PEIA) Finance Board to examine how they can enhance reimbursement rates to providers; coming up in regular order, as unfinished business, was reported by the Clerk and adopted.

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

**H. C. R. 99**, Requesting the Joint Committee on Government and Finance study childcare in the state of West Virginia; coming up in regular order, as unfinished business, was reported by the Clerk and adopted.

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

**H. C. R. 100**, Requesting study on how Local Health Departments are funded and supported; coming up in regular order, as unfinished business, was reported by the Clerk and adopted.

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

**H. C. R. 101**, Requesting a study of the state's laboratory needs and the utilization of private laboratories; coming up in regular order, as unfinished business, was reported by the Clerk and adopted.

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

**H. C. R. 104**, Providing for the expiration of certain emergency orders issued during the coronavirus pandemic declared on March 16, 2020 in West Virginia; coming up in regular order, as unfinished business, was reported by the Clerk.

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

The yeas and nays having been ordered, they were taken (**Roll No. 494**), and there were—yeas 76, nays 24, absent and not voting none, with the nays being as follows:

Nays: Barach, Boggs, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Higginbotham, Hornbuckle, Lovejoy, L. Pack, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young, Zukoff and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the Speaker declared the resolution (H. C. R. 104) adopted.

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

### Third Reading

**S. J. R. 4**, Incorporation of Churches or Religious Denominations Amendment; on third reading, coming up in regular order, was read a third time.

On the adoption of the resolution, the yeas and nays were taken (**Roll No. 495**), and there were—yeas 97, nays 2, absent and not voting 1, with the yeas, nays, and absent and not voting being as follows:

Yeas: Anderson, Barach, Barnhart, Barrett, Bates, Boggs, Booth, Bridges, Brown, Bruce, Burkhammer, Capito, Clark, Conley, Cooper, Criss, Dean, Diserio, Doyle, Ellington, Espinosa, Evans, Fast, Ferrell, Fleischauer, Fluharty, Forsht, Foster, Garcia, Gearheart, Graves, Griffith, Hamrick, Hanna, Hansen, Hardy, Haynes, Higginbotham, Holstein, Hornbuckle, Horst, Hott, Householder, Howell, D. Jeffries, Jennings, Keaton, D. Kelly, J. Kelly, Kessinger, Kimble, Kimes, Longanacre, Lovejoy, Mallow, Mandt, Martin, Maynard, Mazzocchi, McGeehan, Miller, Nestor, J. Pack, L. Pack, Paynter, Pethtel, Phillips, Pinson, Pritt, Pushkin, Queen, Reed, Reynolds, Riley, Rohrbach, Rowan, Rowe, Skaff, Smith, Statler, Steele, Storch, Summers, Sypolt, Toney, Tully, Walker, Wamsley, B. Ward, G. Ward, Westfall, Williams, Worrell, Young, Zatezalo, Zukoff and Hanshaw (Mr. Speaker).

Nays: J. Jeffries and Thompson.

Absent and Not Voting: Linville.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the resolution (S. J. R. 4) adopted, as follows:

**S. J. R. 4** - "Proposing an amendment to the Constitution of the State of West Virginia, amending section 47, article VI thereof, relating to authorizing the incorporation of religious denominations; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment."

*Resolved by the Legislature of West Virginia, two thirds of the members elected to each house agreeing thereto:*

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at a special election to be held on July 24, 2021, which proposed amendment is that section 47, article VI thereof, be amended to read as follows:

## **ARTICLE VI. THE LEGISLATURE.**

### **§47. Incorporation of religious denominations prohibited institutions permitted.**

~~No charter of incorporation shall be granted to any church or religious denomination.~~ Provisions may be made by general laws for securing the title to church property, and for the sale and transfer thereof, so that it shall be held, used, or transferred for the purposes of such church or religious ~~denomination~~ institution. Provision may also be made by general law for the incorporation of churches or religious institutions.

*Resolved further,* That in accordance with the provisions of article eleven, chapter three of the Code of West Virginia, 1931, as amended, such amendment is hereby numbered "Amendment No. 1" and designated as the "Incorporation of Churches or Religious Institutions Amendment" and the purpose of the proposed amendment is summarized as follows: "To authorize the incorporation of churches or religious institutions."

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

**Com. Sub. for S. B. 387**, Relating to drug screening of applicants for cash assistance; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 496**), and there were—yeas 80, nays 20, absent and not voting none, with the nays being as follows:

Nays: Barach, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, L. Pack, Pushkin, Skaff, Thompson, Walker, Williams, Worrell, Young and Zukoff.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 387) passed.

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

**Com. Sub. for S. B. 392**, Creating penalty for impersonating law-enforcement officer or official; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 497**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Young.

Absent and Not Voting: Maynard.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 392) passed.

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

**Com. Sub. for S. B. 483**, Allowing oaths be taken before any person authorized to administer oaths; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 498**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Reed.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 483) passed.

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

**S. B. 496**, Relating to punishment for second or third degree felony; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 499**), and there were—yeas 85, nays 14, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Barach, Diserio, Doyle, Fleischauer, Fluharty, Garcia, Hornbuckle, McGeehan, Pritt, Pushkin, Thompson, Walker, Williams and Young.

Absent and Not Voting: Longanacre.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 496) passed.

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

**Com. Sub. for S. B. 634**, Requiring training of certain officers for persons with autism spectrum disorder; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 500**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Kimes.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 634) passed.

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

**Com. Sub. for S. B. 668**, Creating Psychology Interjurisdictional Compact; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 501**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Kimes.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 668) passed.

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

Delegate Longanacre asked unanimous consent to reopen debate on Com. Sub. for S. B. 439, which consent was not granted, objection being heard.

### Second Reading

**Com. Sub. for S. B. 335**, Relating to WV Invests Grant Program for students at accredited community and technical college; on second reading, coming up in regular order, was read a second time. The bill was then ordered to third reading.

**Com. Sub. for S. B. 419**, Redefining “firearm” to match federal code; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page 1, immediately following the enacting section, by striking out the remainder of the bill and inserting in lieu thereof the following:

*Be it enacted by the Legislature of West Virginia:*

**“ARTICLE 7. DANGEROUS WEAPONS.**

**§61-7-2. Definitions.**

As used in this article, unless the context otherwise requires:

(1) ‘Antique firearm’ means:

(A) Any firearm, including, but not limited to, a firearm with a match lock, flintlock, percussion cap, or similar type of ignition system which was manufactured on or before 1898;

(B) Any replica of any firearm described in paragraph (A) of this subdivision if such replica

is not designed or redesigned to use rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; and

(C) Any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading pistol, which is designed to use black powder, or black powder substitute, and which cannot use fixed ammunition. For purposes of this subdivision, the term ‘antique firearm’ shall not include any weapon which includes a firearm frame or receiver, any firearm which is converted into a muzzle-loading weapon, or any muzzle-loading weapon which can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.

(2) ‘Blackjack’ means a short bludgeon consisting, at the striking end, of an encased piece of lead or some other heavy substance and, at the handle end, a strap or springy shaft which increases the force of impact when a person or object is struck. The term ‘blackjack’ includes, but is not limited to, a billy, billy club, sand club, sandbag, or slapjack.

(3) ‘Concealed’ means hidden from ordinary observation so as to prevent disclosure or recognition. A deadly weapon is concealed when it is carried on or about the person in such a manner that another person in the ordinary course of events would not be placed on notice that the deadly weapon was being carried. For purposes of concealed handgun licensees, a licensee is considered to be carrying on or about his or her person while in or on a motor vehicle if the firearm is located in a storage area in or on the motor vehicle.

(4) ‘Controlled substance’ has the same meaning as is ascribed to that term in §60A-1-101(e) of this code.

(5) ‘Deadly weapon’ means an instrument which is designed to be used to produce serious bodily injury or death or is readily adaptable to such use. The term ‘deadly weapon’ includes, but is not limited to, the instruments defined in subdivisions (1) through (8), inclusive, of this section

or other deadly weapons of like kind or character which may be easily concealed on or about the person. For the purposes of §18A-5-1a of this code and §61-7-11a of this code, in addition to the definition of 'knife' set forth in subdivision (9) of this subsection, the term 'deadly weapon' also includes any instrument included within the definition of 'knife' with a blade of three and one-half inches or less in length. Additionally, for the purposes of §18A-5-1a of this code and §61-7-11a of this code, the term 'deadly weapon' includes explosive, chemical, biological, and radiological materials. Notwithstanding any other provision of this section, the term 'deadly weapon' does not include any item or material owned by the school or county board, intended for curricular use, and used by the student at the time of the alleged offense solely for curricular purposes. The term 'deadly weapon' does not include pepper spray as defined in ~~subdivision (9)~~ subdivision (12) of this subsection when used by any person over the age of 16 solely for self-defense purposes.

(6) 'Drug' has the same meaning as is ascribed to that term in §60A-1-101(m) of this code.

(7) 'Firearm' means any weapon which will expel a projectile by action of an explosion: Provided, That it does not mean an antique firearm as defined in subdivision (1) of this subsection; except for the purposes of §48-27-502 of this code.

(8) 'Gravity knife' means any knife that has a blade released from the handle by the force of gravity or the application of centrifugal force and when ~~so~~ released is locked in place by means of a button, spring, lever, or other locking or catching device.

(9) 'Knife' means an instrument, intended to be used or readily adaptable to be used as a weapon, consisting of a sharp-edged or sharp-pointed blade, usually made of steel, attached to a handle which is capable of inflicting cutting, stabbing, or tearing wounds. The term 'knife' includes, but is not limited to, any dagger, dirk, poniard, or stiletto, with a blade over three and one-half inches in length, any switchblade knife or gravity knife, and any other instrument capable of inflicting cutting, stabbing, or tearing wounds. A pocket knife with a blade three and one-half inches or less in length, a hunting or fishing knife carried for hunting, fishing, sports, or other recreational uses, or a knife designed for use as a tool or household implement is not included within the term 'knife' as defined in this subdivision unless the knife is knowingly used or intended to be used to produce serious bodily injury or death.

(10) 'Metallic or false knuckles' means a set of finger rings attached to a transverse piece to be worn over the front of the hand for use as a weapon and constructed in such a manner that, when striking another person with the fist or closed hand, considerable physical damage may be inflicted upon the person who was struck. The terms 'metallic or false knuckles' includes any such instrument without reference to the metal or other substance or substances from which the metallic or false knuckles are made.

(11) 'Nunchaku' means a flailing instrument consisting of two or more rigid parts, connected by a chain, cable, rope, or other nonrigid, flexible, or springy material, constructed in ~~such~~ a manner ~~as to allow~~ that allows the rigid parts to swing freely so that one rigid part may be used as a handle and the other rigid part may be used as the striking end.

(12) 'Pepper spray' means a temporarily disabling aerosol that is composed partly of capsicum oleoresin and causes irritation, blinding of the eyes, and inflammation of the nose, throat, and skin that is intended for self-defense use.

(13) 'Pistol' means a short firearm having a chamber which is integral with the barrel, designed to be aimed and fired by the use of a single hand.

(14) 'Revolver' means a short firearm having a cylinder of several chambers that are brought successively into line with the barrel to be discharged, designed to be aimed and fired by the use of a single hand.

(15) 'Switchblade knife' means any knife having a spring-operated blade which opens automatically upon pressure being applied to a button, catch, or other releasing device in its handle."

The bill was then ordered to third reading.

**Com. Sub. for S. B. 458**, Relating to possession of firearms by individuals during state of emergency; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill as follows:

On page 1, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**"ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT.**

**§15-5-19a. Possession of firearms during a declared state of emergency**

~~(a) No person acting on behalf or under the authority of the state or a political subdivision of the state may do any of the following during any federal or state declared state of emergency~~

(a) During a federal or state declared state of emergency, no state agency, county, or municipality, or any elected or appointed official or employee thereof, may:

(1) Prohibit or restrict the otherwise lawful possession, use, carrying, transfer, transportation, storage, sale, or display, or other lawful use of a firearm or ammunition, any firearm or ammunition component or accessory, ammunition reloading equipment and supplies, or personal weapons other than firearms;

(2) Seize, confiscate, or authorize the seizure or confiscation of any otherwise lawfully possessed firearm or ammunition, any firearm or ammunition component or accessory, ammunition reloading equipment and supplies, or otherwise lawful personal weapons other than firearms unless:

(A) The person acting on behalf of or under the authority of the state, or political subdivision a county, or municipality is:

(i) Defending himself or herself or another from an assault; or

(ii) Arresting a person in actual possession of a firearm or ammunition for a violation of law;  
or

(B) The firearm or ammunition is being seized or confiscated as evidence of a crime;

(3) Require registration of any firearm or ammunition, any firearm or ammunition component or accessory, ammunition reloading equipment and supplies, or otherwise lawful personal weapons other than firearms;



(4) Suspend or revoke a license to carry a concealed deadly weapon or provisional license to carry a concealed deadly weapon issued pursuant to §61-7-1 et seq. of this code except as expressly authorized in that article;

(5) Willfully refuse to accept an application for a license to carry a concealed deadly weapon or provisional license to carry a concealed deadly weapon, provided the application has been properly completed in accordance with §61-7-1 et seq. of this code;

(6) Close or limit the operating hours of any entity engaged in the lawful selling or servicing of any firearm, including any component or accessory, ammunition, ammunition reloading equipment and supplies, or personal weapons other than firearms, unless the closing or limitation of hours applies generally within the jurisdiction of commerce;

(7) Close or limit the operating hours of any indoor or outdoor shooting range; or

(8) Place restrictions or quantity limitations on any entity regarding the lawful sale or servicing of any firearm or ammunition, any firearm or ammunition component or accessory, ammunition reloading equipment and supplies, or personal weapons other than firearms.

(b) The prohibitions of ~~subsection (a)(1)~~ subdivision (1) of subsection (a) of this section do not prohibit the state or an authorized state or local authority from ordering and enforcing an evacuation or general closure of businesses in the affected area during a declared state of emergency.

(c) Any individual ~~aggrieved~~ adversely affected by a violation of this section may seek relief in an action at law or in equity for redress against any ~~person state agency, county, municipality, or any elected or appointed official or employee of this state, a county, or municipality who that~~ subjects such the individual, or causes such the individual to be subjected, to an action prohibited by this section.

(d) In addition to any other remedy at law or in equity, an individual ~~aggrieved~~ adversely affected by the seizure or confiscation of ~~a firearm or ammunition~~ any firearm or ammunition component or accessory, ammunition reloading equipment and supplies, or otherwise lawful personal weapons other than firearms in violation of this section may bring an action for the return of ~~such firearm or ammunition~~ the seized or confiscated property in the circuit court of the county in which that individual resides or in which ~~such firearm or ammunition~~ the seized or confiscated property is located.

~~(e) In any action or proceeding to enforce this section, the court shall award a prevailing plaintiff costs and reasonable attorney fees~~ A prevailing plaintiff in an action under this section is entitled to recover the following:

(1) Actual damages, including consequential damages;

(2) Court costs and fees; and

(3) Reasonable attorney's fees."

The bill was then ordered to third reading.

**S. B. 486**, Relating to powers and duties of Chief Technology Officer; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**S. B. 488**, Relating to distributing hotel occupancy tax to convention and visitor's bureaus; on second reading, coming up in regular order, was read a second time.

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

**Com. Sub. for S. B. 492**, Establishing program for bonding to reclaim abandoned wind and solar generation facilities; on second reading, coming up in regular order, was, on motion of Delegate Summers, postponed one day.

**Com. Sub. for S. B. 502**, Providing lifetime hunting, fishing, and trapping license to residents, adopted, and foster children under 15; on second reading, coming up in regular order, was, on motion of Delegate Summers, postponed one day.

**S. B. 521**, Extending licensure renewal term of certain private investigators, security guards, and associated firms; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**S. B. 529**, Correcting improper citation relating to DMV registration; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 534**, Permitting Economic Development Authority to make working capital loans from revolving loan fund capitalized with federal grant funds; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Finance, was reported by the Clerk on page 1, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

**"§12-6C-11. Legislative findings; loans for industrial development; availability of funds and interest rates.**

(a) The Legislature finds and declares that the citizens of the state benefit from the creation of jobs and businesses within the state; that business and industrial development loan programs provide for economic growth and stimulation within the state; that loans from pools established in the Consolidated Fund will assist in providing the needed capital to assist business and industrial development; and that time constraints relating to business and industrial development projects prohibit duplicative review by both the Board and West Virginia Economic Development Authority Board.

(b) ~~The Subject to a liquidity determination, the West Virginia Board of Treasury Investments shall make a revolving loan available, subject to a liquidity determination, in the form of a revolving loan, up to \$175 million from the Consolidated Fund to loan the West Virginia Economic Development Authority in an amount of up to \$200 million. The revolving loan shall be used for business or industrial development projects authorized by §31-15-7 of this code and to consolidate existing loans authorized to be made to the West Virginia Economic Development Authority pursuant to this section and pursuant to §31-15-2 §31-15-20 of this code which authorizes a \$175 \$150 million revolving loan and §31-18B-1 et seq. of this code which authorizes~~

a \$50 million investment pool: *Provided*, That the West Virginia Economic Development Authority may not loan more than \$15 million for any one business or industrial development project. The revolving loan authorized by this subsection shall be secured by one note at a variable interest rate equal to ~~the 12-month average of the board's yield on its West Virginia Money Market pool. The rate shall be set on July 1 and adjusted annually on the same date.~~ 75% of the West Virginia Economic Development Authority's weighted average interest rate for outstanding loans in the Business and Industrial Development Loan Program authorized by §31-15-7 of this code. The rate may not be lower than 1.75% and must be reset on July 1 of each year. ~~The maximum annual adjustment may not exceed one percent.~~ Monthly payments made by the West Virginia Economic Development Authority to the board shall be calculated on a 120-month amortization. The revolving loan is secured by a security interest that pledges and assigns the cash proceeds of collateral from all loans under this revolving loan pool. The West Virginia Economic Development Authority may also pledge as collateral certain revenue streams from other revolving loan pools which source of funds does not originate from federal sources or from the board.

