

WEST VIRGINIA LEGISLATURE

# SENATE JOURNAL

EIGHTY-FIFTH LEGISLATURE  
REGULAR SESSION, 2021  
FIFTY-FIRST DAY

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Charleston, West Virginia, Thursday, April 1, 2021

The Senate met at 11:03 a.m.

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

Prayer was offered by First Sergeant Jay Powers, West Virginia State Police, Milton, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Eric J. Tarr, a senator from the fourth district.

Pending the reading of the Journal of Wednesday, March 31, 2021,

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

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

The Senate then proceeded to the third order of business.

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

**Eng. Com. Sub. for Com. Sub. for Senate Bill 275**, Relating generally to WV Appellate Reorganization Act of 2021.

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

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

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

### CHAPTER 3. ELECTIONS.

#### ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

##### §3-1-16. Election of state officers.

(a) At the general election to be held in 1968, and every fourth year thereafter, there shall be elected a Governor, Secretary of State, Treasurer, Auditor, Attorney General and Commissioner of Agriculture. At the general election in 1968, and every second year thereafter, there shall be elected a member of the State Senate for each senatorial district, and a member or members of the House of Delegates of the state from each county or each delegate district.

(b) At the time of the primary election to be held in the year 2016, and every twelfth year thereafter, there shall be elected one justice of the Supreme Court of Appeals, and at the time of the primary election to be held in 2020, and every twelfth year thereafter, two justices of the Supreme Court of Appeals and at the time of the primary election to be held in 2024, and every twelfth year thereafter, two justices of the Supreme Court of Appeals. Effective with the primary election held in the year 2016, the election of justices of the Supreme Court of Appeals shall be on a nonpartisan basis and by division as set forth more fully in article five of this chapter.

(c) At the time of the primary election to be held in the year 2024, and every tenth year thereafter, there shall be elected one judge to a seat of the Intermediate Court of Appeals; at the time of the primary election to be held in 2026, and every tenth year thereafter, one judge to a seat of the Intermediate Court of Appeals; and at the time of the primary election to be held in 2028, and every tenth year thereafter, one judge to a seat of the Intermediate Court of Appeals. Effective with the primary election held in the year 2024, the election of Judges of the Intermediate Court of Appeals shall be on a nonpartisan basis and by division as set forth more fully in §3-5-1 et seq. of this code.

#### ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.

##### §3-4A-11a. Ballots tabulated electronically; arrangement, quantity to be printed, ballot stub numbers.

(a) The board of ballot commissioners in counties using ballots upon which votes may be recorded by means of marking with electronically sensible ink or pencil and which marks are tabulated electronically shall cause the ballots to be printed or displayed upon the screens of the electronic voting system for use in elections.

(b) (1) For the primary election, the heading of the ballot, the type faces, the names and arrangement of offices and the printing of names and arrangement of candidates within each office are to conform as nearly as possible to §3-5-13 and §3-5-13a of this code.

(2) For the general election, the heading of the ballot, the type faces, the names and arrangement of offices and the printing of names and the arrangement of candidates within each office are to conform as nearly as possible to §3-6-2 of this code.

(3) Effective with the primary election held in 2016 and thereafter, the following nonpartisan elections are to be separated from the partisan ballot and separately headed in display type with a title clearly identifying the purpose of the election and constituting a separate ballot wherever a separate ballot is required under this chapter:

(A) Nonpartisan elections for judicial offices, by division, of:

(i) Justice of the Supreme Court of Appeals;

(ii) Judge of the Intermediate Court of Appeals;

~~(ii)~~ (iii) Judge of the circuit court;

~~(iii)~~ (iv) Family court judge; and

~~(iv)~~ (v) Magistrate;

(B) Nonpartisan elections for Board of Education; and

(C) Any question to be voted upon.

(4) Beginning in the primary election to be held in the year 2020 and in each election thereafter, the nonpartisan judicial elections described in subparagraphs (i) through (iv), paragraph (A), subdivision (3), of this subsection shall appear immediately after the state ticket and shall immediately precede the county ticket, in the same manner prescribed in §3-5-13a of this code.

(5) Both the face and the reverse side of the ballot may contain the names of candidates only if means to ensure the secrecy of the ballot are provided and lines for the signatures of the poll clerks on the ballot are printed on a portion of the ballot which is deposited in the ballot box and upon which marks do not interfere with the proper tabulation of the votes.

(6) The arrangement of candidates within each office is to be determined in the same manner as for other electronic voting systems, as prescribed in this chapter. On the general election ballot for all offices, and on the primary election ballot only for those offices to be filled by election, except delegate to national convention, lines for entering write-in votes are to be provided below the names of candidates for each office, and the number of lines provided for any office shall equal the number of persons to be elected, or three, whichever is fewer. The words "WRITE-IN, IF ANY" are to be printed, where applicable, directly under each line for write-ins. The lines are to be opposite a position to mark the vote.