(c) The outstanding principal balance of the revolving loan from the board to the West Virginia Economic Development Authority may at no time exceed one hundred three percent of the aggregate outstanding principal balance of the business and industrial loans from the West Virginia Economic Development Authority to economic development projects funded from this revolving loan pool. The independent audit of the West Virginia Economic Development Authority financial records shall annually certify that one hundred three percent requirement.

(d) The interest rates and maturity dates on the loans made by the West Virginia Economic Development Authority for business and industrial development projects authorized by §31-15-7 of this code shall be at competitive rates and maturities as determined by the West Virginia Economic Development Authority Board.

(e) Any and all outstanding loans made by the West Virginia Board of Treasury Investments, or any predecessor entity, to the West Virginia Economic Development Authority are refundable by proceeds of the revolving loan contained in this section and the board shall make no loans to the West Virginia Economic Development Authority pursuant to §31-15-20 of this code or §31-18B-1 *et seq.* of this code.

(f) The directors of the West Virginia Board of Treasury Investments shall bear no fiduciary responsibility with regard to any of the loans contemplated in this section.

(g) *Inspection of records.* – Within 30 days of receiving a written request from the board, the authority shall provide the board with the opportunity to inspect and copy any records in the custody of the authority related to any loan issued by the board to the authority or any loan from the authority to a third party funded by a loan issued by the board. Records to be made available pursuant to this subsection include, but are not limited to, accounting records, loan applications, loan agreements, board minutes, audit reports, and transaction records. Records of the authority held from time to time by the board pursuant to this subsection that are exempt from disclosure pursuant to the provisions of §31-15-22 of this code or §29B-1-1 *et seq.* of this code shall remain so while held by the board.

**§31-15-5. West Virginia economic development authority; composition; appointment; terms; delegation of authority by chairman; voting; compensation and expenses.**

(a) The West Virginia economic development authority is continued as a body corporate and politic, constituting a public corporation and government instrumentality.

(b) The authority shall be composed of a board of members consisting of a chairman, who shall be the Governor, or his or her designated representative, the State Treasurer, or his or her designated representative, the Tax Commissioner and seven members who shall be appointed by the Governor, by and with the advice and consent of the Senate, and who shall be broadly representative of the geographic regions of the state. One member of the House of Delegates to be appointed by the Speaker and one member of the Senate to be appointed by the President shall serve on the board in an advisory capacity as ex officio, nonvoting members. The board shall direct the exercise of all the powers given to the authority in this article. The Governor shall also be the chief executive officer of the authority, and shall designate the treasurer and the secretary of the board.

(c) As appointments expire, each subsequent appointment shall be for a full four-year term. Any 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 member is eligible for reappointment.

(d) The Governor may, by written notice filed with the secretary of the authority, from time to time, delegate to any subordinate the power to represent him or her at any meeting of the authority. In that case, the subordinate has the same power and privileges as the Governor and may vote on any question.

(e) Members of the authority 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.

(f) A majority of the members constitutes a quorum for the purpose of conducting business. Except in the case of a loan or insurance application or unless the bylaws require a larger number, action may be taken by majority vote of the members present. Approval or rejection of a loan or insurance application shall be made by majority vote of the full membership of the board.

(g) The board shall manage the property and business of the authority and may prescribe, amend, adopt and repeal bylaws and rules and regulations governing the manner in which the business of the authority is conducted.

(h) The board shall, without regard to the provisions of civil service laws applicable to officers and employees of the State of West Virginia, appoint any necessary managers, assistant managers, officers, employees, attorneys and agents for the transaction of its business, fix their compensation, define their duties and provide a system of organization to fix responsibility and promote efficiency. Any appointee of the board may be removed at the discretion of the board. The authority may reimburse any state spending unit for any special expense actually incurred in providing any service or the use of any facility to the authority.

(i) The board may delegate to the Executive Director the authority to make and execute all contracts and other agreements or instruments necessary ~~for the exercise of its powers or to carry out its corporate purpose~~ to carry out the duties and powers of the authority, as provided in this article: *Provided*, That nothing in this article authorizes the authority to enter into contracts or agreements with financial institutions, as that term is defined in §31A-1-2 of this code, for banking goods or services without approval of the State Treasurer, in accordance with §12-1-1 et seq. of this code.

(j) In cases of any vacancy in the office of a voting member, the vacancy shall be filled by the Governor. Any member appointed to fill a vacancy in the board occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of the term.

(k) The Governor may remove a member in the case of incompetence, neglect of duty, gross immorality or malfeasance in office, and may declare the member's office vacant and appoint a person for the vacancy as provided in other cases of vacancy.

(l) The secretary of the board shall keep a record of the proceedings of the board and perform any other duties determined appropriate by the board. The treasurer shall be custodian of all funds of the authority and shall be bonded in the amount designated by other members of the board.

### **§31-15-6. General powers of authority.**

The authority, as a public corporation and governmental instrumentality exercising public powers of the state, shall have and may exercise all powers necessary or appropriate to carry out the purposes of this article, including the power:

(a) To cooperate with industrial development agencies in efforts to promote the expansion of industrial, commercial, manufacturing and tourist activity in this state.

(b) To determine, upon the proper application of an industrial development agency or an enterprise, whether the declared public purposes of this article have been or will be accomplished by the establishment by such agency or enterprise of a project in this state.

(c) To conduct examinations and investigations and to hear testimony and take proof, under oath or affirmation, at public or private hearings, on any matter relevant to this article and necessary for information on the establishment of any project.

(d) To issue subpoenas requiring the attendance of witnesses and the production of books and papers relevant to any hearing before such authority or one or more members appointed by it to conduct any hearing.

(e) To apply to the circuit court having venue of such offense to have punished for contempt any witness who refuses to obey a subpoena, to be sworn or affirmed or to testify or who commits any contempt after being summoned to appear.

(f) To authorize any member of the authority to conduct hearings, administer oaths, take affidavits and issue subpoenas.

(g) To financially assist projects by insuring obligations in the manner provided in this article through the use of the insurance fund.

(h) To finance any projects by making loans to industrial development agencies or enterprises upon such terms as the authority shall deem appropriate: *Provided*, That nothing contained in this subsection (h) or under any other provision in this article shall be construed as permitting the authority to make loans for working capital: *Provided, however*, That nothing contained in this article shall be construed as prohibiting the authority from insuring loans for working capital made to industrial development agencies or to enterprises by financial institutions: *Provided further*,

That nothing contained in this subsection or any other provision of this article shall be construed as permitting the authority to refinance existing debt except when such refinancing will result in the expansion of the enterprise whose debt is to be refinanced or in the creation of new jobs; And provided further, That nothing contained in this subsection or any other provision of this article shall be construed as prohibiting the authority from making working capital loans from a revolving loan fund capitalized with federal grant funds including, but not limited to, federal grant funds received from the United States Economic Development Administration.

(i) To issue revenue bonds or notes to fulfill the purposes of this article, and to secure the payment of such bonds or notes, all as hereinafter provided.

(j) To issue and deliver revenue bonds or notes in exchange for a project.

(k) To borrow money for its purposes and issue bonds or notes for the money and provide for the rights of the holders of the bonds or notes or other negotiable instruments, to secure the bonds or notes by a deed of trust on, or an assignment or pledge of, any or all of its property and property of the project, including any part of the security for loans, and the authority may issue and sell its bonds and notes, by public or private sale, in such principal amounts as it shall deem necessary to provide funds for any purposes under this article, including the making of loans for the purposes set forth in this article.

(l) To maintain such sinking funds and reserves as the board shall determine appropriate for the purposes of meeting future monetary obligations and needs of the authority.

(m) To sue and be sued, implead and be impleaded, and complain and defend in any court.

(n) To adopt, use and alter at will a corporate seal.

(o) To make, amend, repeal and adopt both bylaws and rules and regulations for the management and regulation of its affairs.

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

(q) ~~To make contracts of every kind and nature and to execute all instruments necessary or convenient for carrying on its business~~ to carry out the powers and duties of the authority, as provided in this article; Provided, That the provisions of §5A-3-3 of this code do not apply to contracts made pursuant to this subdivision; Provided, however, That nothing in this article authorizes the authority to enter into contracts or agreements with financial institutions, as that term is defined in §31A-1-2 of this code, for banking goods and services without approval of the State Treasurer, in accordance with §12-1-1 et seq. of this code.

(r) To accept grants and loans from and enter into contracts and other transactions with any federal agency.

(s) To take title by conveyance or foreclosure to any project where acquisition is necessary to protect any loan previously made by the authority and to sell, by public or private sale, transfer, lease or convey such project to any enterprise.

(t) To participate in any reorganization proceeding pending pursuant to the United States Code (being the act of Congress establishing a uniform system of bankruptcy throughout the United

States, as amended) or in any receivership proceeding in a state or federal court for the reorganization or liquidation of an enterprise. The authority may file its claim against any such enterprise in any of the foregoing proceedings, vote upon any questions pending therein which requires the approval of the creditors participating in any reorganization proceeding or receivership, exchange any evidence of such indebtedness for any property, security or evidence of indebtedness offered as a part of the reorganization of such enterprise or of any other entity formed to acquire the assets thereof and may compromise or reduce the amount of any indebtedness owing to it as a part of any such reorganization.

(u) To acquire, construct, maintain, improve, repair, replace and operate projects within this state, as well as streets, roads, alleys, sidewalks, crosswalks and other means of ingress and egress to and from projects located within this state.

(v) To acquire, construct, maintain, improve, repair and replace and operate pipelines, electric transmission lines, waterlines, sewer lines, electric power substations, waterworks systems, sewage treatment and disposal facilities and any combinations thereof for the use and benefit of any enterprise located within this state.

(w) To acquire watersheds, water and riparian rights, rights-of-way, easements, licenses and any and all other property, property rights and appurtenances for the use and benefit of any enterprise located within this state.

(x) To acquire, by purchase, lease, donation or eminent domain, any real or personal property, or any right or interest therein, as may be necessary or convenient to carry out the purposes of the authority. Title to all property, property rights and interests acquired by the authority shall be taken in the name of the authority.

(y) To issue renewal notes, or security interests, to issue bonds to pay notes or security interests and, whenever it deems refunding expedient, to refund any bonds or notes by the issuance of new bonds or notes, whether the bonds or notes to be refunded have or have not matured and whether or not the authority originally issued the bonds or notes to be refunded.

(z) To apply the proceeds from the sale of renewal notes, security interests or refunding bonds or notes to the purchase, redemption or payment of the notes, security interests or bonds or notes to be refunded.

(aa) To accept gifts or grants of property, funds, security interests, money, materials, labor, supplies or services from the United States of America or from any governmental unit or any person, firm or corporation, and to carry out the terms or provisions of, or make agreements with respect to, or pledge, any gifts or grants, and to do any and all things necessary, useful, desirable or convenient in connection with the procuring, acceptance or disposition of gifts or grants.

(bb) To the extent permitted under its contracts with the holders of bonds, security interests or 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 bond, security interests, note or contract or agreement of any kind to which the authority is a party.

(cc) To sell loans, security interests or other obligations in the loan portfolio of the authority. Such security interests shall be evidenced by instruments issued by the authority. Proceeds from the sale of loans, security interests, or other obligations may be used in the same manner and for the same purposes as bond and note revenues.

(dd) To procure insurance against any losses in connection with its property, operations or assets in such amounts and from such insurers as the authority deems desirable.

(ee) To sell, license, lease, mortgage, assign, pledge or donate its property, both real and personal, or any right or interest therein to another or authorize the possession, occupancy or use of such property or any right or interest therein by another, in such manner and upon such terms as it deems appropriate.

(ff) To participate with the state and federal agencies in efforts to promote the expansion of commercial and industrial development in this state.

(gg) To finance, organize, conduct, sponsor, participate and assist in the conduct of special institutes, conferences, demonstrations and studies relating to the stimulation and formation of business, industry and trade endeavors.

(hh) To conduct, finance and participate in technological, business, financial and other studies related to business and economic development.

(ii) To conduct, sponsor, finance, participate and assist in the preparation of business plans, financing plans and other proposals of new or established businesses suitable for support by the authority.

(jj) To prepare, publish and distribute, with or without charge as the authority may determine, such technical studies, reports, bulletins and other materials as it deems appropriate, subject only to the maintenance and respect for confidentiality of client proprietary information.

(kk) To exercise such other and additional powers as may be necessary or appropriate for the exercise of the powers herein conferred.

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

(mm) To contract for the provision of legal services by private counsel, and notwithstanding the provisions of ~~article three, chapter five~~ §5-3-1 et seq. of this code, such counsel may, but is not limited to, represent the authority in court, negotiate contracts and other agreements on behalf of the authority, render advice to the authority on any matter relating thereto, prepare contracts and other agreements, and provide such other legal services as may be requested by the authority.

(nn) To develop, maintain, operate and apply for the establishment of foreign trade zones pursuant to and in accordance with all applicable provisions of federal law.

(oo) To exercise the powers and responsibilities previously vested in the state building commission by ~~section eleven a, article six, chapter five~~ §5-6-11a of this code, including, but not limited to, the authority to refund bonds issued in accordance with that section.”

On motion of Delegate Householder, the committee amendment was amended, on page 2, section 11, line 20, by striking out “75%” and inserting in lieu thereof, “50%”.

And,



On page 2, section 11, line 23, by striking out "1.75%" and inserting in lieu thereof, "1.50%".

The amendment recommended by the Committee on Finance was then adopted.

The bill was ordered to third reading.

**Com. Sub. for S. B. 610**, Providing tuition and fee waivers at state higher education institutions for volunteers who have completed service in AmeriCorps programs in WV; on second reading, coming up in regular order, was, read a second time.

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

**"ARTICLE 10. FEES AND OTHER MONEY COLLECTED AT STATE INSTITUTIONS OF HIGHER EDUCATION.**

**§18B-10-7d. Tuition waivers for national service volunteers serving in West Virginia.**

(a) Prior to the 2021 fall semester or term, each state institution of higher education's governing board shall promulgate a rule regarding the award of tuition and fee waivers for undergraduate and graduate courses to any student who has completed service in an AmeriCorps State, National, VISTA, or Senior Corps program in West Virginia. The rule shall include at least the following criteria:

(1) To qualify for a tuition and fee waiver, the student shall have:

(A) Applied to and been accepted to the institution;

(B) Filed the Free Application for Federal Student Aid and have accepted all offers of state and federal financial assistance for which he or she is eligible: *Provided*, That the student is not required to accept offers of student loan or work study assistance;

(C) Accepted the Segal AmeriCorps Education Award; and

(D) Successfully completed his or her term of service in West Virginia and provided a Certification of Service Letter to the institution consistent with the AmeriCorps program and with the regulations of the Corporation for National and Community Service;

(2) Any award of a tuition and fee waiver shall be determined as follows:

(A) The student shall be awarded a tuition and fee waiver for one semester if the student successfully completed a term of service consisting of at least 600 hours of service or multiple terms of service that in the aggregate consist of at least 600 hours of service.

(B) The student shall be awarded a tuition and fee waiver for two semesters if the student successfully completed a term of service consisting of at least 1,200 hours of service or multiple terms of service that in the aggregate consist of at least 1,200 hours.

(C) The hours of service used to qualify for an award may not be used to qualify for another award;

(D) A student may successfully complete additional terms of service while enrolled at an institution or between semesters and provide the documentation specified in paragraph (D), subdivision (1) of this subsection to the institution for waivers of tuition and fees in accordance with this section and board of governors rule;

(E) The total number of tuition and fee waivers that may be granted to a student pursuant to this section is limited to eight semesters or terms of enrollment at the undergraduate or graduate levels combined;

(F) The nominal value of a tuition and fee waiver is the remaining cost of tuition and fees after the state and federal financial assistance accepted by the student in accordance with subdivision (1) of this subsection has been applied: *Provided*, That if the subsequent application of the student's Segal AmeriCorps Education Award causes the total of the student's financial assistance, waivers, and grants to exceed the student's cost of attendance, the nominal value of the tuition and fee waiver may be further reduced to reach the cost of attendance; and

(G) The award of a tuition and fee waiver is contingent upon the student meeting the academic progress standards established by the institution.

(3) The governing board's rule may establish any limitations on the provisions of this section as it considers proper.

(b) The award of tuition and fee waivers granted pursuant to this section is in addition to the tuition and fee waivers otherwise permitted in this article.

(c) The commission and the council may propose rules for legislative approval, pursuant to the provisions of §29A-3A-1 *et seq.* of this code, if necessary, to provide for uniformity in the administration and tracking of awards made pursuant to this section."

On motion of Delegate Summers the bill was postponed one day.

**Com. Sub. for S. B. 613**, Adding classification and base salaries of certain civilian employees of State Police Forensic Laboratory; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 636**, Requiring certain history and civics courses be taught in schools; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Education, was reported by the Clerk and adopted, amending the bill on page 2, section §18-2-9, line 13, following the words "Thomas Jefferson", by inserting a comma and the following: "and the treatment and contributions of historic minorities, including but not limited to African Americans, Native Americans and women."

And,

On page 5, section §18-2-9, following line 106, by inserting a new subsection (g) to read as follows:

"(g) Beginning with the 2021 - 2022 school year, each public high school student shall complete a one credit course of study in personal finance as a requirement for high school graduation in place of existing economics coursework requirements. This coursework must

include an end-of-course examination. The State Board of Education shall develop the curriculum for this coursework before July 1, 2021.”

The bill was ordered to third reading.

**Com. Sub. for S. B. 655**, Eliminating sunset and legislative audit provisions for certain PSC rules on second reading, coming up in regular order, was, on motion of Delegate Summers, postponed one day.

**Com. Sub. for S. B. 671**, Appointing Director of Office of Emergency Medical Services; on second reading, coming up in regular order, was read a second time.