(c) Except for electronic voting systems that utilize screens upon which votes may be recorded by means of a stylus or by means of touch, the primary election ballots are to be printed in the color of ink specified by the Secretary of State for the various political parties, and the general election ballot is to be printed in black ink. For electronic voting systems that utilize screens upon which votes may be recorded by means of a stylus or by means of touch, the primary ballots and the general election ballot are to be printed in black ink. All ballots are to be printed, where applicable, on white paper suitable for automatic tabulation and are to contain a perforated stub at the top or bottom of the ballot, which is to be numbered sequentially in the same manner as provided in §3-5-13 of this code, or are to be displayed on the screens of the electronic voting system upon which votes are recorded by means of a stylus or touch. The number of ballots printed and the packaging of ballots for the precincts are to conform to the requirements for paper ballots provided in this chapter.

(d) In addition to the official ballots, the ballot commissioners shall provide all other materials and equipment necessary to the proper conduct of the election.

## **ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.**

### **§3-5-6e. Election of Judges of the Intermediate Court of Appeals.**

(a) An election for the purpose of electing a Judge or Judges of the Intermediate Court of Appeals shall be held on the same date as the primary election, as provided by law, upon a nonpartisan ballot by division printed for this purpose.

(b) In case of a tie vote under this section, §3-6-12 of this code controls in breaking the tie vote.

### **§3-5-7. Filing certificates of announcements of candidacies; requirements; withdrawal of candidates when section applicable.**

(a) Any person who is eligible and seeks to hold an office or political party position to be filled by election in any primary or general election held under the provisions of this chapter shall file a certificate of announcement declaring his or her candidacy for the nomination or election to the office.

(b) The certificate of announcement shall be filed as follows:

(1) Candidates for the House of Delegates, the State Senate, circuit judge, family court judge, and any other office or political position to be filled by the voters of more than one county shall file a certificate of announcement with the Secretary of State.

(2) Candidates for an office or political position to be filled by the voters of a single county or a subdivision of a county, except for candidates for the House of Delegates, State Senate, circuit judge or family court judge, shall file a certificate of announcement with the clerk of the county commission.

(3) Candidates for an office to be filled by the voters of a municipality shall file a certificate of announcement with the recorder or city clerk.

(c) The certificate of announcement shall be filed with the proper officer not earlier than the second Monday in January before the primary election day and not later than the last Saturday in January before the primary election day and must be received before midnight, eastern standard time, of that day or, if mailed, shall be postmarked by the United States Postal Service before that hour. This includes the offices of Justice of the Supreme Court of Appeals, Judge of the Intermediate Court of Appeals, circuit court judge, family court judge and magistrate, which are to be filled on a nonpartisan and division basis at the primary election: *Provided*, That on the final day of a political filing period, the office of the Secretary of State shall be open from 9:00 a.m. until 11:59 p.m. The offices of the County Clerk in all counties of the state shall be open on that final day of a political filing period from 9:00 a.m. until 12:00 p.m.

(d) The certificate of announcement shall be on a form prescribed by the Secretary of State on which the candidate shall make a sworn statement before a notary public or other officer authorized to administer oaths, containing the following information:

- (1) The date of the election in which the candidate seeks to appear on the ballot;
  - (2) The name of the office sought; the district, if any; and the division, if any;
  - (3) The legal name of the candidate and the exact name the candidate desires to appear on the ballot, subject to limitations prescribed in §3-5-13 of this code;
  - (4) The county of residence and a statement that the candidate is a legally qualified voter of that county; and the magisterial district of residence for candidates elected from magisterial districts or under magisterial district limitations;
  - (5) The specific address designating the location at which the candidate resides at the time of filing, including number and street or rural route and box number and city, state, and zip code;
  - (6) For partisan elections, the name of the candidate's political party and a statement that the candidate: (A) Is a member of and affiliated with that political party as evidenced by the candidate's current registration as a voter affiliated with that party; and (B) has not been registered as a voter affiliated with any other political party for a period of sixty days before the date of filing the announcement;
  - (7) For candidates for delegate to national convention, the name of the presidential candidate to be listed on the ballot as the preference of the candidate on the first convention ballot; or a statement that the candidate prefers to remain "uncommitted";
  - (8) A statement that the person filing the certificate of announcement is a candidate for the office in good faith;
  - (9) The words "subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_" and a space for the signature of the officer giving the oath.
- (e) The Secretary of State or the board of ballot commissioners, as the case may be, may refuse to certify the candidacy or may remove the certification of the candidacy upon receipt of a certified copy of the voter's registration record of the candidate showing that the candidate was registered as a voter in a party other than the one named in the certificate of announcement during the sixty days immediately preceding the filing of the certificate: *Provided*, That unless a signed formal complaint of violation of this section and the certified copy of the voter's registration record of the candidate are filed with the officer receiving that candidate's certificate of announcement no later than ten days following the close of the filing period, the candidate may not be refused certification for this reason.
- (f) The certificate of announcement shall be subscribed and sworn to by the candidate before some officer qualified to administer oaths, who shall certify the same. Any person who knowingly provides false information on the certificate is guilty of false swearing and shall be punished in accordance with §3-9-3 of this code.
- (g) Any candidate for delegate to a national convention may change his or her statement of presidential preference by notifying the Secretary of State by letter received by the Secretary of State no later than the third Tuesday following the close of candidate filing. When the rules of the political party allow each presidential candidate to approve or reject candidates for delegate to convention who may appear on the ballot as committed to that presidential candidate, the presidential candidate or the candidate's committee on his or her behalf may file a list of approved

or rejected candidates for delegate and the Secretary of State shall list as “uncommitted” any candidate for delegate who is disapproved by the presidential candidate.

(h) A person may not be a candidate for more than one office or office division at any election: *Provided*, That a candidate for an office may also be a candidate for President of the United States, for membership on political party executive committees or for delegate to a political party national convention: *Provided, however*, That an unsuccessful candidate for a nonpartisan office in an election held concurrently with the primary election may be appointed under the provisions of section nineteen of this article to fill a vacancy on the general ballot.

(i) A candidate who files a certificate of announcement for more than one office or division and does not withdraw, as provided by §3-5-11 of this code, from all but one office prior to the close of the filing period may not be certified by the Secretary of State or placed on the ballot for any office by the board of ballot commissioners.

### **§3-5-13. Form and contents of ballots.**

The following provisions apply to the form and contents of election ballots:

(1) The face of every primary election ballot shall conform as nearly as practicable to that used at the general election.

(2) The heading of every ballot is to be printed in display type. The heading is to contain a ballot title, the name of the county, the state, the words “Primary Election” and the month, day and year of the election. The ballot title of the political party ballots is to contain the words “Official Ballot of the (Name) Party” and the official symbol of the political party may be included in the heading.

(A) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all judicial officers shall commence with the words “Nonpartisan Ballot of Election of Judicial Officers” and each such office shall be listed in the following order:

(i) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all justices of the Supreme Court of Appeals shall contain the words “Nonpartisan Ballot of Election of Justice(s) of the Supreme Court of Appeals of West Virginia”. The names of the candidates for the Supreme Court of Appeals shall be printed by division without references to political party affiliation or registration.

(ii) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all judges of the Intermediate Court of Appeals shall contain the words “Nonpartisan Ballot of Election of Judge(s) of the Intermediate Court of Appeals”. The names of the candidates for the Intermediate Court of Appeals shall be printed by division without references to political party affiliation or registration.

(iii) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all circuit court judges in the respective circuits shall contain the words “Nonpartisan Ballot of Election of Circuit Court Judge(s)”. The names of the candidates for the respective circuit court judge office shall be printed by division without references to political party affiliation or registration.

~~(iii)~~ (iv) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all family court judges in the respective circuits shall contain the words "Nonpartisan Ballot of Election of Family Court Judge(s)". The names of the candidates for the respective family court judge office shall be printed by division without references to political party affiliation or registration.

~~(iv)~~ (v) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all magistrates in the respective circuits shall contain the words "Nonpartisan Ballot of Election of Magistrate(s)". The names of the candidates for the respective magistrate office shall be printed by division without references to political party affiliation or registration.

(B) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for the Board of Education is to contain the words "Nonpartisan Ballot of Election of Members of the \_\_\_\_\_ County Board of Education". The districts for which fewer than two candidates may be elected and the number of available seats are to be specified and the names of the candidates are to be printed without reference to political party affiliation and without designation as to a particular term of office.

(C) Any other ballot or portion of a ballot on a question is to have a heading which clearly states the purpose of the election according to the statutory requirements for that question.

(3) (A) For paper ballots, the heading of the ballot is to be separated from the rest of the ballot by heavy lines and the offices shall be arranged in columns with the following headings, from left to right across the ballot: "National Ticket", "State Ticket", "Nonpartisan Judicial Ballot", "County Ticket", "Nonpartisan Ballot" in a nonpresidential election year, "District Ticket" or, in a presidential election year, "National Convention". The columns are to be separated by heavy lines. Within the columns, the offices are to be arranged in the order prescribed in §3-5-13a of this code.