Delegate Jennings moved to amend the bill on page 1, section 4, line 5, after the word, “have”, by inserting the following: “5 years of experience as a paramedic and is an emergency medical services instructor in West Virginia and”.

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

The yeas and nays having been ordered, they were taken (**Roll No. 502**), and there were—yeas 49, nays 49, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Anderson, Barnhart, Barrett, Bates, Booth, Bridges, Brown, Capito, Clair, Conley, Dean, Diserio, Doyle, Ellington, Espinosa, Evans, Fleischauer, Foster, Hamrick, Haynes, Higginbotham, Holstein, Hornbuckle, Horst, Hott, Householder, Howell, Keaton, D. Kelly, Kessinger, Linville, Lovejoy, Maynard, Mazzocchi, J. Pack, L. Pack, Paynter, Reynolds, Rohrbach, Rowan, Smith, Statler, Steele, Storch, Tully, Walker, Wamsley, Williams and Hanshaw, (Mr. Speaker).

Absent and Not Voting: Riley and Worrell.

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

The bill was ordered to third reading.

**Com. Sub. for S. B. 684**, Adding Curator of Division of Arts, Culture, and History as ex officio voting member to Library Commission; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page 1, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 1. PUBLIC LIBRARIES.**

**§10-1-12. State Library Commission.**

There shall be a state Library Commission, known as the West Virginia Library Commission, which shall consist of the Curator of the West Virginia Department of Arts, Culture and History as

~~an ex officio voting member and five nine~~ members who shall be appointed by the Governor, by and with the advice and consent of the Senate, each for a term of four years. ~~Thereafter, on July 1, 1995, four additional members shall be appointed: Provided, That for the four new members added to the commission in the year 1995, one shall serve an initial term of four years and three shall serve an initial term of two years.~~ No more than three appointed members may reside in the same congressional district. At least four appointed members of the commission shall be women and at least four appointed members shall be men. No member of the commission shall receive compensation for services rendered, nor be engaged or interested in the publishing business.

The members of the commission in office on the date this code takes effect shall, unless sooner removed, continue to serve until their respective terms expire and their successors have been appointed and have qualified. On or before the expiration of the terms for which ~~said~~ the members are appointed, the Governor shall appoint their successors.”

The bill was then ordered to third reading.

**Com. Sub. for S. B. 695**, Providing procedures for decreasing or increasing corporate limits by annexation; on second reading, coming in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk , on page 1, by striking out everything after the enacting clause and inserting in lieu thereof:

#### **“ARTICLE 6. ANNEXATION.**

##### **§8-6-4a. Annexation without election for municipalities in counties that have an adopted countywide zoning ordinance which includes urban growth boundaries.**

(a) This section applies to municipalities in counties that have adopted a countywide zoning ordinance with designated urban growth boundaries and, prior to January 1, 2009, have adopted local impact fees pursuant to the provisions of §7-20-1 *et seq.* of this code that want to annex additional property without an election.

(b) For purposes of this section only:

(1) ‘Contiguous’ means property that is next to, abutting, and having a boundary that is coterminous with the municipality’s designated urban growth boundary. The length of a street, highway, road, or other traffic or utility easement, streams, rivers, or other natural topography are not to be used to determine if a property is contiguous: *Provided*, That the width of a street, highway, road, or other traffic or utility easement, streams, rivers, or other natural topography may be used to determine contiguous boundaries.

(2) ‘Urban growth boundary’ means a site-specific line, delineated on a zoning map or a written description in a zoning ordinance identifying an area around and outside the corporate limits of a municipality within which there is a sufficient supply of developable land within the boundary for at least a prospective 20-year period of municipal growth based on demographic forecasts and the time reasonably required to effectively provide municipal services to the identified area. The urban growth boundary may be called by any name chosen by the county commission, but the word ‘boundary’ shall be used in the name of the boundary. The boundary shall be established by the county commission in agreement with each individual municipality regarding that municipality’s boundary. If the county commission and municipality cannot agree upon the

location or size of the boundary, either party may file for declaratory judgment relief in the circuit court which shall submit the dispute to mediation or arbitration prior to final resolution by the circuit court. Once a county has adopted an urban growth boundary by its designation on an adopted county zoning map, the gross area inside the boundary may not be reduced without written consent of the municipality. The county commission shall review each urban growth boundary at a period not to exceed 10 years or upon request of the individual municipality.

*(c) Procedure for a municipality to annex property within an urban growth boundary. —*

(1) If the proposed property to be annexed by a municipality is entirely within the municipality's designated urban growth boundary, then the municipality may annex without an election the proposed property pursuant to the provisions of §8-6-4 of this code. Agreement with the county commission is not required.

(2) If the proposed property to be annexed by minor boundary adjustment by a municipality is entirely within the municipality's designated urban growth boundary, then the municipality may annex without an election the proposed property pursuant to the provisions of §8-6-4 of this code if the provisions of §8-6-5 of this code are followed, except that agreement with the county commission is not required.

*(d) Procedure for a municipality to annex property within urban growth boundaries of two or more municipalities. —*

If the proposed property to be annexed by a municipality is partially or wholly within another municipality's urban growth boundary, then the municipality may annex without an election the proposed property pursuant to the provisions of §8-6-4 of this code if the two municipalities have executed an intergovernmental agreement regarding the annexation of the subject property. Agreement with the county commission is not required.

*(e) Procedure for a municipality to annex contiguous property outside an urban growth boundary. —*

(1) If the proposed property to be annexed by a municipality is outside the municipality's designated urban growth boundary, then the municipality may annex without an election the proposed property pursuant to the provisions of §8-6-4 of this code, if:

(A) The proposed property to be annexed is contiguous to the municipality, as defined in this section; and

(B) The municipality has the county commission's agreement.

(2) Prior to the agreement of the county commission to the annexation of the proposed property, the county commission shall:

(A) Hold a public hearing;

(B) Place a notice on the subject property, which notice shall be the same as that required for property to be rezoned; and

(C) At least 15 days prior to the public hearing, publish a notice of the date, time, and place of the public hearing as a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code.

(f) *Procedure for a municipality to annex noncontiguous property outside an urban growth boundary.* —

(1) If the proposed property to be annexed by a municipality is entirely outside the municipality's designated urban growth boundary and is not contiguous to the municipality, as defined in this section, then the municipality may annex without an election the proposed property pursuant to the provisions of §8-6-4 of this code if the municipality has the county commission's agreement and, prior to the agreement of the county commission to the annexation of the proposed property, the county commission shall:

(A) Hold a public hearing;

(B) Place a notice on the subject property, which notice shall be the same as that required for property to be rezoned; and

(C) At least 15 days prior to the public hearing, publish a notice of the date, time, and place of the public hearing as a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code.

(2) After the public hearing and on-site notice, if the county commission finds, by a written record, that the proposed annexation is for the good of the county as a whole, then the county commission may agree to the annexation.

(g) Prior to the county commission entering an order for any annexation pursuant to this section, the annexed property shall be surveyed by a licensed professional surveyor and a metes and bounds description of the annexed property must be provided to the county commission of the county in which the property is located.

(h) After a municipality has annexed property pursuant to this section and the property has been surveyed, the county commission shall enter an order. After the order is entered, the corporate limits of the municipality include the annexed property.

#### **§8-6-5. Annexation by minor boundary adjustment.**

(a) ~~In the event~~ If a municipality desires to increase its corporate limits by making a minor boundary adjustment, the governing body of the municipality may apply to the county commission of the county wherein the municipality or the major portion of the territory thereof, including the territory to be annexed, is located for permission to effect annexation by minor boundary adjustment. The municipality shall pay the costs of all proceedings before the commission: Provided, That:

(1) A minor boundary adjustment may not exceed 105 percent of the existing total municipal boundary;

(2) A minor boundary adjustment may not exceed 120 percent of the current area of the municipality; and

(3) A minor boundary adjustment made in this manner is limited to one boundary annexation within a two-year period, regardless of subdivisions (1) and (2) of this subsection.

(b) In addition to any other annexation configuration, a municipality may incorporate by minor boundary adjustment: (i) Territory that consists of a street or highway as defined in §17C-1-35 of this code and one or more freeholders; or (ii) territory that consists of a street or highway as defined in §17C-1-35 of this code which does not include a freeholder, but which is necessary for the provision of emergency services in the territory being annexed.

(c) A county commission may develop a form application for annexation for minor boundary adjustment. An application for annexation by minor boundary adjustment shall include, but not be limited to:

(1) The number of businesses located in and persons residing in the additional territory;

(2) An affidavit of each business located in, each person residing in, and each freeholder of the additional territory stating that he, she, or it has consented to be included in the annexation, in such form as the county commission deems sufficient. ~~In the event~~ If the municipality cannot obtain an affidavit from a business, resident, or freeholder within 90 days after sending the affidavit form and a letter explaining the purpose of the affidavit via certified mail, return receipt requested, to the best available address for the business, resident, or freeholder, such business, resident, or freeholder shall be ~~deemed~~ considered to have consented to the annexation;

(3) An accurate map showing the metes and bounds of the additional territory;

(4) A statement setting forth the municipality's plan for providing the additional territory with all applicable public services such as police and fire protection, solid waste collection, public water and sewer services, and street maintenance services, including to what extent the public services are or will be provided by a private solid waste collection service or a public service district;

(5) A statement of the impact of the annexation on any private solid waste collection service or public service district currently doing business in the territory proposed for annexation in the event the municipality should choose not to utilize the current service providers;

(6) A statement of the impact of the annexation on fire protection and fire insurance rates in the territory proposed for annexation;

(7) A statement of how the proposed annexation will affect the municipality's finances and services; and

(8) A statement that the proposed annexation meets the requirements of this section.

(d) Upon receipt of a complete application for annexation by minor boundary adjustment, the county commission shall determine whether the application meets the threshold requirements for consideration as a minor boundary adjustment including whether the annexation could be efficiently and cost effectively accomplished under §8-6-2 or §8-6-4 of this code. If the county commission determines that the annexation could be cost effectively and efficiently accomplished under §8-6-2 or §8-6-4 of this code, that the application lacks sufficient evidence that all affected parties of the additional territory consent to the annexation, or that the application otherwise fails to meet the threshold requirements for consideration as a minor boundary adjustment, it shall

enter an order denying the application, which order shall include the reasons upon which it is based.

(e) If the application meets the threshold requirements, the county commission shall order publication of a notice of the proposed annexation to the corporate limits and of the date and time set by the commission for a hearing on the proposal. Publication shall be as in the case of an order calling for an election, as set forth in §8-6-2 of this code. A like notice shall be prominently posted at not less than five public places within the area proposed to be annexed.

(f) In making its final decision on an application for annexation by minor boundary adjustment, the county commission shall, at a minimum, consider the following factors:

(1) Whether the territory proposed for annexation is contiguous to the corporate limits of the municipality. For purposes of this section, 'contiguous' means that at the time the application for annexation is submitted, the territory proposed for annexation either abuts directly on the municipal boundary or is separated from the municipal boundary by an unincorporated street or highway, or street or highway right-of-way, a creek or river, or the right-of-way of a railroad or other public service corporation, or lands owned by the state or the federal government;

(2) Whether the proposed annexation is limited solely to a Division of Highways right-of-way or whether the Division of Highways holds title to the property in fee;

(3) Whether affected parties of the territory to be annexed oppose or support the proposed annexation. For purposes of this section, 'affected parties' means freeholders, firms, corporations, and qualified voters in the territory proposed for annexation and in the municipality, and a freeholder whose property abuts a street or highway, as defined in §17C-1-35 of this code, when: (i) The street or highway is being annexed to provide emergency services; or (ii) the annexation includes one or more freeholders at the end of the street or highway proposed for annexation;

(4) Whether the proposed annexation consists of a street or highway as defined in §17C-1-35 of this code and one or more freeholders;

(5) Whether the proposed annexation consists of a street or highway as defined in §17C-1-35 of this code which does not include a freeholder, but which is necessary for the provision of emergency services in the territory being annexed;

(6) Whether another municipality has made application to annex the same or substantially the same territory; and

(7) Whether the proposed annexation is in the best interest of the county as a whole.

(g) If the county commission denies the application for annexation by minor boundary adjustment, the commission may allow the municipality to modify the proposed annexation to meet the commissions objections. The commission must order another public hearing if significant modifications are proposed.

(h) The final order of the commission shall include the reasons for the grant or denial of the application.

(i) The municipality applying for annexation or any affected party may appeal the commission's final order to the circuit court of the county in which the municipality or the major portion thereof,



including the area proposed to be annexed, is located. The county commission may participate in any appeal taken from its order in the same manner and to the same extent as a party to the appeal. The order may be reviewed by the circuit court as an order of a county commission ordering an election may be reviewed under §8-5-16 of this code.

(j) If the final order of the county commission is a denial of the application for annexation, the municipality may appeal as set forth in this section, but the municipality may not present the commission with another application for annexation relating to the same proposed change or any part thereof for a period of two years after issuance of the final order of the commission, unless such application is directed by the circuit court as the result of an appeal.

## **ARTICLE 7. DECREASE OF CORPORATE LIMITS.**

### **PART II. DECREASE OF CORPORATE LIMITS BY ELECTION.**

#### **§8-7-2. Procedure to decrease corporate limits.**

A petition to decrease the corporate limits of a municipality may be filed with the governing body thereof by five percent or more of the freeholders in the territory proposed for elimination, Five percent or more of the freeholders of a municipality desiring to decrease the corporate limits thereof may file their petition in writing with the governing body thereof, setting forth the change proposed in the metes and bounds of the municipality, and asking that a vote be taken upon the proposed change. Such The petition shall be verified and shall be accompanied by an accurate survey map showing the territory which would be eliminated from the corporate limits by the proposed change: *Provided*, That within 90 days after notice of the petition shall have been given by publication of a Class II-0 legal advertisement pursuant to §59-3-1 *et seq.*, of this code, cost to be paid by the petitioners each business and freeholder within the territory proposed for elimination may file a sworn statement objecting to the change to the metes and bounds of the municipality. If a business or freeholder files a timely objection, that property shall remain within the territory or the municipality and shall be removed from the metes and bounds description and survey map submitted to the qualified voters as provided in this section. The governing body, upon bond in penalty prescribed by the governing body with good and sufficient surety being given by petitioners, and conditioned to pay the costs of such election if a majority of the legal votes cast are against the proposed change in boundary, shall thereupon order a vote of the qualified voters of such municipality to be taken upon the proposed change on a date and at a time and place therein to be named in the order, not less than 20 nor more than 30 days from the date thereof. The governing body shall cause the order to be published, at the cost of the municipality, as a Class II-0 legal advertisement in compliance with ~~the provisions of~~ §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the municipality. The first publication ~~must~~ shall be at least 14 days prior to the date upon which the vote is to be taken. The order so published shall contain an accurate description by metes and bounds of the territory which would be eliminated from the corporate limits by the proposed change, and, if practicable, shall also contain a popular description of ~~such~~ the territory.

The election shall be held, superintended, and conducted, and the results thereof ascertained, certified, returned, and canvassed in the same manner and by the same individuals as elections for municipal officers. The ballots, or ballot labels where voting machines are used, shall have written, or printed on them the words:

For Decrease of Corporate Limits

[ ] Against Decrease of Corporate Limits

When an election is held in any municipality in accordance with the provisions of this section, another such election relating to the same proposed change or any part thereof shall not be held for a period of one year.

If a majority of all of the legal votes cast within such municipality are in favor of the proposed change, then the governing body shall proceed as specified in the immediately succeeding section of this article.”

Delegate Espinosa requested to be excused from voting under the provisions of House Rule 49.

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected and directed the Member to vote on the amendment and the bill.

The Committee on Government Organization amendment was then adopted.

The bill was ordered to third reading.

**S. B. 714**, Relating to physician assistant practice act; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Health and Human Resources, was reported by the Clerk and adopted, amending the bill on page 1, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 3E. PHYSICIAN ASSISTANTS PRACTICE ACT.**

**§30-3E-1. Definitions.**

As used in this article:

~~(1) ‘Advance duties’ means medical acts that require additional training beyond the basic education program training required for licensure as a physician assistant.~~

~~(2) ‘Alternate collaborating physician’ means one or more physicians licensed in this state and designated by the collaborating physician to provide collaboration with a physician assistant in accordance with an authorized practice agreement.~~

~~(3) ‘Approved program’ means an educational program for physician assistants approved and accredited by the Accreditation Review Commission on Education for the Physician Assistant or its successor. Prior to 2001, approval and accreditation would have been by either the Committee on Allied Health Education and Accreditation or the Commission on Accreditation Review Commission on Education for the Physician Assistant of Allied Health Education Programs.~~

~~(4) ‘Boards’ means the West Virginia Board of Medicine and the West Virginia Board of Osteopathic Medicine.~~

~~(5) ‘Chronic condition’ means a condition which lasts three months or more, generally cannot be prevented by vaccines, can be controlled but not cured by medication, and does not generally~~

disappear. These conditions include, but are not limited to, arthritis, asthma, cardiovascular disease, cancer, diabetes, epilepsy and seizures, and obesity.

(6) 'Collaborating physician' means a doctor of medicine, osteopathy, or podiatry fully licensed, by the appropriate board in this state, without restriction or limitation, who collaborates with physician assistants.

(7) 'Collaboration' means overseeing the activities of the medical services rendered by a physician assistant. Constant physical presence of the collaborating physician is not required as long as the collaborating physician and physician assistant are, or can be, easily in contact with one another by telecommunication. Collaboration does not require the personal presence of the collaborating physician at the place or places where services are rendered.

(8) 'Endorsement' means a summer camp or volunteer endorsement authorized under this article.

(9) 'Health care facility' means any licensed hospital, nursing home, extended care facility, state health or mental institution, clinic, or physician office.