(B) For voting machines, electronic voting devices and any ballot tabulated by electronic means, the offices are to appear in the same sequence as prescribed in §3-5-13a of this code and under the same headings as prescribed in paragraph (A) of this subdivision. The number of pages, columns or rows, where applicable, may be modified to meet the limitations of ballot size and composition requirements subject to approval by the Secretary of State.

(C) The title of each office is to be separated from preceding offices or candidates by a line and is to be printed in bold type no smaller than eight point. Below the office is to be printed the number of the district, if any, the number of the division, if any, and the words "Vote for \_\_\_\_\_" with the number to be nominated or elected or "Vote For Not More Than \_\_\_\_\_" in multicandidate elections. For offices in which there are limitations relating to the number of candidates which may be nominated, elected or appointed to or hold office at one time from a political subdivision within the district or county in which they are elected, there is to be a clear explanation of the limitation, as prescribed by the Secretary of State, printed in bold type immediately preceding the names of the candidates for those offices on the ballot in every voting system. For counties in which the number of county commissioners exceeds three and the total number of members of the county commission is equal to the number of magisterial districts within the county, the office of county commission is to be listed separately for each district to be filled with the name of the magisterial district and the words "Vote for One" printed below the name of the office: *Provided*, That the office title and applicable instructions may span the width of the ballot so as it is centered among the respective columns.

(D) The location for indicating the voter's choices on the ballot is to be clearly shown. For paper ballots, other than those tabulated electronically, the official primary ballot is to contain a square formed in dark lines at the left of each name on the ballot, arranged in a perpendicular column of squares before each column of names.

(4) (A) The name of every candidate certified by the Secretary of State or the board of ballot commissioners is to be printed in capital letters in no smaller than eight point type on the ballot for the appropriate precincts. Subject to the rules promulgated by the Secretary of State, the name of each candidate is to appear in the form set out by the candidate on the certificate of announcement, but in no case may the name misrepresent the identity of the candidate nor may the name include any title, position, rank, degree or nickname implying or inferring any status as a member of a class or group or affiliation with any system of belief.

(B) The city of residence of every candidate, the state of residence of every candidate residing outside the state, the county of residence of every candidate for an office on the ballot in more than one county and the magisterial district of residence of every candidate for an office subject to magisterial district limitations are to be printed in lower case letters beneath the names of the candidates.

(C) The arrangement of names within each office must be determined as prescribed in §3-5-13a of this code.

(D) If the number of candidates for an office exceeds the space available on a column or ballot page and requires that candidates for a single office be separated, to the extent possible, the number of candidates for the office on separate columns or pages are to be nearly equal and clear instructions given the voter that the candidates for the office are continued on the following column or page.

(5) When an insufficient number of candidates has filed for a party to make the number of nominations allowed for the office or for the voters to elect sufficient members to the Board of Education or to executive committees, the vacant positions on the ballot shall be filled with the words "No Candidate Filed": *Provided*, That in paper ballot systems which allow for write-ins to be made directly on the ballot, a blank line shall be placed in any vacant position in the office of Board of Education or for election to any party executive committee. A line shall separate each candidate from every other candidate for the same office. Notwithstanding any other provision of this code, if there are multiple vacant positions on a ballot for one office, the multiple vacant positions which would otherwise be filled with the words "No Candidate Filed" may be replaced with a brief detailed description, approved by the Secretary of State, indicating that there are no candidates listed for the vacant positions.

(6) In presidential election years, the words "For election in accordance with the plan adopted by the party and filed with the Secretary of State" is to be printed following the names of all candidates for delegate to national convention.

(7) All paper ballots are to be printed in black ink on paper sufficiently thick so that the printing or marking cannot be discernible from the back: *Provided*, That no paper ballot voted pursuant to the provisions of 42 U. S. C. §1973, *et seq.*, the Uniformed and Overseas Citizens Absentee Voting Act of 1986, or federal write-in absentee ballot may be rejected due to paper type, envelope type, or notarization requirement. Ballot cards and paper for printing ballots using electronically sensible ink are to meet minimum requirements of the tabulating systems and are to conform in size and weight to ensure ease in tabulation.



(8) Ballots are to contain perforated tabs at the top of the ballots and are to be printed with unique sequential numbers from one to the highest number representing the total number of ballots printed. On paper ballots, the ballot is to be bordered by a solid line at least one sixteenth of an inch wide and the ballot is to be trimmed to within one-half inch of that border.

(9) On the back of every official ballot or ballot card the words "Official Ballot" with the name of the county and the date of the election are to be printed. Beneath the date of the election there are to be two blank lines followed by the words "Poll Clerks".

(10) The face of sample paper ballots and sample ballot labels are to be like other official ballots or ballot labels except that the word "sample" is to be prominently printed across the front of the ballot in a manner that ensures the names of candidates are not obscured and the word "sample" may be printed in red ink. No printing may be placed on the back of the sample.

## **ARTICLE 10. FILLING VACANCIES.**

### **§3-10-3. Vacancies in offices of state officials, justices, judges, and magistrates.**

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

(b) Any vacancy occurring in the offices of Justice of the Supreme Court of Appeals, judge of the Intermediate Court of Appeals, judge of a circuit court, or judge of a family court is filled by the Governor of the state by appointment and, if the unexpired term be for a period of more than two years, by a subsequent election to fill the remainder of the term, as required by §3-10-3(d) of this code. If an election is required under §3-10-3(d) of this code, the Governor, circuit court, or the chief judge thereof in vacation, is responsible for the proper proclamation by order and notice required by §3-10-1 of this code.

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

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

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

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

(e) When an election to fill a vacancy is required to be held at the general election, according to the provisions of §3-10-3(d) of this code, a special candidate filing period shall be established. Candidates seeking election to any unexpired term for Justice of the Supreme Court of Appeals, judge of the Intermediate Court of Appeals, judge of a circuit court, judge of the family court, or magistrate shall file a certificate of announcement and pay the filing fee no earlier than the first Monday in August and no later than 77 days before the general election.

### **§3-10-3a. Judicial Vacancy Advisory Commission.**

(a) The Judicial Vacancy Advisory Commission shall assist the Governor in filling judicial vacancies. The commission shall meet and submit a list of no more than five nor less than two of the most qualified persons to the Governor within 90 days of the occurrence of a vacancy, or the formal announcement of the justice or judge by letter to the Governor of an upcoming resignation or retirement that will result in the occurrence of a vacancy, in the office of Justice of the Supreme Court of Appeals, judge of the Intermediate Court of Appeals, judge of a circuit court, or judge of a family court. The Governor shall make the appointment to fill the vacancy, as required by this article, within 30 days following the receipt of the list of qualified candidates or within 30 days following the vacancy, whichever occurs later.

(b) The commission shall consist of eight appointed members appointed by the Governor for six-year terms, including four public members and four attorney members. The Governor shall appoint attorney members from a list of nominees provided by the Board of Governors of the West Virginia State Bar. The Board of Governors of the West Virginia State Bar shall nominate no more than 20 nor less than 10 of the most qualified attorneys for appointment to the commission whenever there is a vacancy in the membership of the commission reserved for attorney members. The commission shall choose one of its appointed members to serve as chair for a three-year term. No more than four appointed members of the commission shall belong to the same political party. All members of the commission shall be citizens of this state. Public members of the commission may not be licensed to practice law in West Virginia or any other jurisdiction.

(c) (1) No more than two appointed members of the commission may be residents of the same state senatorial district, as provided in §1-2-1 of this code, at the time of appointment: *Provided*, That the members appointed to, and serving on, the commission prior to the enactment of this subdivision are not disqualified from service for the remainder of the member's term based on the residency requirements of this subdivision.

(2) No more than three appointed members of the commission may be residents of the same congressional district: *Provided*, That, if the number of congressional districts in the state is reduced to two, then no more than four appointed members of the commission may be residents of the same congressional district: *Provided, however*, That the members appointed to, and

serving on, the commission prior to the date on which the number of congressional districts in the state is reduced to two are not disqualified from service for the remainder of the member's term based on the residency requirements of this subdivision.

(d) The Governor, or his or her designee, the President of the West Virginia State Bar, and the Dean of the West Virginia University College of Law shall serve as ex officio members of the commission.

(e) Members of the commission shall serve without compensation, except that commission members are entitled to reimbursement of travel and other necessary expenses actually incurred while engaged in official commission activities in accordance with the guidelines of the Travel Management Office of the Department of Administration, or its successor entity. The Governor's Office shall cooperate with the commission to ensure that all resources necessary to carrying out the official duties of the commission are provided, including staff assistance, equipment, and materials.

(f) The commission shall adopt written policies that formalize and standardize all operating procedures and ethical practices of its members, including, but not limited to, procedures for training commission members, publishing notice of judicial vacancies, recruiting qualified individuals for consideration by the commission, receiving applications from qualified individuals, notifying the public of judicial vacancies, notifying state or local groups and organizations of judicial vacancies, and soliciting public comment on judicial vacancies. The written policies of the commission are not subject to the provisions of chapter 29A of this code but shall be filed with the Secretary of State.

(g) A majority of the commission ~~plus one~~ shall constitute a quorum to do business.