~~(10) 'Hospital' means a facility licensed pursuant to §16-5B-1 et seq. of this code and any acute-care facility operated by the state government that primarily provides inpatient diagnostic, treatment, or rehabilitative services to injured, disabled, or sick persons under the supervision of physicians and includes psychiatric hospitals.~~

(11) 'License' means a license issued by either of the boards pursuant to the provisions of this article.

(12) 'Licensee' means a person licensed pursuant to the provisions of this article.

(13) 'Physician' 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.

(14) 'Physician assistant' means a person who meets the qualifications set forth in this article and is licensed pursuant to this article to practice medicine ~~under~~ with a collaboration collaborating physician.

~~(15) 'Practice agreement' means a document that is executed between a collaborating physician and a physician assistant pursuant to the provisions of this article, and is filed with and approved by the appropriate licensing board.~~

(16) 'Practice notification' means a written notice to the appropriate licensing board that a physician assistant will practice in collaboration with one or more collaborating physicians ~~in a hospital~~ in the state of West Virginia.

### **§30-3E-2. Powers and duties of the boards.**

In addition to the powers and duties set forth in this code for the boards, the boards shall:

(1) Establish the requirements for licenses and temporary licenses pursuant to this article;

(2) Establish the procedures for submitting, approving, and rejecting applications for licenses and temporary licenses;

(3) Propose rules for legislative approval in accordance with the provisions of ~~article three, chapter twenty nine~~ a §29A-3-1 *et seq.* of this code to implement the provisions of this article;

(4) Compile and publish an annual report that includes a list of currently licensed physician assistants ~~their collaborating physicians~~ and their primary practice locations in the state; and

(5) Take all other actions necessary and proper to effectuate the purposes of this article.

### **§30-3E-3. Rulemaking.**

(a) The boards shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to implement the provisions of this article, including:

(1) The extent to which physician assistants may practice in this state;

(2) The extent to which physician assistants may pronounce death;

(3) Requirements for licenses and temporary licenses;

(4) Requirements for ~~practice agreements~~ and practice notifications;

(5) Requirements for continuing education;

(6) Conduct of a licensee for which discipline may be imposed;

(7) The eligibility and extent to which a physician assistant may prescribe, including: A state formulary classifying those categories of drugs which may not be prescribed by a physician assistant, including, but not limited to, Schedules I and II of the Uniform Controlled Substances Act, antineoplastics, radiopharmaceuticals, and general anesthetics.: Provided, That a physician assistant or an advanced practice registered nurse may prescribe no more than a three-day supply, without refill, of a drug listed in the Uniform Controlled Substances Act as a Schedule II drug. Drugs listed under Schedule III shall be limited to a 30-day supply without refill. In addition to the above referenced provisions and restrictions and pursuant to a ~~practice agreement or~~ practice notification as set forth in this article, the rules shall permit the prescribing of an annual supply of any drug, with the exception of controlled substances, which is prescribed for the treatment of a chronic condition, other than chronic pain management. For the purposes of this section, a chronic condition is a condition which lasts three months or more, generally cannot be prevented by vaccines, can be controlled but not cured by medication, and does not generally disappear. These conditions, with the exception of chronic pain, include, but are not limited to, arthritis, asthma, cardiovascular disease, cancer, diabetes, epilepsy and seizures, and obesity;

(8) ~~The authority a collaborating physician may delegate for prescribing, dispensing, and administering of controlled substances, prescription drugs, or medical devices if the practice agreement includes:~~

(A) ~~A notice of intent to delegate prescribing of controlled substances, prescription drugs, or medical devices;~~

~~(B) An attestation that all prescribing activities of the physician assistant shall comply with applicable federal and state law governing the practice of physician assistants;~~

~~(C) An attestation that all medical charts or records shall contain a notation of any prescriptions written by a physician assistant;~~

~~(D) An attestation that all prescriptions shall include the physician assistant's name and the collaborating physician name, business address, and business telephone number legibly written or printed; and~~

~~(E) An attestation that the physician assistant has successfully completed each of the requirements established by the appropriate board to be eligible to prescribe pursuant to a practice agreement accompanied by the production of any required documentation establishing eligibility;~~

~~(9)~~ (8) A fee schedule; and

~~(10)~~ (9) Any other rules necessary to effectuate the provisions of this article.

(b) The boards may propose emergency rules pursuant to §29A-3-1 *et seq.* of this code to ensure conformity with this article.

#### **§30-3E-4. License to practice as a physician assistant.**

(a) A person seeking licensure as a physician assistant shall apply to the Board of Medicine or to the Board of Osteopathic Medicine. The appropriate board shall issue a license to practice as a physician assistant with the collaboration of that board's licensed physicians or podiatrists.

(b) A license may be granted to a person who:

(1) Files a complete application;

(2) Pays the applicable fees;

(3) Demonstrates to the board's satisfaction that he or she:

(A) Obtained a baccalaureate or master's degree from an accredited program of instruction for physician assistants;

(B) Prior to July 1, 1994, graduated from an approved program of instruction in primary health care or surgery; or

(C) Prior to July 1, 1983, was certified by the Board of Medicine as a physician assistant then classified as Type B;

(4) Has passed the Physician Assistant National Certifying Examination administered by the National Commission on Certification of Physician Assistants;

(5) Has a current certification from the National Commission on Certification of Physician Assistants or has a current license in good standing from a state that does not require a physician assistant to maintain national certification;

(6) Is mentally and physically able to engage safely in practice as a physician assistant;

(7) Has not had a physician assistant license, certification, or registration in any jurisdiction suspended or revoked;

(8) Is not currently subject to any limitation, restriction, suspension, revocation, or discipline concerning a physician assistant license, certification, or registration in any jurisdiction: *Provided*, That if a board is made aware of any problems with a physician assistant license, certification, or registration and agrees to issue a license, certification, or registration notwithstanding the provisions of this subdivision or subdivision (7) of this subsection;

(9) Is of good moral character; and

(10) Has fulfilled any other requirement specified by the appropriate board.

(c) A board may deny an application for a physician assistant license to any applicant determined to be unqualified by the board.

### **§30-3E-9. Practice requirements.**

(a) A physician assistant may not practice independent of a collaborating physician.

~~(b) A physician assistant may practice in a hospital in collaboration with physicians after filing a practice notification with the appropriate board. A physician assistant may practice in collaboration with physicians in any practice setting pursuant to a practice notification which has been filed with, and activated by, the appropriate board in accordance with §30-3E-10a of this code: *Provided*, That a physician assistant who is currently practicing in collaboration with physicians pursuant to a practice agreement which was authorized by a board prior to June 1, 2021 may continue to practice under that authorization until the practice agreement terminates or until June 1, 2022, whichever is sooner.~~

~~(c) Except as set forth in subsection (b) of this section, before a licensed physician assistant may practice and before a collaborating physician may delegate medical acts to a physician assistant, the collaborating physician, and the physician assistant shall:~~

~~(1) File a practice agreement with the appropriate licensing board, including any designated alternate collaborating physicians;~~

~~(2) Pay the applicable fees; and~~

~~(3) Receive written authorization from the appropriate licensing board to commence practicing as a physician assistant pursuant to the practice agreement.~~

~~(d) A physician applying to collaborate with a physician assistant shall affirm that:~~

~~(1) The medical services set forth in the practice agreement are consistent with the skills and training of the collaborating physician and the physician assistant; and~~

~~(2) The activities delegated to a physician assistant are consistent with sound medical practice and will protect the health and safety of the patient.~~

~~(e) A collaborating physician may enter into practice agreements with up to five full-time physician assistants at any one time.~~

~~(f) A physician may collaborate with physician assistants in a hospital as approved by the hospital.~~

(c) Notwithstanding any other provision of this code to the contrary, and to the degree permitted by federal law, physician assistants shall be considered providers and shall not be reimbursed at rates lower than other providers who render similar health services by health insurers as well as health plans operated or paid for by the state.

### **§30-3E-10. Practice agreement requirements.**

[Repealed.]

### **§30-3E-10a. Practice notification requirements.**

~~(a) A physician assistant shall collaborate with physicians in a hospital only after the physician assistant is notified by the appropriate licensing board that a complete practice notification has been filed with the board. Before a licensed physician assistant may practice in collaboration with physicians, the physician assistant and a health care facility shall:~~

~~(1) File a practice notification with the appropriate licensing board;~~

~~(2) Pay the applicable fee; and~~

~~(3) Receive written notice from the appropriate licensing board that the practice notification is complete and active.~~

~~(b) The licensing boards shall promulgate emergency rules to establish the content and criteria for submission of practice notifications ~~for physician assistant hospital practice.~~~~

~~(c) A physician assistant shall notify the board, in writing, within 10 days of the termination of a practice notification. Failure to provide timely notice of the termination constitutes unprofessional conduct and disciplinary proceedings may be instituted by the appropriate licensing board.~~

### **§30-3E-11. Collaboration with physician assistants.**

~~(a) A licensed physician or podiatrist may collaborate with a physician assistant:~~

~~(1) As a collaborating physician in accordance with an authorized practice agreement;~~

~~(2) As an alternate collaborating physician who:~~

~~(A) Collaborates in accordance with an authorized practice agreement;~~

~~(B) Has been designated an alternate collaborating physician in the authorized practice agreement; and~~

~~(C) Only delegates those medical acts that have been authorized by the practice agreement and are within the scope of practice of both the primary collaborating physician and the alternate collaborating physician; or~~

~~(3) In a hospital pursuant to a practice notification.~~

(a) Unless otherwise prohibited by a health care facility, a physician who practices medicine or podiatry at a health care facility may collaborate with any physician assistant who holds an active practice notification with the same facility.

~~(b) A collaborating physician~~ When collaborating with physician assistants, collaborating physicians shall observe, direct, and evaluate the physician assistant's work, records, and practices including collaborating with the physician assistant in the care and treatment of a patient in a health care facility as necessary for appropriate and meaningful collaboration.

(c) A health care facility is only legally responsible for the actions or omissions of a physician assistant when the physician assistant is employed by or on behalf of the facility.

(d) Every licensed physician assistant shall be individually responsible and liable for the care they provide. This article does not relieve physician assistants or collaborating physicians of responsibility and liability which otherwise may exist for acts and omissions occurring during collaboration.

### **§30-3E-12. Scope of practice.**

(a) A license issued to a physician assistant by the appropriate state licensing board shall authorize the physician assistant to perform medical acts: commensurate with their education, training, and experience and which they are competent to perform, consistent with the rules of the boards. Medical acts include prescribing, dispensing, and administering of controlled substances, prescription drugs, or medical devices.

~~(1) Pursuant to a practice notification or delegated to the physician assistant as part of an authorized practice agreement~~

~~(2) Appropriate to the education, training, and experience of the physician assistant;~~

~~(3) Customary to the practice of the collaborating physician; and~~

~~(4) Consistent with the laws of this state and rules of the boards.~~

(b) A physician assistant shall provide only those medical services for which they have been prepared by their education, training, and experience and are competent to perform, consistent with sound medical practice and that will protect the health and safety of the patient. This may occur in any health care setting, both hospital and outpatient in accordance with their practice notification.

(c) A physician assistant with an active practice notification may perform medical acts and/or procedures in collaboration with physicians which are consistent with the physician assistant's education, training and experience, the collaborating physician scope of practice, and any credentialing requirements of the health care facility where the physician assistant holds an active practice notification.

~~(b)~~ (d) This article does not authorize a physician assistant to perform any specific function or duty delegated by this code to those persons licensed as chiropractors, dentists, dental hygienists, optometrists, or pharmacists, or certified as nurse anesthetists.



**§30-3E-13. Identification.**

(a) While practicing, a physician assistant shall wear a name tag that identifies him or her as a physician assistant.

(b) A physician assistant shall keep his or her license and current ~~practice agreement or practice notification~~ available for inspection at his or her place of practice.

**§30-3E-17. Complaint process.**

(a) All hearings and procedures related to denial of a license, and all complaints, investigations, hearings, and procedures regarding a physician assistant license and the discipline accorded thereto, shall be in accordance with the processes and procedures set forth in ~~either §30-3-1 et seq. or articles three and/or fourteen~~ §30-14-1 et seq. of this ~~chapter code~~, depending on which board licenses the physician assistant.

(b) The boards may impose the same discipline, restrictions, and/or limitations upon the license of a physician assistant as they are authorized to impose upon physicians and/or podiatrists.

(c) The boards shall direct to the appropriate licensing board a complaint against a physician assistant and/or ~~a collaborating physician and/or an alternate~~ a collaborating physician.

(d) In the event that independent complaint processes are warranted by the boards with respect to the professional conduct of a physician assistant or a collaborating ~~and/or alternate collaborating~~ collaborating physician, the boards are authorized to work cooperatively and to disclose to one another information which may assist the recipient appropriate licensing board in its disciplinary process. The determination of what information, if any, to disclose shall be at the discretion of the disclosing board.

(e) A physician assistant licensed under this article may not be disciplined for providing expedited partner therapy in accordance with ~~article four-f, chapter sixteen~~ §16-4F-1 et seq. of this code.”

The bill was ordered to third reading.

**S. B. 717**, Supplemental appropriation from General Revenue to WV Community and Technical College Education, Control Account; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Speaker Pro Tempore Howell in the Chair****First Reading**

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

**Com. Sub. for S. B. 7**, Limiting political activity by public employees,

**Com. Sub. for S. B. 398**, Limiting eligibility of certain employers to participate in PEIA plans,

**Com. Sub. for S. B. 470**, Limiting release of certain personal information maintained by state agencies,

**Com. Sub. for S. B. 478**, Permitting use of established federal marketplace programs to purchase supplies,

**Com. Sub. for S. B. 485**, Relating to use or presentation of firearm during commission of felony,

**Com. Sub. for S. B. 509**, Removing requirement that determination of medical stability be found prior to admission to mental health facility,

**S. B. 532**, Limiting claims for state tax credits and rebates,

**S. B. 537**, Relating generally to kidnapping,

**Com. Sub. for S. B. 542**, Relating generally to public electric utilities and facilities fuel supply for existing coal-fired plants,

**Com. Sub. for S. B. 569**, Relating to damages for medical monitoring,

**Com. Sub. for S. B. 641**, Allowing counties to use severance tax proceeds for litter cleanup programs,

**Com. Sub. for S. B. 642**, Requiring legal advertisements by State Auditor be posted to central website,

**Com. Sub. for S. B. 657**, Relating to free expression on state institution of higher education campuses,

**Com. Sub. for S. B. 658**, Requiring sheriff's departments to participate and utilize Handle With Care Program for trauma-inflicted children,

**Com. Sub. for S. B. 660**, Providing for cooperation between law-enforcement agencies and military authorities,

**S. B. 661**, Permitting retailers to assume sales or use tax assessed on tangible personal property,

**S. B. 674**, Clarifying that unpaid restitution does not preclude person from obtaining driver's license,

**Com. Sub. for S. B. 677**, Relating generally to miners' safety, health, and training standards,

And,

**Com. Sub. for S. B. 702**, Relating to involuntary hospitalization, competency, and criminal responsibility of persons charged or convicted of certain crimes.

**Delegate Hanshaw, Mr. Speaker, in the Chair**

Pursuant to House Rule 58, Delegate Longanacre, having voted on the prevailing side moved to reconsider **Com. Sub. for S. B. 439**.

Delegate Linville moved the previous question, which motion was subsequently withdrawn.

On the motion to reconsider, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered they were taken (**Roll No. 503**), and there were— yeas 41, nays 57, absent and not voting 2, with the yeas and the absent and not voting being as follows:

Yeas: Barach, Barrett, Bates, Boggs, Brown, Bruce, Dean, Diserio, Doyle, Ellington, Evans, Fast, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, J. Jeffries, Longanacre, Lovejoy, Mallow, Mandt, Mazzocchi, McGeehan, Miller, Nestor, Paynter, Pethtel, Phillips, Pushkin, Rowe, Skaff, Thompson, Toney, Walker, Wamsley, G. Ward, Williams, Young and Zukoff.

Absent and Not Voting: Riley and Worrell.

So, a majority of the members present not having voted in the affirmative, the motion to reconsider Com. Sub. for S. B. 439 was rejected.

At 1:27 p.m., on motion of Delegate Summers, the House of Delegates recessed until 5:00 p.m.

\* \* \* \* \*

### Evening Session

\* \* \* \* \*

The House of Delegates was called to order by the Honorable Roger Hanshaw, Speaker.

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

### Committee Reports

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

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 332**, Providing procedure for WV to select delegates to Article V Convention,

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

At the respective requests of Delegate Summers, and by unanimous consent, the bill (Com. Sub. for S. B. 332) was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. J. R. 9**, Disabled Veterans' Exemption from Ad Valorem Property Taxation Amendment,

And,

**Com. Sub. for S. J. R. 11**, Constitutional Officer Term Limit Amendment,

And reports the same back, with amendment, with the recommendation that they each be adopted, as amended.