(h) All organizational meetings of the commission shall be open to the public and subject to the requirements of §6-9A-1 *et seq.* of this code. An "organizational meeting" means an initial meeting to discuss the commission's procedures and requirements for a judicial vacancy. The commission shall hold at least one organizational meeting upon the occurrence of a judicial vacancy. All other meetings of the commission are exempt from §6-9A-1 *et seq.* of this code.

(i) The commission shall make available to the public copies of any applications and any letters of recommendation written on behalf of any applicants. All other documents or materials created or received by the commission shall be confidential and exempt from the provisions of chapter 29B of this code, except for the list of the most qualified persons or accompanying memoranda submitted to the Governor in accordance with the provisions of subsection (j) of this section, which shall be available for public inspection, and the written policies required to be filed with the Secretary of State in accordance with subsection (f) of this section.

(j) The commission shall submit its list of the most qualified persons to the Governor in alphabetical order. A memorandum may accompany the list of the most qualified persons and state facts concerning each of the persons listed. The commission shall make copies of any list of the most qualified persons and accompanying memoranda it submits to the Governor available for public inspection.

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

### **ARTICLE 5. TERMS OF OFFICE; MATTERS AFFECTING THE RIGHT TO HOLD OFFICE.**

**§6-5-1. When terms of office to begin.**

The terms of officers, except when elected or appointed to fill vacancies, shall begin respectively as follows: That of Governor, Secretary of State, State Superintendent of Free Schools, Treasurer, Auditor, Attorney General and Commissioner of Agriculture, on the first Monday after the second Wednesday of January next after their election; that of a member of the Legislature, on December 1, next after his or her election; and that of the justices of the Supreme Court of Appeals, the judges of the Intermediate Court of Appeals, the judges of the several circuit courts, the judges of the family and other inferior courts, the county commissioners, prosecuting attorneys, surveyors of land, assessors, sheriffs, clerks of the circuit, or other inferior courts, clerks of the county commissions, magistrates, on January 1, next after their election.

Whenever a person is elected or appointed to fill a vacancy, his or her term shall be as prescribed by chapter three of this code.

**CHAPTER 16. PUBLIC HEALTH.****ARTICLE 2D. CERTIFICATE OF NEED.****§16-2D-16a. Transfer of appellate jurisdiction to Intermediate Court of Appeals.**

(a) Notwithstanding any other provision of this article, effective July 1, 2022:

(1) The Office of Judges may not review a decision of the authority, issued after June 30, 2022, in a certificate of need review. On or before September 30, 2022, the Office of Judges shall issue a final decision in, or otherwise dispose of, each and every appeal, pending before the Office of Judges, of a decision by the authority in a certificate of need review.

(2) An appeal of a final decision in a certificate of need review, issued by the authority after June 30, 2022, shall be made to the West Virginia Intermediate Court of Appeals, pursuant to the provisions governing the judicial review of contested administrative cases in §29A-5-1 et seq. of this code.

(b) If the Office of Judges does not issue a final decision or otherwise dispose of any appeal of a decision of the authority in a certificate of need review on or before September 30, 2022, the appeal shall be transferred to the Intermediate Court of Appeals, as provided in §29A-5-4 of this code. For any appeal transferred pursuant to this subsection, the Intermediate Court of Appeals shall adopt any existing records of evidence and proceedings in the Office of Judges, conduct further proceedings as it considers necessary, and issue a final decision or otherwise dispose of the case pursuant to the provisions governing the judicial review of contested administrative cases in §29A-5-1 et seq. of this code.

**CHAPTER 23. WORKERS' COMPENSATION.****ARTICLE 1. GENERAL ADMINISTRATIVE PROVISIONS.****§23-1-1h. Powers and duties of Office of Judges transferred to Board of Review; definition of certain terms effective July 1, 2022.**

(a) Notwithstanding any other provision of this code, with regard to an objection, protest, or any other decision issued after June 30, 2022, all powers and duties of the Workers'

Compensation Office of Judges, as provided in this chapter, shall be transferred to the Workers' Compensation Board of Review.

(b) Notwithstanding any other provision of this code, the West Virginia Intermediate Court of Appeals has exclusive appellate jurisdiction over the following matters:

(1) Decisions or orders issued by the Office of Judges after June 30, 2022, and prior to its termination; and

(2) Decisions of the Workers' Compensation Board of Review, issued after June 30, 2022, as provided in §23-5-8a and §51-11-1 et seq. of this code.

(c) Unless the context clearly indicates a different meaning, effective July 1, 2022, the following terms shall have the following meanings for the purposes of this chapter, except when used in §23-5-1 et seq. of this code:

(1) "Administrative law judge" means a member of the Workers' Compensation Board of Review, or a hearing examiner designated by the Board of Review as authorized in §23-5-1 et seq. of this code;

(2) "Office of judges" means the "Workers' Compensation Board of Review"; and

(3) "Workers' Compensation Board of Review" or "Board of Review" when used in reference to an appeal of a Board of Review decision, means the West Virginia Intermediate Court of Appeals, created by §51-11-1 et seq. of this code.