At the respective requests of Delegate Summers, and by unanimous consent, the resolutions (Com. Sub. for S. J. R. 9 and Com. Sub. for S. J. R. 11) were each taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 7<sup>th</sup> day of April, 2021, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

**Com. Sub. for H. B. 2094**, Relating to the juvenile restorative justice programs,

**Com. Sub. for H. B. 2400**, Authorizing the Department of Transportation to promulgate legislative rules,

**Com. Sub. for H. B. 2495**, Relating to the filing of asbestos and silica claims,

**H. B. 2808**, Remove salt from list and definition of "mineral" for severance tax purposes,

**H. B. 2852**, Relating to distribution of the allowance for increased enrollment,

**H. B. 2898**, Making a supplementary appropriation to WorkForce West Virginia – Workforce Investment Act,

**H. B. 2941**, Supplementary appropriation decreasing an existing item and adding a new item of appropriation to the Department of Revenue, Insurance Commissioner,

And,

**H. B. 3010**, To extend the special valuation method for cellular towers to towers owned by persons not subject to regulation by the Board of Public Works.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 7<sup>th</sup> day of April, 2021, 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. 80**, Allowing for administration of certain small estates by affidavit and without appointment of personal representative,

**Com. Sub. for S. B. 81**, Relating generally to WV Uniform Trust Code,

**S. B. 374**, Increasing threshold for bid requirement to \$10,000 to be consistent with other state agencies,

**Com. Sub. for S. B. 389**, Relating to State Resiliency Office responsibility to plan for emergency and disaster response, recovery, and resiliency,

**Com. Sub. for S. B. 421**, Authorizing Workforce West Virginia to hire at-will employees,

**S. B. 463**, Consolidating position of Inspector General of former Workers' Compensation Fraud and Abuse Unit and position of Director of Insurance Fraud Unit,

And,

**Com. Sub. for S. B. 472**, Updating criteria for regulating certain occupations and professions.

### **Messages from the Executive**

The following Proclamation of His Excellency, the Governor, was laid before the House of Delegates and read by the Clerk:

STATE OF WEST VIRGINIA  
EXECUTIVE DEPARTMENT

Charleston

### **A PROCLAMATION**

By the Governor

**WHEREAS**, the Constitution of West Virginia sets forth the respective powers, duties, and responsibilities of the three separate branches of government; and

**WHEREAS**, Article VI, Section 22 of the Constitution of West Virginia provides that the current regular session of the Legislature shall not exceed sixty calendar days computed from and including the second Wednesday of February two thousand twenty-one; and

**WHEREAS**, pursuant to Article VI, Section 22 of the Constitution of West Virginia, the two thousand twenty-one regular session of the Legislature is scheduled to conclude on the tenth day of April, two thousand twenty-one; and

**WHEREAS**, Article VI, Section 51 of the Constitution of West Virginia sets forth the obligations of the Governor and the Legislature relating to the preparation and enactment of the Budget Bill; and

**WHEREAS**, Subsection D, Article VI, Section 51 of the Constitution of West Virginia requires the Governor to issue a proclamation extending the regular session of the Legislature if the Budget Bill shall not have been finally acted upon by the Legislature three days before the expiration of its regular session; and

**WHEREAS**, the Budget Bill has not been finally acted upon by the Legislature as of this seventh day of April, two thousand twenty-one.

**NOW, THEREFORE, I, JIM JUSTICE**, Governor of the State of West Virginia, do hereby issue this Proclamation, in accordance with Subsection D, Article VI, Section 51 of the Constitution of West Virginia, extending the two thousand twenty-one regular session of the Legislature for an additional period not to exceed one day, through and including the eleventh day of April, two thousand twenty-one; but no matters other than the Budget Bill shall be considered during this extension of the regular session, except a provision for the cost thereof.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



**DONE** at the Capitol in the City of Charleston, State of West Virginia, on this the seventh day of April, in the year of our Lord, Two Thousand Twenty-one, and in the One Hundred Fifty-Eighth year of the State.

James Justice,  
Governor.

By the Governor

Mac Warner  
Secretary of State

### Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced concurrence by the Senate in the amendment of the House of Delegates to the amendment of the Senate, and the passage, as amended, of

**Com. Sub. for H. B. 2529**, Prohibiting West Virginia institutions of higher education from discriminating against graduates of private, nonpublic or home schools by requiring them to submit to alternative testing.

A message from the Senate, by

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

**Com. Sub. for H. B. 2758**, Requiring the Insurance Commissioner to regulate professional bondsmen.

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

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

**“ARTICLE 10. PROFESSIONAL BONDSMEN IN CRIMINAL CASES.**

**§51-10-1. Definitions.**

~~The words ‘bonding business’ as used in this article mean the business of becoming surety for compensation upon bonds in criminal cases in the State of West Virginia, and the word “bondsman” means any person or corporation engaged either as principal or as agent, clerk, or representative of another in such business.~~

When used in this article:

(1) ‘Bonding business’ means the business of becoming surety for compensation upon bonds in criminal cases in the State of West Virginia;

(2) ‘Bondsman’ means (A) any person engaged in the bonding business that has satisfied the requirements for, and is duly licensed as, an insurance producer with a property and casualty line of authority as set forth by the Insurance Commissioner and §33-12-1, et seq. of this code; or (B) any person who is approved and licensed under the provisions of this article who pledges cash or approved securities with the commissioner as security for bail bonds written in connection with a judicial proceeding and receives or is promised money or other things of value for the pledge;

(3) ‘Commissioner’ means the Insurance Commissioner of West Virginia, as defined in §33-1-5 of this code; and

(4) ‘Insurer’ means any domestic, foreign, or alien person, including a surety company, which has been qualified generally to transact surety business in the State of West Virginia.

**§51-10-8. Qualifications of bondsmen; rules to be prescribed by Supreme Court of Appeals; lists of agents to be furnished; renewal of authority to act; false swearing Insurance Commissioner; bondsman filing requirements; bondsman license renewal requirements; criminal penalty for filing false affidavit; list of bondsmen kept and provided to places of detention by Insurance Commissioner; requiring all bondsmen to be licensed by Insurance Commissioner after July 1, 2022.**

~~(a) The Supreme Court of Appeals shall under reasonable rules, specify the qualifications of persons and corporations applying for authority to engage in the bonding business in criminal cases in the State of West Virginia, and the terms and conditions upon which the business may be carried on. After the first day of September, two thousand four, no person or corporation may, either as principal, or as agent, clerk, or representative of another, engage in the bonding business in any court regularly exercising criminal jurisdiction until qualified pursuant to the rules. The Supreme Court of Appeals, in making the rules, and in granting authority to persons to engage in the bonding business, shall take into consideration both the financial responsibility and the moral qualities of the person so applying, and no person may be permitted to engage, either as principal or agent, in the business of becoming surety upon bonds for compensation in criminal cases, who has ever been convicted of any offense involving moral turpitude, or who is not known to be a person of good moral character. The court shall require every person qualifying to engage in the bonding business as principal to file with the court a list showing the name, age, and residence of each person employed by the bondsman as agent, clerk, or representative in the bonding~~

~~business, and require an affidavit from each of the persons stating that the person will abide by the terms and provisions of this article. The court shall require the authority of each of the persons to be renewed from time to time at periods the court may by rule provide. Before the authority may be renewed the court shall require from each of the persons an affidavit that since his or her previous qualifications to engage in the bonding business he or she has abided by the provisions of this article, and any person swearing falsely in any of the affidavits is guilty of false swearing.~~

~~(b) Persons authorized to engage in the bonding business in criminal cases in the State of West Virginia on the effective date of the amendments made to this section during the regular session of the Legislature in two thousand four may continue to engage in the business until the first day of September, two thousand four.~~

(a) The commissioner shall promulgate and propose legislative rules for promulgation under §29A-3-1, et seq. of this code, to carry out the intent, administration, and enforcement of this article. The commissioner may promulgate any emergency rules under §29A-3-15 of this code necessary to carry out the intent, administration, and enforcement of this article. The commissioner shall develop all forms, contracts, or other documents to be used for the purposes outlined in this article.

(b) The rules required by subsection (a) of this section shall specify the qualifications that a person must have when applying to be a bondsman, and the terms and conditions upon which the bonding business may be conducted. The commissioner shall require a biennial fee of \$200 for all bondsman licensed under this article.

(c) The commissioner, in promulgating and proposing rules required by subsection (a) of this section, and in granting a license to a person to engage in the bonding business, shall take into consideration both the financial responsibility and the moral qualities of the person applying, and a person who has been convicted of any offense involving moral turpitude, or who is not known to be a person of good moral character shall not be licensed.

(d) The applicant shall provide the commissioner a qualifying power-of-attorney from a licensed insurer or surety company or pledge cash or approved securities with the commissioner as security for bail bonds.

(e) The applicant shall comply with the provisions of §33-12-37 of this code regarding criminal history record checks.

(f) The commissioner shall require every bondsman licensed to engage in the bonding business as a principal to file with the commissioner a list showing the name, age, and residence of each person employed by the bondsman as an agent, clerk, or representative in the bonding business, and require an affidavit from each of the persons stating that the person will abide by the terms and provisions of this article.

(g) (1) The commissioner shall require a person licensed as a bondsman to renew his or her license every two years and to file an affidavit stating that since his or her previous license to engage in the bonding business he or she has abided by the provisions of this article.

(2) A person who files a false affidavit is guilty of false swearing and, upon conviction thereof, shall be punished as provided by law for the offense.



(3) A person seeking to renew his or her license to engage in the bonding business shall submit to the property and casualty requirements under section (d) of this section for each renewal, unless he or she has voluntarily terminated his or her license to engage in the bonding business.

(h) The commissioner shall keep a list of all bondsmen and, upon the request of a place of detention listed under §51-10-6 of this code, furnish an alphabetical list of all licensed bondsmen to the jail.

(i) After July 1, 2022, a person shall not, either as principal, or as agent, clerk, or representative of an agent, engage in the bonding business unless licensed by the commissioner under this section.”

And,

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

**Com. Sub. for H. B. 2758** – “A Bill to amend and reenact §51-10-1 and §51-10-8 of the Code of West Virginia, 1931, as amended, all relating to requiring the Insurance Commissioner to regulate professional bondsmen; providing definitions; requiring the Insurance Commissioner to promulgate and propose rules to carry out the intent, administration, and enforcement of the article; authorizing the promulgation of emergency rules; requiring the Insurance Commissioner to promulgate and propose rules regarding qualifications of bondsman; setting forth requirements for bondsman applicants; setting forth filing requirements for bondsmen with the Insurance Commissioner; setting forth renewal requirements for bondsman license; providing criminal penalty for false affidavit; requiring Insurance Commissioner to keep a list of licensed bondsmen and furnish to a jail upon request; and, after July 1, 2022, requiring all bondsmen to be licensed by the Insurance Commissioner.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 504**), and there were—yeas 83, nays 3, absent and not voting 14, with the nays and the absent and not voting being as follows:

Nays: J. Jeffries, McGeehan and Paynter.

Absent and Not Voting: Bridges, Brown, Cooper, Hamrick, Hardy, Higginbotham, Householder, D. Kelly, J. Kelly, Nestor, Queen, Wamsley, Westfall and Worrell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2758) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence by the Senate in the amendment of the House of Delegates to the amendment of the Senate, and the passage, as amended, of

**Com. Sub. for H. B. 2785**, Relating to public school enrollment for students from out of state.

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

**Com. Sub. for H. B. 2793**, Permit out of state residents to obtain West Virginia concealed carry permits.

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

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

**“ARTICLE 7. DANGEROUS WEAPONS.**

**§61-7-4. License to carry deadly weapons; how obtained.**

(a) (1) Except as provided in §61-7-4(hg) of this code, ~~any person~~ a legal resident or citizen of West Virginia desiring to obtain a state resident license to carry a concealed deadly weapon shall apply to the sheriff of his or her county for the license, and pay to the sheriff, at the time of application, a fee of \$25. ~~Concealed~~ A concealed weapons license may only be issued for pistols and revolvers.

(2) A legal resident or citizen of another state of the United States desiring to obtain a nonresident state license to carry a concealed deadly weapon shall apply to a sheriff of any county in this state for the license, and pay to the sheriff, at the time of application, a fee of \$100. A concealed weapons licenses may only be issued for pistols and revolvers.

(b) Each applicant for a state resident license or nonresident license to carry a concealed deadly weapon shall file with the sheriff a complete application, as prepared by the Superintendent of the West Virginia State Police, in writing, duly verified, which sets forth only the following licensing requirements:

(1) The applicant's full name, date of birth, ~~Social Security~~ social security number, a description of the applicant's physical features, the applicant's place of birth, the applicant's country of citizenship, and, if the applicant is not a United States citizen, any alien or admission number issued by the United States Bureau of Immigration and Customs Enforcement, and any basis, if applicable, for an exception to the prohibitions of 18 U.S.C. §922(g)(5)(B);

(2) That, on the date the application is made, the applicant is a bona fide United States citizen or legal resident thereof and either a resident of this state and of the county in which the application is made or a resident of another state in the United States and has a valid driver's license or other state-issued or federally issued photo identification showing the residence;

(3) That the applicant is ~~twenty-one~~ 21 years of age or older;

(4) That the applicant is not addicted to alcohol, a controlled substance, or a drug and is not an unlawful user thereof as evidenced by either of the following within the three years immediately prior to the application:

(A) Residential or court-ordered treatment for alcoholism or alcohol detoxification or drug treatment; or

(B) Two or more convictions for driving while under the influence or driving while impaired;

(5) That the applicant has not been convicted of a felony unless the conviction has been expunged or set aside, or the applicant's civil rights have been restored or the applicant has been unconditionally pardoned for the offense;

(6) That the applicant has not been convicted of a misdemeanor crime of violence other than an offense set forth in subdivision (7) of this subsection in the five years immediately preceding the application;

(7) That the applicant has not been convicted of a misdemeanor crime of domestic violence as defined in 18 U.S.C. §921(a)(33), or a misdemeanor offense of assault or battery either under §61-2-28 of this code or §61-2-9(b) or §61-2-9(c) of this code, in which the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense, or a misdemeanor offense with similar essential elements in a jurisdiction other than this state;

(8) That the applicant is not under indictment for a felony offense or is not currently serving a sentence of confinement, parole, probation, or other court-ordered supervision imposed by a court of any jurisdiction, ~~or~~ is the subject of an emergency or temporary domestic violence protective order, or is the subject of a final domestic violence protective order entered by a court of any jurisdiction;

(9) That the applicant has not been adjudicated to be mentally incompetent or involuntarily committed to a mental institution. If the applicant has been adjudicated mentally incompetent or involuntarily committed, the applicant ~~must~~ shall provide a court order reflecting that the applicant is no longer under such disability and the applicant's right to possess or receive a firearm has been restored;

(10) That the applicant is not prohibited under the provisions of §61-7-7 of this code or federal law, including 18 U.S.C. §922(g) or (n), from receiving, possessing, or transporting a firearm;

(11) That the applicant has qualified under the minimum requirements set forth in subsection (~~de~~) of this section for handling and firing the weapon: *Provided*, That this requirement shall be waived in the case of a renewal applicant who has previously qualified; and

(12) That the applicant authorizes the sheriff of the county, or his or her designee, to conduct an investigation relative to the information contained in the application.

(~~bc~~) For both initial and renewal applications, the sheriff shall conduct an investigation including a nationwide criminal background check consisting of inquiries of the National Instant Criminal Background Check System, the West Virginia criminal history record responses, and the National Interstate Identification Index, and shall review the information received in order to verify that the information required in subsection (~~ab~~) of this section is true and correct. A license may not be issued unless the issuing sheriff has verified through the National Instant Criminal Background Check System that the information available to him or her does not indicate that

receipt or possession of a firearm by the applicant would be in violation of the provisions of §61-7-7 of this code or federal law, including 18 U.S.C. §922(g) or (n).

(ed) (1) Twenty-five dollars of the resident license application fee and any fees for replacement of lost or stolen licenses received by the sheriff shall be deposited by the sheriff into a concealed weapons license administration fund. The fund shall be administered by the sheriff and shall take the form of an interest-bearing account with any interest earned to be compounded to the fund. Any funds deposited in this concealed weapon license administration fund are to be expended by the sheriff to pay the costs associated with issuing concealed weapons licenses. Any surplus in the fund on hand at the end of each fiscal year may be expended for other law-enforcement purposes or operating needs of the sheriff's office, as the sheriff considers appropriate.

(2) Fifteen dollars of the nonresident license application fee shall be deposited in the Courthouse Facilities Improvement Fund created by §29-26-6 of this code; \$25 of the application fee shall be deposited into the State Treasury and credited to the account of the State Police for the purchase of vehicles, equipment for vehicles, and maintenance of vehicles; and \$60 of the application fee shall be deposited in the concealed weapons license administration fund to be administered as provided in subsection (d) of this section.

(de) All persons applying for a license ~~must~~ shall complete a training course in handling and firing a handgun, which includes the actual live firing of ammunition by the applicant. The successful completion of any of the following courses fulfills this training requirement: *Provided*, That the completed course includes the actual live firing of ammunition by the applicant:

(1) Any official National Rifle Association handgun safety or training course;

(2) Any handgun safety or training course or class available to the general public offered by an official law-enforcement organization, community college, junior college, college, or private or public institution or organization, or handgun training school ~~utilizing~~ using instructors certified by the institution;

(3) Any handgun training or safety course or class conducted by a handgun instructor certified as such by the state or by the National Rifle Association;

(4) Any handgun training or safety course or class conducted by any branch of the United States military, reserve, or National Guard, or proof of other handgun qualification received while serving in any branch of the United States military, reserve, or National Guard.

A photocopy of a certificate of completion of any of the courses or classes or an affidavit from the instructor, school, club, organization, or group that conducted or taught the course or class attesting to the successful completion of the course or class by the applicant or a copy of any document which shows successful completion of the course or class is evidence of qualification under this section and shall include the instructor's name, signature, and NRA or state instructor identification number, if applicable.

(ef) All concealed weapons license applications must be notarized by a notary public duly licensed under §39-4-1 *et seq.* of this code. Falsification of any portion of the application constitutes false swearing and is punishable under §61-5-2 of this code.

(fg) The sheriff shall issue a license unless he or she determines that the application is incomplete, that it contains statements that are materially false or incorrect, or that applicant

otherwise does not meet the requirements set forth in this section. The sheriff shall issue, reissue, or deny the license within 45 days after the application is filed if all required background checks authorized by this section are completed.

(gh) Before any approved license is issued or is effective, the applicant shall pay to the sheriff a fee in the amount of \$25 which the sheriff shall forward to the Superintendent of the West Virginia State Police within 30 days of receipt. A license in effect as of the effective date of the amendments to this section enacted during the 2019 regular session of the Legislature shall, subject to revocation for cause, ~~be~~ is valid until the licensee's birthday during the fifth year from the date of issuance or five years from the date of issuance, whichever is later in time. Renewals of such licenses and licenses newly issued after the effective date of the amendments to this section enacted during the 2019 regular session of the Legislature ~~shall~~, subject to revocation for cause, ~~be~~ are valid for a period of five years from the licensees' most recent birthday.

(hi) Each license shall contain the full name and address of the licensee and a space upon which the signature of the licensee shall be signed with pen and ink. The issuing sheriff shall sign and attach his or her seal to all license cards. The sheriff shall provide to each new licensee a duplicate license card, in size similar to other state identification cards and licenses, suitable for carrying in a wallet, and the license card is considered a license for the purposes of this section. All duplicate license cards issued on or after July 1, 2017, shall be uniform across all 55 counties in size, appearance, and information and shall feature a photograph of the licensee.

(ij) The Superintendent of the West Virginia State Police, in cooperation with the West Virginia Sheriffs' Bureau of Professional Standards, shall prepare uniform applications for both resident and nonresident licenses and license cards showing that the license has been granted and shall do any other act required to be done to protect the state and see to the enforcement of this section.

(jk) If an application is denied, the specific reasons for the denial shall be stated by the sheriff denying the application. Any person denied a license may file, in the circuit court of the county in which the application was made, a petition seeking review of the denial. The petition shall be filed within 30 days of the denial. The court shall then determine whether the applicant is entitled to the issuance of a license under the criteria set forth in this section. The applicant may be represented by counsel, but in no case is the court required to appoint counsel for an applicant. The final order of the court shall include the court's findings of fact and conclusions of law. If the final order upholds the denial, the applicant may file an appeal in accordance with the Rules of Appellate Procedure of the Supreme Court of Appeals. If the findings of fact and conclusions of law of the court fail to uphold the denial, the applicant may be entitled to reasonable costs and attorney's fees, payable by the sheriff's office which issued the denial.

(kl) If a license is lost or destroyed, the person to whom the license was issued may obtain a duplicate or substitute license for a fee of \$5 by filing a notarized statement with the sheriff indicating that the license has been lost or destroyed.

~~(lm) Whenever any person after applying for and receiving a concealed weapon license moves from the address named in the application to another county within the state, the license remains valid for the remainder of the five years unless the sheriff of the new county has determined that the person is no longer eligible for a concealed weapon license under this article, and the sheriff shall issue a new license bearing the person's new address and the original expiration date for a fee not to exceed \$5: *Provided*, That the licensee, within 20 days thereafter, notifies the sheriff in the new county of residence in writing of the old and new addresses. Whenever an applicant or~~

licensee relocates from the address provided in his or her application to another address, he or she shall comply with the following notification requirements:

(1) Within 20 days of a resident licensee relocating from the address provided in his or her application to another county in the state, he or she shall provide written notification of the relocation to the sheriff of the county to which he or she moved and provide his or her new address. The sheriff shall then issue a new resident license bearing the licensee's new address and the original expiration date, for a fee not to exceed \$5. The license remains valid for the remainder of the original five year term, unless the sheriff has determined that the person is no longer eligible for a concealed weapon license under the provisions of this article.

(2) Within 20 days of a resident licensee relocating from the address provided in his or her application to an address outside the state, he or she shall provide written notification to the sheriff of the issuing county of the relocation and provide his or her new address. The sheriff shall then issue a new nonresident license bearing the licensee's new address and the original expiration date, for a fee not to exceed \$5. The license remains valid for the remainder of the original five-year term unless the sheriff has determined that the person is no longer eligible for a concealed weapon license under the provisions of this article: *Provided*, That any renewal of the license in the new jurisdiction after expiration requires the payment of a nonresident license fee.

(3) Within 20 days of a nonresident licensee relocating from the address provided in his or her application to another address outside of the state, he or she shall provide written notification of the relocation to the sheriff of the issuing county and provide his or her new address. The sheriff shall then issue a new nonresident license bearing the licensee's new address and original expiration date, for a fee not to exceed \$5. This license remains valid for the remainder of the original five-year term, unless the sheriff has determined that the person is no longer eligible for a concealed weapon license under the provisions of this article.

(4) Within 20 days of a nonresident licensee relocating to West Virginia from the address provided in his or her application, he or she shall provide written notification of the relocation to the sheriff of the county to which he or she has moved and provide his or her new address. The sheriff shall then issue a new resident license bearing the licensee's new address and the original expiration date, for a fee not to exceed \$5. This license remains valid for the remainder of the original five-year term, unless the sheriff has determined that the person is no longer eligible for a concealed weapon license under the provisions of this article.

(m) The sheriff shall, immediately after the license is granted ~~as aforesaid~~ under this section furnish the Superintendent of the West Virginia State Police a certified copy of the approved application. The sheriff shall furnish to the Superintendent of the West Virginia State Police at any time so requested a certified list of all licenses issued in the county. The Superintendent of the West Virginia State Police shall maintain a registry of all persons who have been issued concealed weapons licenses.

(n) The sheriff shall deny any application or revoke any existing license upon determination that any of the licensing application requirements established in this section have been violated by the licensee.

(o) A person who is engaged in the receipt, review, or in the issuance or revocation of a concealed weapon license does not incur any civil liability as the result of the lawful performance of his or her duties under this article.

(pg) Notwithstanding subsection (a) of this section, with respect to application for a resident license by an honorably discharged veteran of the armed forces of the United States, or a former law-enforcement officer honorably retired from agencies governed by §7-14-1 *et seq.* of this code, §8-14-1 *et seq.* of this code, §15-2-1 *et seq.* of this code, and §20-7-1 *et seq.* of this code, an honorably retired officer or an honorably discharged veteran of the armed forces of the United States is exempt from payment of fees and costs as otherwise required by this section. All other application and background check requirements set forth in this section are applicable to these applicants.

(qr) Information collected under this section, including applications, supporting documents, permits, renewals, or any other information that would identify an applicant for, or holder of, a concealed weapon license, is confidential: *Provided*, That this information may be disclosed to a law-enforcement agency or officer: (i) To determine the validity of a license; (ii) to assist in a criminal investigation or prosecution; or (iii) for other lawful law-enforcement purposes. A person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 or more than \$200 for each offense.

(rs) A person who pays fees for training or application pursuant to this article after the effective date of this section is entitled to a tax credit equal to the amount actually paid for training not to exceed \$50: *Provided*, That if such training was provided for free or for less than \$50, then such tax credit may be applied to the fees associated with the initial application.

(st) Except as restricted or prohibited by the provisions of this article or as otherwise prohibited by law, the issuance of a concealed weapon license issued in accordance with the provisions of this section authorizes the holder of the license to carry a concealed pistol or revolver on the lands or waters of this state.”

And,

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

**Com. Sub. for H. B. 2793** – “A Bill to amend and reenact §61-7-4 of the Code of West Virginia, 1931, as amended, relating to permitting nonresidents to obtain state licenses to carry a concealed deadly weapon; requiring application to a county sheriff; establishing a \$100 fee and providing how that fee is to be used; providing that concealed weapons licenses may only be issued for pistols and revolvers; requiring non-residents to meet the same standards as West Virginia residents for licensure; and providing for the issuance of a new license if the resident or nonresident relocates.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 505**), and there were—yeas 87, nays none, absent and not voting 13, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Brown, Cooper, Hardy, Higginbotham, Householder, D. Kelly, J. Kelly, Nestor, Queen, Wamsley, Westfall and Worrell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2793) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 2834**, Adding the Curator of the West Virginia Division of Arts, Culture and History as an ex officio voting member of the commission.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

**H. B. 2874**, Extend the current veteran's business fee waivers to active duty military members and spouses.

A message from the Senate, by

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

**Com. Sub. for H. B. 2890**, To clarify the regulatory authority of the Public Service Commission of West Virginia over luxury limousine services.

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

**Com. Sub for H. B. 2890** – “A Bill to amend and reenact §24A-1-2 and §24A-1-3 of the Code of West Virginia, 1931, as amended, all relating to clarifying the authority of the Public Service Commission of West Virginia over luxury limousine services; defining terms; and creating exemption from certain contract and common carrier laws for luxury limousine services.”

Delegate Pushkin requested to be excused from voting under the provisions of House Rule 49.

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected and directed the Member to vote.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 506**), and there were—yeas 53, nays 34, absent and not voting 13, with the nays and the absent and not voting being as follows:

Nays: Anderson, Barach, Bates, Boggs, Bruce, Capito, Criss, Diserio, Doyle, Evans, Ferrell, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Hott, Jennings, Lovejoy, Paynter, Pethel, Pushkin, Rowe, Skaff, Summers, Sypolt, Thompson, Toney, Walker, B. Ward, Williams, Young and Zukoff.

Absent and Not Voting: Bridges, Brown, Cooper, Hardy, Higginbotham, Householder, D. Kelly, J. Kelly, Nestor, Queen, Wamsley, Westfall and Worrell.



So, a majority of the members elect having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2890) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

**H. B. 2914**, To remove certain ex officio, voting members from the Archives and History Commission and update formatting.

A message from the Senate, by

The Clerk of the Senate, announced concurrence by the Senate in the amendment of the House of Delegates to the amendment of the Senate, and the passage, as amended, of

**Com. Sub. for H. B. 2916**, Creating the Semiquincentennial Commission for the celebration of the 250th anniversary of the founding of the United States of America.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect from passage, a bill of the House of Delegates, as follows:

**H. B. 2969**, To clarify the procedures for the sale and operation of a municipally owned toll bridge by a private toll transportation facility.

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

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

## **“CHAPTER 17. ROADS AND HIGHWAYS.**

### **ARTICLE 16D. ELECTRONIC TOLL COLLECTION ACT.**

#### **§17-16D-6. Liability of owner.**

(a) All owners and operators of motor vehicles shall pay the posted toll when on any toll road, highway, or bridge authorized by the Legislature, including any toll collected by a private toll transportation facility pursuant to §17-17-38 of this code, either by paying the toll at a toll collection facility on the toll road, highway, or bridge at the time of travel thereon or by paying the toll within the time prescribed for toll payment in a toll billing notice or invoice generated by an electronic toll collection system. These tolls may be collected by electronic toll collection. If an owner or operator of a vehicle fails to pay the prescribed toll when due, the owner of the vehicle is in violation of this article.

(b) If a violation occurs, the registration plate number of the vehicle as recorded by a video collection system establishes a rebuttable presumption for civil enforcement purposes that the owner of the vehicle was operating the vehicle, or had consented to another person operating the

vehicle, at that time. This presumption may be overcome only if the owner: (1) proves by a preponderance of the evidence that he or she was not in fact operating the vehicle at the time; and (2) identifies by name and mailing address the person who was operating the vehicle.

(c) If the presumption is not overcome by a preponderance of the evidence, the owner of the vehicle shall be found to have violated this article and be held responsible for payment of the tolls and the administrative fees and money penalties imposed by this article for failure to timely pay the tolls.

(d) Nothing in this section prohibits: (1) A law-enforcement officer from issuing a citation to a person in control of a vehicle for a violation of this article or other provisions of law at the time of the violation; ~~or~~ (2) the Parkways Authority from issuing reminder notices or making other communications directly or indirectly in connection with toll collection efforts or efforts to enforce violations of this article. The Parkways Authority is authorized to use secondary sources of information and services including, but not limited to, services such as the National Change of Address Service or skip tracing services; or (3) a private toll transportation facility from issuing any notices, reminders, or other communications in connection with its toll collection efforts pursuant to §17-17-38(c) and §17-17-38(d) of this code.

#### **§17-16D-10. Evading tolls; damaging, interfering with, or obstructing video toll collection or infrastructure; violations and criminal penalties.**

(a) Any person who knowingly or intentionally evades or seeks to evade the payment of tolls, rents, fees, or charges established by the Parkways Authority for the use of any toll facility under the jurisdiction of the Authority, or of any private toll transportation facility pursuant to §17-17-38 of this code, is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$50 for each violation of this article.

(b) Any person who deliberately damages, defaces, or obstructs a video collection system infrastructure or power supply with the intent to interfere with, ~~or~~ alter, or prevent the functioning of the system or electronic toll collection, or who obstructs a license plate or causes it to be unreadable by the video collection system, or who causes a transponder or other device used in an electronic toll system to be inoperable or unreadable thereby causing no toll to be charged, including a private toll transportation facility pursuant to §17-17-38 of this code, is guilty of a misdemeanor and, in addition to any other penalties provided by the code, and upon conviction, shall be fined not more than \$500 for each such action and, if applicable, is additionally liable to the Parkways Authority or the private toll transportation facility for all costs incurred ~~by the Authority~~ to repair the damaged, defaced, or obstructed property.

### **ARTICLE 17. TOLL BRIDGES.**

#### **§17-17-10. Payment of toll prior to passage; demand of excessive toll; evading payment of toll.**

The proprietor of any toll bridge may require lawful toll to be paid previous to a passage thereover. ~~But if there be demanded at any such bridge more than is lawful, the proprietor shall forfeit to the party aggrieved so much as is illegally demanded and a further sum of not less than two nor more than \$15~~ Whoever shall knowingly or intentionally defraud, or attempt to defraud, the proprietor of any toll bridge by evading, or attempting to evade, the payment of lawful toll for crossing such bridge, or whoever shall aid another to evade, or attempt to evade, the payment of

such toll, shall be guilty of a misdemeanor and, for every such offense shall, upon conviction thereof, be fined not in excess of \$10.

**§17-17-11. Gatekeeper to keep small change.**

A gatekeeper on any toll bridge without an electronic toll collection system, as defined in §17-16D-2 of this code, shall keep such money of small denomination on hand, as may reasonably be required in the ordinary course of business, for making change for passengers, and it is the duty of passengers to offer money for passage of a denomination as near as possible to the amount charged for such passage. This section shall not apply to persons now having a lawful right to pass on such bridge without the payment of toll.

**§17-17-12. Failure to provide gatekeeper and to allow prompt passage.**

If at any toll bridge without an electronic toll collection system there be a failure to give any person or property a passage over the same in a reasonable time, the proprietor thereof shall forfeit to such person not less than \$2 nor more than \$20. If the keeper of any toll bridge without an electronic toll collection system shall absent himself therefrom without leaving any person in charge of the gates thereon, he shall leave the gates open. Any keeper of a toll bridge without an electronic toll collection who shall fail to comply with the requirements of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined \$50 for every such offense; and any person injured by such failure shall be entitled to recover therefor from such keeper all damages sustained thereby.

**§17-17-21. General supervision of bridges under jurisdiction of commissioner.**

The ~~state road~~ commissioner of highways shall properly maintain, repair, operate, manage, and control the bridges owned by the state, fix the rates of tolls and establish bylaws and rules and regulations for the use and operation of the bridges owned by the state, and may make and enter into all contracts or agreements necessary and incidental to the performance of his duties and the execution of his powers under this article, including power to permit use of such bridges owned by the state by street railways and other transportation lines, and telephone, telegraph, pipe, and other lines, and contract with them for such use and fix the terms and conditions thereof and the charges or tolls for such use of the bridges owned by the state.

**§17-17-22. Tolls to be charged for bond payment; intrastate and interstate bridges included in one issue; purchasing of existing bridges; disposition of tolls.**

Tolls shall be fixed, charged, and collected for transit over such bridges owned by the state and shall be so fixed and adjusted, in respect of the aggregate of tolls from the bridge or bridges owned by the state for which a single issue of bonds is issued, as to provide a fund sufficient to pay the principal and interest of such issue of bonds and to provide an additional fund to pay the cost of maintaining, repairing, and operating such bridge or bridges, subject, however, to any applicable law or regulation of the United States of America now in force or hereafter to be enacted or made. Two or more bridges owned by the state may be included in one issue of bonds, and intrastate and interstate bridges may be grouped in the same issue: *Provided,* That no existing bridge or bridges owned by the state shall be acquired by purchase, eminent domain, or otherwise, unless the ~~state road~~ commissioner of highways shall have determined that the income therefrom, based upon the toll receipts for the next preceding fiscal or calendar year, will be sufficient to pay all expenses of operating and maintaining such bridge, in addition to the interest and sinking fund requirements of any bonds to be issued to pay the purchase price thereof, or, if

such existing bridge or bridges owned by the state are to be combined with any other bridge or bridges, either then existing or thereafter to be constructed or acquired by purchase, eminent domain, or otherwise, as provided in §17-17-23b of this code, unless the ~~state road~~ commissioner of highways shall have determined that the income from such combined bridges, based upon the toll receipts for the next preceding fiscal or calendar year in the case of any existing bridge or bridges and upon estimates of future toll receipts in the case of any bridge or bridges to be constructed, will be sufficient to pay all expenses of operating and maintaining such combined bridges, in addition to the interest and sinking fund requirements of any bonds issued to pay the purchase price of such existing bridge or bridges and the interest and sinking fund requirements of any bonds issued to pay the cost of construction, acquiring, modernizing, repairing, reconstructing, or improving any bridge or bridges and approaches thereto, with which such existing bridge or bridges are to be so combined. The tolls from the bridge or bridges for which a single issue of bonds is issued, except such part thereof, as may be necessary to pay such cost of maintaining, repairing, and operating during any period in which such cost is not otherwise provided for (during which period the tolls may be reduced accordingly), shall be transmitted each month to the West Virginia Municipal Bond Commission and by it placed in a special fund which is hereby pledged to and charged with the payment of the principal of such bonds and the interest thereon, and to the redemption or repurchase of such bonds, such special fund to be a fund for all such bonds without distinction or priority of one over another. The moneys in such special fund, less a reserve for payment of interest, if not used by the West Virginia Municipal Bond Commission within a reasonable time for the purchase of bonds for cancellation at a price not exceeding the market price and not exceeding the redemption price, shall be applied to the redemption of bonds by lot at the redemption price then applicable. Notwithstanding the foregoing, payments of principal and interest on any bonds owned by the United States or any governmental agency or department thereof may be made by the governing body directly thereto.