## **ARTICLE 5. REVIEW.**

### **§23-5-1. Notice by commission or self-insured employer of decision; procedures on claims; objections and hearing; effective until June 30, 2022.**

(a) The Insurance Commissioner, private carriers, and self-insured employers may determine all questions within their jurisdiction. In matters arising under §23-2C-8(c) of this code, and under §23-3-1 et seq. and §23-4-1 et seq. of this code, the Insurance Commissioner, private carriers, and self-insured employers shall promptly review and investigate all claims. The parties to a claim are the claimant and, if applicable, the claimant's dependents, and the employer, and with respect to claims involving funds created in §23-2C-1 et seq. of this code for which he or she has been designated the administrator, the Insurance Commissioner. In claims in which the employer had coverage on the date of the injury or last exposure, the employer's carrier has sole authority to act on the employer's behalf in all aspects related to litigation of the claim. With regard to any issue which is ready for a decision, the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, shall promptly send the decision to all parties, including the basis of its decision. As soon as practicable after receipt of any occupational pneumoconiosis or occupational disease claim, or any injury claim in which temporary total benefits are being claimed, the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, shall send the claimant a brochure approved by the Insurance Commissioner setting forth the claims process.

(b) (1) Except with regard to interlocutory matters, upon making any decision, upon making or refusing to make any award, or upon making any modification or change with respect to former findings or orders, as provided by §23-4-16 of this code, the Insurance Commissioner, private

carrier, or self-insured employer, whichever is applicable, shall give notice, in writing, to the parties to the claim of its action. The notice shall state the time allowed for filing a protest to the finding. The action of the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, is final unless the decision is protested within 60 days after the receipt of such decision unless a protest is filed within the 60-day period, the finding or action is final. This time limitation is a condition of the right to litigate the finding or action and hence jurisdictional. Any protest shall be filed with the Office of Judges with a copy served upon the parties to the claim, and other parties in accordance with the procedures set forth in §23-8-1 *et seq.* and §23-9-1 *et seq.* of this code. An employer may protest decisions incorporating findings made by the Occupational Pneumoconiosis Board, decisions made by the Insurance Commissioner acting as administrator of claims involving funds created in §23-2C-1 *et seq.* of this code or decisions entered pursuant to §23-4-7A(c)(1) of this code.

(2) (A) With respect to every application for benefits filed on or after July 1, 2008, in which a decision to deny benefits is protested and the matter involves an issue as to whether the application was properly filed as a new claim or a reopening of a previous claim, the party that denied the application shall begin to make conditional payment of benefits and must promptly give notice to the Office of Judges that another identifiable person may be liable. The Office of Judges shall promptly order the appropriate persons be joined as parties to the proceeding: *Provided*, That at any time during a proceeding in which conditional payments are being made in accordance with the provisions of this subsection, the Office of Judges may, pending final determination of the person properly liable for payment of the claim, order that such conditional payments of benefits be paid by another party.

(B) Any conditional payment made pursuant to paragraph (A) of this subdivision shall not be deemed an admission or conclusive finding of liability of the person making such payments. When the administrative law judge has made a determination as to the party properly liable for payment of the claim, he or she shall direct any monetary adjustment or reimbursement between or among the Insurance Commissioner, private carriers, and self-insured employers as is necessary.

(c) The Office of Judges may direct that:

(1) An application for benefits be designated as a petition to reopen, effective as of the original date of filing;

(2) A petition to reopen be designated as an application for benefits, effective as of the original date of filing; or

(3) An application for benefits or petition to reopen filed with the Insurance Commissioner, private carrier, or self-insured employer be designated as an application or petition to reopen filed with another private carrier, self-insured employer, or Insurance Commissioner, effective as of the original date of filing.

(d) Where an employer protests a written decision entered pursuant to a finding of the Occupational Pneumoconiosis Board, a decision on a claim made by the Insurance Commissioner acting as the administrator of a fund created in §23-2C-1 *et seq.* of this code, or decisions entered pursuant to §23-4-7A(c)(1) of this code, and the employer does not prevail in its protest, and in the event the claimant is required to attend a hearing by subpoena or agreement of counsel, or at the express direction of the Office of Judges, then the claimant, in addition to reasonable traveling and other expenses, shall be reimbursed for loss of wages incurred by the claimant in attending the hearing.