Any bridge or bridges constructed or acquired by purchase, eminent domain, or otherwise, or reconstructed, repaired, or improved, under the provisions of this article and forming a connecting link between two or more state highways, or providing a river crossing for a state highway, are hereby adopted as a part of the state road system, but no such bridge or bridges shall be constructed or acquired by purchase, eminent domain, or otherwise, or reconstructed, repaired, or improved by the state, under the provisions of this article without the approval in writing of the ~~state road~~ commissioner of highways and the Governor. If there be in the funds of the West Virginia Municipal Bond Commission an amount insufficient to pay the interest and sinking fund on any bonds issued for the purpose of constructing or acquiring by purchase, eminent domain, or otherwise, or reconstructing, repairing, or improving, such bridge or bridges, the ~~state road~~ commissioner of highways is authorized and directed to allocate to said commission, from the state road fund, an amount sufficient to pay the interest on said bonds and/or the principal thereof, as either may become due and payable.

**§17-17-38. Municipal sale of ownership of toll bridges to private toll transportation facility; maintenance of tolls; imposition of liability for collection and payment; tax treatment and divestment.**

(a) Sale of municipally owned toll bridge. – Any municipality which owns and operates a toll bridge pursuant to this article may, at the sole discretion of the municipality, and upon adoption of a resolution to such effect by the council of such municipality, sell and convey such toll bridge to a private toll transportation facility subject to such terms and conditions as the council of such municipality may agree.

(b) *Privilege to maintain tolls.* – Any private toll transportation facility purchasing a municipally-owned toll bridge located fewer than five miles from a toll-free bridge which crosses the same body of water or obstacle pursuant to subsection (a) of this section may retain, modify, and collect any such toll charges for the use thereof on persons and things passing over any such bridge as the facility may, by resolution, from time to time prescribe.

(c) *Electronic collection of tolls and imposition of liability for payment.* – The collection and enforcement of tolls for the use of any such bridge may be accomplished by electronic toll collection in the same manner and procedures as provided in §17-16D-1 *et seq.* of this code, and the imposition of liability for payment of such tolls shall apply as set forth specifically in §17-16D-5, §17-16D-6, §17-16D-7, and §17-16D-10 of this code: *Provided*, That the toll rates provided for in §17-17-9 of this code shall not apply to a private toll transportation facility.

(d) *Nonrenewal of vehicle registration.* – If an owner of a vehicle has received at least one invoice from a private toll transportation facility for any unpaid tolls and has: (1) failed to pay the unpaid tolls and administrative fees, and (2) failed to file a notice to contest liability for a toll violation as provided for in the invoice, then the private toll transportation facility may notify the Commissioner of the Division of Motor Vehicles, who shall, if no form contesting liability has been timely filed with the private toll transportation facility, refuse to register or renew the registration of any vehicle of which the person committing the violation is a registered owner or co-owner until such time as the private toll transportation facility has notified the commissioner that such fees and unpaid tolls have been paid or satisfied.

(e) *Tax treatment of municipally owned toll bridge sold to private toll transportation facility.* – A municipally owned toll bridge sold to a private transportation facility pursuant to this section shall be considered exempt for purposes of ad valorem property taxation under §11-1-1 *et seq.* of this code: *Provided*, That if said exemption is in any way held to be invalid, then the value of a municipally owned toll bridge purchased by a private toll transportation facility, for purposes of ad valorem property taxation under §11-1-1 *et seq.* of this code, shall in no event be valued at more than its salvage value, which for purposes of this article is the lower of fair market salvage value or five percent of the original cost of the property.

(f) *Divestment of private toll bridge.* – Nothing in this section shall be construed to limit or prevent the subsequent sale, lease, assignment, or transfer of a municipally-owned toll bridge purchased by a private toll transportation facility, provided that all other requirements of this section are met.

(g) *Definitions.* – For purposes of this section, the term “private toll transportation facility” means any natural person, corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, nonprofit entity, or other business entity engaged in the collecting or charging of tolls on a previously municipal-owned toll bridge pursuant to this article.

## **CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION, CERTIFICATION OF TITLE, AND ANTITHEFT PROVISIONS.**

### **ARTICLE 2A. UNIFORM MOTOR VEHICLE RECORDS DISCLOSURE ACT.**

#### **§17A-2A-7. Permitted disclosures**

The division or its designee shall disclose personal information as defined in section three of this article to any person who requests the information if the person: (a) Has proof of his or her identity; and (b) verifies that the use of the personal information will be strictly limited to one or more of the following:

(1) For use by any governmental agency, including any court or law-enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a governmental agency in carrying out its functions;

(2) For use in connection with matters of motor vehicle or driver safety and theft, motor vehicle product alterations, recalls or advisories, performance monitoring of motor vehicles, motor vehicle parts and dealers, motor vehicle market research activities including survey research and removal of nonowner records from the original owner records of motor vehicle manufacturers;

(3) For use in the normal course of business by a legitimate business or its agents, employees or contractors:

(A) For the purpose of verifying the accuracy of personal information submitted by the individual to the business or its agents, employees or contractors; and

(B) If the information as submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against or recovering on a debt or security interest against the individual;

(4) For use in conjunction with any civil, criminal, administrative, or arbitral proceeding in any court or governmental agency or before any self-regulatory body, including investigation in anticipation of litigation, the service of process, the execution or enforcement of judgments and orders, or pursuant to an order of any court;

(5) For use in research and producing statistical reports, so long as the personal information is not published, redisclosed or used to contact individuals;

(6) For use by any insurer or insurance support organization or by a self-insured entity, its agents, employees or contractors in connection with claim investigation activities, antifraud activities, rating or underwriting;

(7) For use in providing notice to the owners of towed or impounded vehicles;

(8) For use by any licensed private investigator agency or licensed security service for any purpose permitted under this section;

(9) For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2710 et seq.);

(10) For use in connection with the operation of private toll transportation facilities; and

(11) For any other use specifically authorized by law that is related to the operation of a motor vehicle or public safety.

**§17A-2A-9. Fees.**

Any person making a request for disclosure of personal information required or permitted under sections five through eight of this article, ~~both~~ inclusive, shall pay to the division all reasonable fees related to providing the information: *Provided*, That all fees under this section shall be set by legislative rule pursuant to §29A-3-1 *et seq.* of this code: *Provided, however, That nothing herein shall prohibit the division from entering into a separate fee agreement with a private toll transportation facility to facilitate permitted disclosures pursuant to §17A-2A-7 of this code.*

**CHAPTER 24. PUBLIC SERVICE COMMISSION.****ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.****§24-2-1. Jurisdiction of commission; waiver of jurisdiction.**

(a) The jurisdiction of the commission shall extend to all public utilities in this state and shall include any utility engaged in any of the following public services:

Common carriage of passengers or goods, whether by air, railroad, street railroad, motor, or otherwise, by express or otherwise, by land, water, or air, whether wholly or partly by land, water, or air; transportation of oil, gas, or water by pipeline; transportation of coal and its derivatives and all mixtures and combinations thereof with other substances by pipeline; sleeping car or parlor car services; transmission of messages by telephone, telegraph, or radio; generation and transmission of electrical energy by hydroelectric or other utilities for service to the public, whether directly or through a distributing utility; supplying water, gas, or electricity by municipalities or others; sewer systems servicing 25 or more persons or firms other than the owner of the sewer systems: *Provided*, That if a public utility other than a political subdivision intends to provide sewer service by an innovative, alternative method, as defined by the federal Environmental Protection Agency, the innovative, alternative method is a public utility function and subject to the jurisdiction of the Public Service Commission regardless of the number of customers served by the innovative, alternative method; any public service district created under the provisions of §16-13A-1 *et seq.* of this code, except that the Public Service Commission will have no jurisdiction over the provision of stormwater services by a public service district; toll bridges located more than five miles from a toll-free bridge which crosses the same body of water or obstacle, wharves, ferries; solid waste facilities; and any other public service: *Provided, however*, That natural gas producers who provide natural gas service to not more than 25 residential customers are exempt from the jurisdiction of the commission with regard to the provisions of the residential service: *Provided further*, That upon request of any of the customers of the natural gas producers, the commission may, upon good cause being shown, exercise such authority as the commission may deem appropriate over the operation, rates, and charges of the producer and for such length of time as the commission may consider to be proper.

(b) The jurisdiction of the commission over political subdivisions of this state providing separate or combined water and/or sewer services and having at least 4,500 customers and annual combined gross revenues of \$3 million or more that are political subdivisions of the state is limited to:

(1) General supervision of public utilities, as granted and described in §24-2-5 of this code;

(2) Regulation of measurements, practices, acts, or services, as granted and described in §24-2-7 of this code;

(3) Regulation of a system of accounts to be kept by a public utility that is a political subdivision of the state, as granted and described in §24-2-8 of this code;

(4) Submission of information to the commission regarding rates, tolls, charges, or practices, as granted and described in §24-2-9 of this code;

(5) Authority to subpoena witnesses, take testimony, and administer oaths to any witness in any proceeding before or conducted by the commission, as granted and described in §24-2-10 of this code; and

(6) Investigation and resolution of disputes between a political subdivision of the state providing wholesale water and/or wastewater treatment or other services, whether by contract or through a tariff, and its customer or customers, including, but not limited to, rates, fees, and charges, service areas and contested utility combinations: *Provided*, That any request for an investigation related to such a dispute that is based on the act or omission of the political subdivision shall be filed within 30 days of the act or omission of the political subdivision and the commission shall resolve said dispute within 120 days of filing. The 120-day period for resolution of the dispute may be tolled by the commission until the necessary information showing the basis of the rates, fees, and charges or other information as the commission considers necessary is filed: *Provided, however*, That the disputed rates, fees, and charges so fixed by the political subdivision providing separate or combined water and/or sewer services shall remain in full force and effect until set aside, altered or, amended by the commission in an order to be followed in the future.

(7) Customers of water and sewer utilities operated by a political subdivision of the state may bring formal or informal complaints regarding the commission's exercise of the powers enumerated in this section and the commission shall resolve these complaints: *Provided*, That any formal complaint filed under this section that is based on the act or omission of the political subdivision shall be filed within 30 days of the act or omission complained of and the commission shall resolve the complaint within 180 days of filing. The 180-day period for resolution of the dispute may be tolled by the commission until the necessary information showing the basis of the matter complained of is filed by the political subdivision: *Provided, however*, That whenever the commission finds any regulations, measurements, practices, acts, or service to be unjust, unreasonable, insufficient, or unjustly discriminatory, or otherwise in violation of any provisions of this chapter, or finds that any service is inadequate, or that any service which is demanded cannot be reasonably obtained, the commission shall determine and declare, and by order fix reasonable measurement, regulations, acts, practices, or services, to be furnished, imposed, observed, and followed in lieu of those found to be unjust, unreasonable, insufficient, or unjustly discriminatory, inadequate, or otherwise in violation of this chapter, and shall make such other order respecting the same as shall be just and reasonable: *Provided further*, That if the matter complained of would affect rates, fees, and charges so fixed by the political subdivision providing separate or combined water and/or sewer services, the rates, fees, or charges shall remain in full force and effect until set aside, altered, or amended by the commission in an order to be followed in the future.

(8) If a political subdivision has a deficiency in either its bond revenue or bond reserve accounts, or is otherwise in breach of a bond covenant, any bond holder may petition the Public Service Commission for such redress as will bring the accounts to current status or otherwise resolve the breached covenant, and the commission shall have jurisdiction to fully resolve the alleged deficiency or breach.



(c) The commission may, upon application, waive its jurisdiction and allow a utility operating in an adjoining state to provide service in West Virginia when:

(1) An area of West Virginia cannot be practicably and economically served by a utility licensed to operate within the State of West Virginia;

(2) The area can be provided with utility service by a utility which operates in a state adjoining West Virginia;

(3) The utility operating in the adjoining state is regulated by a regulatory agency or commission of the adjoining state; and

(4) The number of customers to be served is not substantial. The rates the out-of-state utility charges West Virginia customers shall be the same as the rate the utility is duly authorized to charge in the adjoining jurisdiction. The commission, in the case of any such utility, may revoke its waiver of jurisdiction for good cause.

(d) Any other provisions of this chapter to the contrary notwithstanding:

(1) An owner or operator of an electric generating facility located or to be located in this state that has been designated as an exempt wholesale generator under applicable federal law, or will be so designated prior to commercial operation of the facility, and for which such facility the owner or operator holds a certificate of public convenience and necessity issued by the commission on or before July 1, 2003, is subject to §24-2-11c(e) through §24-2-11c(j) of this code as if the certificate of public convenience and necessity for the facility were a siting certificate issued under §24-2-11c of this code and is not otherwise subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the facility except for the making or constructing of a material modification thereof as provided in §24-2-1(d)(5) of this code.

(2) Any person, corporation, or other entity that intends to construct or construct and operate an electric generating facility to be located in this state that has been designated as an exempt wholesale generator under applicable federal law, or will be so designated prior to commercial operation of the facility, and for which facility the owner or operator does not hold a certificate of public convenience and necessity issued by the commission on or before July 1, 2003, shall, prior to commencement of construction of the facility, obtain a siting certificate from the commission pursuant to the provisions of §24-2-11c of this code in lieu of a certificate of public convenience and necessity pursuant to the provisions of §24-2-11 of this code. An owner or operator of an electric generating facility as is described in this subdivision for which a siting certificate has been issued by the commission is subject to §24-2-11c(e) through §24-2-11c(j) of this code and is not otherwise subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the facility except for the making or constructing of a material modification thereof as provided in §24-2-1(d)(5) of this code.

(3) An owner or operator of an electric generating facility located in this state that had not been designated as an exempt wholesale generator under applicable federal law prior to commercial operation of the facility that generates electric energy solely for sale at retail outside this state or solely for sale at wholesale in accordance with any applicable federal law that preempts state law or solely for both sales at retail and sales at wholesale and that had been constructed and had engaged in commercial operation on or before July 1, 2003, is not subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the facility, regardless of whether the facility subsequent to its construction has been or will be designated as

an exempt wholesale generator under applicable federal law: *Provided*, That the owner or operator is subject to §24-2-1(d)(5) of this code if a material modification of the facility is made or constructed.

(4) Any person, corporation, or other entity that intends to construct or construct and operate an electric generating facility to be located in this state that has not been or will not be designated as an exempt wholesale generator under applicable federal law prior to commercial operation of the facility that will generate electric energy solely for sale at retail outside this state or solely for sale at wholesale in accordance with any applicable federal law that preempts state law or solely for both sales at retail and sales at wholesale and that had not been constructed and had not been engaged in commercial operation on or before July 1, 2003, shall, prior to commencement of construction of the facility, obtain a siting certificate from the commission pursuant to the provisions of §24-2-11c of this code in lieu of a certificate of public convenience and necessity pursuant to the provisions of §24-2-11 of this code. An owner or operator of an electric generating facility as is described in this subdivision for which a siting certificate has been issued by the commission is subject to §24-2-11c(e) through §24-2-11c(j) of this code and is not otherwise subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the facility except for the making or constructing of a material modification thereof as provided in §24-2-1(d)(5) of this code.

(5) An owner or operator of an electric generating facility described in this subsection shall, before making or constructing a material modification of the facility that is not within the terms of any certificate of public convenience and necessity or siting certificate previously issued for the facility or an earlier material modification thereof, obtain a siting certificate for the modification from the commission pursuant to the provisions of §24-2-11c of this code in lieu of a certificate of public convenience and necessity for the modification pursuant to the provisions of §24-2-11 of this code and, except for the provisions of §24-2-11c of this code, is not otherwise subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the modification.

(6) The commission shall consider an application for a certificate of public convenience and necessity filed pursuant to §24-2-11 of this code to construct an electric generating facility described in this subsection or to make or construct a material modification of the electric generating facility as an application for a siting certificate pursuant to §24-2-11c of this code if the application for the certificate of public convenience and necessity was filed with the commission prior to July 1, 2003, and if the commission has not issued a final order thereon as of that date.

(7) The limitations on the jurisdiction of the commission over, and on the applicability of the provisions of this chapter to, the owner or operator of an electric generating facility as imposed by and described in this subsection do not affect or limit the commission's jurisdiction over contracts or arrangements between the owner or operator of the facility and any affiliated public utility subject to the provisions of this chapter.

(e) The commission does not have jurisdiction of Internet protocol-enabled service or voice-over Internet protocol-enabled service. As used in this subsection:

(1) "Internet protocol-enabled service" means any service, capability, functionality, or application provided using Internet protocol, or any successor protocol, that enables an end user to send or receive a communication in Internet protocol format, or any successor format, regardless of whether the communication is voice, data, or video.

(2) "Voice-over Internet protocol service" means any service that:

(i) Enables real-time two-way voice communications that originate or terminate from the user's location using Internet protocol or a successor protocol; and

(ii) Uses a broadband connection from the user's location.

(3) The term "voice-over Internet protocol service" includes any service that permits users to receive calls that originate on the public-switched telephone network and to terminate calls on the public-switched telephone network.

(f) Notwithstanding any other provisions of this article, the commission ~~has~~ shall not have jurisdiction to review or approve any transaction involving a telephone company otherwise subject to §24-2-12 and §24-2-12a of this code if all entities involved in the transaction are under common ownership.

(g) The Legislature finds that the rates, fees, charges, and ratemaking of municipal power systems are most fairly and effectively regulated by the local governing body. Therefore, notwithstanding any other provisions of this article, the commission ~~has~~ shall not have jurisdiction over the setting or adjustment of rates, fees, and charges of municipal power systems. Further, the jurisdiction of the Public Service Commission over municipal power systems is limited to that granted specifically in this code."

And,

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

**H. B. 2969** – "A Bill to amend and reenact §17-16D-6 and §17-16D-10 of the Code of West Virginia, 1931, as amended; to amend and reenact §17-17-10, §17-17-11, §17-17-12, §17-17-21, and §17-17-22; to amend said code by adding thereto a new section, designated §17-17-38; to amend and reenact §17A-2A-7 and §17A-2A-9; and to amend and reenact §24-2-1 of said code, all relating to privately owned toll bridges; providing for the sale of a municipally owned toll bridge to a private toll transportation facility under certain circumstances; defining the term 'private toll transportation facility'; authorizing disclosure of certain information in anticipation of litigation; authorizing the retention and collection of tolls on a privately owned toll bridge; clarifying procedures for the electronic collection of tolls by a private toll transportation facility; clarifying the tax treatment of toll bridges sold by a municipality to a private toll transportation facility; providing for the imposition of liability and nonrenewal of vehicle registration for failure to pay tolls on a privately owned toll bridge; clarifying the application of provisions of code to state owned and privately owned toll bridges; clarifying the jurisdiction of the Public Service Commission over toll bridges; and providing that commission does not have jurisdiction over certain telephone companies or municipal power systems."

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 507**), and there were—yeas 83, nays 4, absent and not voting 13, with the nays and the absent and not voting being as follows:

Nays: Fast, Kimes, Maynard and Paynter.

Absent and Not Voting: Bridges, Brown, Cooper, Hardy, Higginbotham, Householder, D. Kelly, J. Kelly, Nestor, Queen, Wamsley, Westfall and Worrell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2969) passed.

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

On this question, the yeas and nays were taken (**Roll No. 508**), and there were—yeas 84, nays 3, absent and not voting 13, with the nays and the absent and not voting being as follows:

Nays: Fast, Kimes and Paynter.

Absent and Not Voting: Bridges, Brown, Cooper, Hardy, Higginbotham, Householder, D. Kelly, J. Kelly, Nestor, Queen, Wamsley, Westfall and Worrell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2969) takes effect from its passage.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with a title amendment, to take effect July 1, 2022, a bill of the House of Delegates, as follows:

**H. B. 3294**, Relating to unemployment insurance.

Delegate Summers moved the House of Delegates concur in the following title amendment by the Senate:

**H. B. 3294** – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21A-2D-1, §21A-2D-2, §21A-2D-3, §21A-2D-4, §21A-2D-5, §21A-2D-6, §21A-2D-7, §21A-2D-8, and §21A-2D-9; amending said code by adding thereto a new article designated §21A-6B-1, §21A-6B-2, §21A-6B-3, §21A-6B-4, §21A-6B-5, §21A-6B-6, and §21A-6B-7; all generally relating to unemployment insurance; creating the Unemployment Insurance Program Integrity Act; providing short title; providing definitions; requiring the commissioner, on a weekly basis, to check unemployment insurance rolls against Division of Corrections and Rehabilitation’s list of imprisoned individuals, check new hire records against the National Directory of New Hires, and check unemployment insurance rolls against a commercially available database that provides cross-matching functions to verify eligibility for unemployment benefits; providing for data sharing between Workforce West Virginia and other departments, agencies, or divisions; providing for action by bureau to make new eligibility determinations; requiring commissioner to implement internal administrative policies regarding the recovery of fraudulent unemployment overpayments, cooperative agreements with the U.S. Department of Labor to investigate unemployment fraud, and recover overpayments of unemployment benefits; providing a mechanism for an employer to contact Workforce when an employee is offered their job back but refuses to be rehired; reporting of relevant data, to the extent permitted by federal law, by commissioner to the Legislature; providing for rulemaking; providing an effective date; establishing the Short Time Compensation Program within Workforce West Virginia; defining terms; requiring the commissioner to establish and implement a short-time compensation program by July 1, 2023; requiring program to meet applicable federal and state law; providing that an employer that wishes to participate submit an application; requiring the commissioner to develop an employer application form to request approval of a plan and an approval process to participate

in the program; establishing requirements for an application; providing procedure for commissioner approval or disapproval of a plan; providing for the effective date of a plan, expiration of a plan, revocation of a plan, and modification of a plan; establishing employee eligibility requirements to receive short-time compensation under a plan; prescribing employee benefits and limitations on benefits; and providing for rulemaking.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 509**), and there were—yeas 87, nays none, absent and not voting 13, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Brown, Cooper, Hardy, Higginbotham, Householder, D. Kelly, J. Kelly, Nestor, Queen, Wamsley, Westfall and Worrell.

So, a majority of the members elect having voted in the affirmative, the Speaker declared the bill (H. B. 3294) passed.

Delegate Summers moved that the bill take effect July 1, 2022.

On this question, the yeas and nays were taken (**Roll No. 510**), and there were—yeas 87, nays none, absent and not voting 13, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Brown, Cooper, Hardy, Higginbotham, Householder, D. Kelly, J. Kelly, Nestor, Queen, Wamsley, Westfall and Worrell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3294) takes effect July 1, 2022.

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

A message from the Senate, by

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

**Com. Sub. for S. B. 294**, Relating generally to savings and investment programs offered by state.

A message from the Senate, by

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

**Com. Sub. for S. B. 297**, Relating generally to modernizing Board of Treasury Investments.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the title amendment of the House of Delegates and the passage, as amended, to take effect from passage, of

**S. B. 397**, Relating to health care provider tax.

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

**Com. Sub. for S. B. 460**, Relating to Deputy Sheriff Retirement System Act.

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

**Com. Sub. for S. B. 479**, Relating to WV veterans service decoration and WV Service Cross.

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

**S. B. 651**, Allowing county boards of education to publish financial statements on website.

A message from the Senate, by  
The Clerk of the Senate, announced concurrence in the effective date of the House of Delegates, to take effect April 30, 2021, of

**S. B. 713**, Relating generally to inmate good time.

A message from the Senate, by  
The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules as follows:

**Com. Sub. for S. C. R. 3** - "Urging the United States Congress to reopen public lands in the State of West Virginia."

Whereas, Off-highway vehicle recreation has demonstrated a tremendous economic benefit of at least \$43 billion throughout the United States and to West Virginia, in particular; and

Whereas, West Virginia has an unparalleled opportunity to replace lost jobs with new employment supporting off-highway vehicle recreation; and

Whereas, West Virginia currently suffers from the highest rates of drug overdose deaths, and the actual number of deaths due to opioid overdose has quadrupled since 2010, but wilderness therapy programs, outdoor recreation, and off-highway vehicle recreation have demonstrated positive health effects for veterans with post-traumatic stress disorder and individuals with opioid addictions; and

Whereas, off-highway vehicle recreation can provide greater access to the state's public lands for disabled persons; and

Whereas, The public benefits of maintaining West Virginia's recreation economy, opportunities for outdoor therapy, the adventure travel industry, and providing access for disabled persons to the state's public lands, provide powerful reasons to restore full access to nationally managed public lands in this state; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby urges the United States Congress to reopen public lands in the State of 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 representatives and senators elected by the citizens of West Virginia serving the citizens of West Virginia in the Congress of the United States in Washington, D. C.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules as follows:

**S. C. R. 55** - "Supporting the Atlantic Coast Pipeline and the use of natural gas as a critical source of energy across the State of West Virginia and the United States."

Whereas, The Atlantic Coast Pipeline has created thousands of good-paying jobs in West Virginia and across the United States; and

Whereas, The utilization of natural gas as a renewable energy source has resulted in the economic development of billions of dollars in West Virginia and across the United States; and

Whereas, Natural gas provides a clean, affordable power source to the State of West Virginia and to millions of people in the United States; and

Whereas, Natural gas is the number one source of agricultural fertilizer in the United States, and together with coal, natural gas promises to be a major economic engine for the people of West Virginia and the United States as a whole; and

Whereas, The Atlantic Coast Pipeline will be one of the integral means of delivering renewable natural gas to the entire country for years to come; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Legislature hereby supports the Atlantic Coast Pipeline and the use of natural gas as a critical source of energy across the State of West Virginia and the United States; and, be it

*Further Resolved*, That the Legislature recognizes the importance of the continued development of the Atlantic Coast Pipeline and the use of clean burning natural gas for the citizens of West Virginia and all of the United States; and, be it

*Further Resolved*, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Atlantic Coast Pipeline, LLC, the Federal Energy Regulatory Commission, and the West Virginia delegation of the United States Senate and the U.S. Congress."

### **Miscellaneous Business**

Pursuant to House Rule 132, consent was obtained to print the following in the Appendix to the Journal:

- Delegate Ferrell regarding Com. Sub. for S. B. 387

- Delegate Nestor regarding the motion to reconsider Com. Sub. for S. B. 439

At 5:29 p.m., the House of Delegates adjourned until 10:00 a.m., Thursday, April 8, 2021.

---

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



## **SPECIAL CALENDAR**

**Thursday, April 8, 2021**

**58<sup>th</sup> Day**

**10:00 A. M.**

### **THIRD READING**

- Com. Sub. for S. B. 335 - Relating to WV Invests Grant Program for students at accredited community and technical college (ELLINGTON) (JULY 1, 2021)
- Com. Sub. for S. B. 419 - Redefining "firearm" to match federal code (CAPITO) (REGULAR)
- Com. Sub. for S. B. 458 - Relating to possession of firearms by individuals during state of emergency (CAPITO) (REGULAR)
- S. B. 486 - Relating to powers and duties of Chief Technology Officer (STEELE) (REGULAR)
- S. B. 488 - Relating to distributing hotel occupancy tax to convention and visitor's bureaus (STEELE) (REGULAR) [RIGHT TO AMEND]
- S. B. 521 - Extending licensure renewal term of certain private investigators, security guards, and associated firms (STEELE) (REGULAR)
- S. B. 529 - Correcting improper citation relating to DMV registration (STEELE) (REGULAR)
- Com. Sub. for S. B. 534 - Permitting Economic Development Authority to make working capital loans from revolving loan fund capitalized with federal grant funds (LINVILLE) (REGULAR)
- Com. Sub. for S. B. 613 - Adding classification and base salaries of certain civilian employees of State Police Forensic Laboratory (GEARHEART) (REGULAR) [FINANCE COMMITTEE TITLE AMENDMENT PENDING]
- Com. Sub. for S. B. 636 - Requiring certain history and civics courses be taught in schools (ELLINGTON) (REGULAR)
- Com. Sub. for S. B. 671 - Appointing Director of Office of Emergency Medical Services (J. PACK) (REGULAR)
- Com. Sub. for S. B. 684 - Adding Curator of Division of Arts, Culture, and History as ex officio voting member to Library Commission (STEELE) (REGULAR)
- Com. Sub. for S. B. 695 - Providing procedures for decreasing or increasing corporate limits by annexation (STEELE) (EFFECTIVE FROM PASSAGE)
- S. B. 714 - Relating to physician assistant practice act (J. PACK) (REGULAR)
- S. B. 717 - Supplemental appropriation from General Revenue to WV Community and Technical College Education, Control Account (CRISS) (EFFECTIVE FROM PASSAGE)

## SECOND READING

- Com. Sub. for S. B. 7 - Limiting political activity by public employees (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. J. R. 9 - Disabled Veterans' Exemption from Ad Valorem Property Taxation Amendment (CAPITO) [JUDICIARY COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. J. R. 11 - Constitutional Officer Term Limit Amendment (CAPITO) [JUDICIARY COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 332 - Providing procedure for WV to select delegates to Article V Convention (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 334 - Establishing license application process for needle exchange programs (CAPITO) [JUDICIARY COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 398 - Limiting eligibility of certain employers to participate in PEIA plans (ROHRBACH) (EFFECTIVE FROM PASSAGE) [FINANCE COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 464 - Requiring composting of organic materials and commercial composting products comply with WV Fertilizer Law (CAPITO) (REGULAR)
- Com. Sub. for S. B. 470 - Limiting release of certain personal information maintained by state agencies (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 478 - Permitting use of established federal marketplace programs to purchase supplies (STEELE) (REGULAR) [GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 485 - Relating to use or presentation of firearm during commission of felony (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 492 - Establishing program for bonding to reclaim abandoned wind and solar generation facilities (ANDERSON) (REGULAR)
- Com. Sub. for S. B. 502 - Providing lifetime hunting, fishing, and trapping license to residents, adopted, and foster children under 15 (HOTT) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 509 - Removing requirement that determination of medical stability be found prior to admission to mental health facility (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING]
- S. B. 532 - Limiting claims for state tax credits and rebates (LINVILLE) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING]

- S. B. 537 - Relating generally to kidnapping (CAPITO) (REGULAR)
- Com. Sub. for S. B. 542 - Relating generally to public electric utilities and facilities fuel supply for existing coal-fired plants (ANDERSON) (REGULAR)
- Com. Sub. for S. B. 569 - Relating to damages for medical monitoring (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 610 - Providing tuition and fee waivers at state higher education institutions for volunteers who have completed service in AmeriCorps programs in WV (HOUSEHOLDER) (REGULAR) [FINANCE COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 641 - Allowing counties to use severance tax proceeds for litter cleanup programs (STEELE) (JULY 1, 2021)
- Com. Sub. for S. B. 642 - Requiring legal advertisements by State Auditor be posted to central website (HARDY) (REGULAR)
- Com. Sub. for S. B. 655 - Eliminating sunset and legislative audit provisions for certain PSC rules (STEELE) (REGULAR)
- Com. Sub. for S. B. 657 - Relating to free expression on state institution of higher education campuses (CAPITO) (REGULAR)
- Com. Sub. for S. B. 658 - Requiring sheriff's departments to participate and utilize Handle With Care Program for trauma-inflicted children (CAPITO) (REGULAR)
- Com. Sub. for S. B. 660 - Providing for cooperation between law-enforcement agencies and military authorities (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING]
- S. B. 661 - Permitting retailers to assume sales or use tax assessed on tangible personal property (CRISS) (JULY 1, 2021)
- S. B. 674 - Clarifying that unpaid restitution does not preclude person from obtaining driver's license (CAPITO) (REGULAR)
- Com. Sub. for S. B. 677 - Relating generally to miners' safety, health, and training standards (CAPITO) (REGULAR)
- Com. Sub. for S. B. 702 - Relating to involuntary hospitalization, competency, and criminal responsibility of persons charged or convicted of certain crimes (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING]



## HOUSE CALENDAR

Thursday, April 8, 2021

58<sup>th</sup> Day

10:00 A. M.

### THIRD READING

- Com. Sub. for S. B. 562 - Relating to juvenile competency proceedings (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING]
- Com. Sub. for H. B. 2224 - Relating to complaints against public agencies to obtain records through the Freedom of Information Act (CAPITO) (REGULAR) [RIGHT TO AMEND]
- H. B. 2741 - Relating to expansion of the alcohol test and lock program to offenders with a drug related offense (CAPITO) (REGULAR)
- H. B. 3306 - Relating to virtual instruction (ELLINGTON) (REGULAR)

### SECOND READING

- Com. Sub. for S. B. 34 - Creating exemption to state sales and use tax for rental and leasing of equipment (HARDY) (JULY 1, 2021) [FINANCE COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 314 - Regulating pawnbrokers (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 368 - Authorizing DEP to develop Reclamation of Abandoned and Dilapidated Properties Program (RILEY) (JULY 1, 2021) [FINANCE COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 585 - Requiring BOE create and provide course in family and consumer sciences in secondary schools (ELLINGTON) (REGULAR)
- S. B. 710 - Requiring impact statement in certain instances of school closing or consolidation (ELLINGTON) (REGULAR) [EDUCATION COMMITTEE AMENDMENT PENDING]
- S. B. 718 - Relating generally to Coal Severance Tax Rebate (HOUSEHOLDER) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 2004 - Permit a licensed health care professional from another state to practice in this state through telehealth when registered with the appropriate West Virginia board (J. PACK) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 2015 - Requiring rules of local boards of health to be approved by the county commission except in cases of a public health emergency (J. PACK) (EFFECTIVE FROM PASSAGE)

- Com. Sub. for H. B. 2177 - Permitting the issuance of a state issued identification card without a photo on the card under certain conditions (STEELE) (REGULAR)
- H. B. 2536 - Relating to expressions of legislative intent regarding equivalent instruction time (ELLINGTON) (REGULAR)
- Com. Sub. for H. B. 2628 - Relating to the removal of the prohibition on having ATMs in the area where racetrack video lottery machines are located (CAPITO) (REGULAR)
- H. B. 2721 - Providing electronic notice of school attendance and satisfactory progress to the Division of Motor Vehicles in lieu of requiring each student to provide a paper notice (STEELE) (REGULAR)
- Com. Sub. for H. B. 2959 - Relating to the financing of environmental pollution control equipment for coal-fired power plants (ANDERSON) (REGULAR)
- Com. Sub. for H. B. 3009 - Relating to the publication of county board financial statements (ELLINGTON) (REGULAR)
- H. B. 3079 - Relating to exempting recovery residences from certain standards (J. PACK) (REGULAR)
- H. B. 3131 - Relating to correcting internal code references and citations (CAPITO) (REGULAR)
- H. B. 3305 - Relating to required course of study (ELLINGTON) (REGULAR)
- H. B. 3309 - Creating and funding a Video Lottery Terminals Modernization Fund (HOUSEHOLDER) (REGULAR)

#### **FIRST READING**

- H. B. 2582 - Relating to creating a third set of conditions for the professional teaching certificate (ELLINGTON) (REGULAR)
- H. B. 2590 - Relating to the West Virginia Employment Law Worker Classification Act (CAPITO) (REGULAR)
- Com. Sub. for H. B. 2620 - Relating to a departmental study of the child protective services and foster care workforce (J. PACK) (REGULAR)
- H. B. 2719 - Relating to the Division of Motor Vehicles use of electronic means and other alternate means to provide notice (STEELE) (REGULAR)
- H. B. 3059 - Making contract consummation with state more efficient (STEELE) (REGULAR)
- Com. Sub. for H. B. 3102 - Requiring Director of transportation to have experience in transportation department (ELLINGTON) (REGULAR)

**WEST VIRGINIA  
HOUSE OF DELEGATES**

---

**THURSDAY, APRIL 8, 2021**

---

**HOUSE CONVENES AT 10:00 A.M.**

---

**COMMITTEE ON RULES  
9:45 A.M. – ROOM 434 M**

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