(e) The Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, may amend, correct, or set aside any order or decision on any issue entered by it, which, at the time of issuance or any time after that, is discovered to be defective or clearly erroneous or the result of mistake, clerical error, or fraud, or with respect to any order or decision denying benefits, otherwise not supported by the evidence, but any protest filed prior to entry of the amended decision is a protest from the amended decision unless and until the administrative law judge before whom the matter is pending enters an order dismissing the protest as moot in light of the amendment. Jurisdiction to issue an amended decision pursuant to this subsection continues until the expiration of two years from the date of a decision to which the amendment is made unless the decision is sooner affected by an action of an administrative law judge or other judicial officer or body: *Provided*, That corrective actions in the case of fraud may be taken at any time.

(f) This section is of no force and effect after June 30, 2022.

**§23-5-1a. Notice by commission or self-insured employer of decision; procedures on claims; objections and hearing; effective July 1, 2022.**

(a) The Insurance Commissioner, private carriers, and self-insured employers may determine all questions within their jurisdiction. In matters arising under §23-2C-8(c), and under §23-3-1 et seq. and §23-4-1 et seq. of this code, the Insurance Commissioner, private carriers, and self-insured employers, whichever is applicable, shall promptly review and investigate all claims. The parties to a claim are the claimant and, if applicable, the claimant's dependents, the employer, and, with respect to claims involving funds created in §23-2C-1 et seq. of this code for which he or she has been designated the administrator, the Insurance Commissioner. In claims in which the employer had coverage on the date of the injury or last exposure, the employer's carrier has sole authority to act on the employer's behalf in all aspects related to litigation of the claim. With regard to any issue which is ready for a decision, the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, shall promptly send the decision to all parties, including the basis of its decision. As soon as practicable after receipt of any occupational pneumoconiosis or occupational disease claim or any injury claim in which temporary total benefits are being claimed, the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, shall send the claimant a brochure approved by the Insurance Commissioner setting forth the claims process.

(b) (1) Except with regard to interlocutory matters, upon making any decision, upon making or refusing to make any award, or upon making any modification or change with respect to former findings or orders, as provided by §23-4-16 of this code, the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, shall give notice, in writing, to the parties to the claim of its action. The notice shall state the time allowed for filing an objection to the finding. The action of the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, is final unless an objection to the decision is properly filed within 60 days after the receipt of such decision. This time limitation is a condition of the right to litigate the finding or action and hence jurisdictional. Any objection shall be filed with the Workers' Compensation Board of Review, as provided in §23-5-8a and §23-5-8b of this code, with a copy served upon the parties to the claim, and other parties in accordance with the procedures set forth in §23-5-8a and §23-5-9a of this code. An employer may file an objection to a decision incorporating findings made by the Occupational Pneumoconiosis Board, decisions made by the Insurance Commissioner acting as administrator of claims involving funds created in §23-2C-1 et seq. of this code, or decisions entered pursuant to §23-4-7a(c)(1) of this code.

(2) (A) With respect to every application for benefits in which an objection to a decision to deny benefits is filed and the matter involves an issue as to whether the application was properly filed as a new claim or a reopening of a previous claim, the party that denied the application shall begin to make conditional payment of benefits and must promptly give notice to the Workers' Compensation Board of Review that another identifiable person may be liable. The Workers' Compensation Board of Review shall promptly order the appropriate persons be joined as parties to the proceeding: *Provided*, That at any time during a proceeding in which conditional payments are being made in accordance with the provisions of this subsection, the Workers' Compensation Board of Review may, pending final determination of the person properly liable for payment of the claim, order that such conditional payments of benefits be paid by another party.

(B) Any conditional payment made pursuant to paragraph (A) of this subdivision shall not be deemed an admission or conclusive finding of liability of the person making such payments. When the Workers' Compensation Board of Review has made a determination as to the party properly liable for payment of the claim, the Board of Review shall direct any monetary adjustment or reimbursement between or among the Insurance Commissioner, private carriers, and self-insured employers as is necessary.

(c) The member of the Workers' Compensation Board of Review assigned to an objection, as provided in §23-5-9a(b) of this code, may direct that:

(1) An application for benefits be designated as a petition to reopen, effective as of the original date of filing;

(2) A petition to reopen be designated as an application for benefits, effective as of the original date of filing; or

(3) An application for benefits or petition to reopen filed with the Insurance Commissioner, private carrier, or self-insured employer be designated as an application or petition to reopen filed with another private carrier, self-insured employer, or Insurance Commissioner, effective as of the original date of filing.

(d) Where an employer files an objection to a written decision entered pursuant to a finding of the Occupational Pneumoconiosis Board, a decision on a claim made by the Insurance Commissioner acting as the administrator of a fund created in §23-2C-1 *et seq.* of this code, or decisions entered pursuant to §23-4-7a(c)(1) of this code, and the employer does not prevail in its objection, and in the event the claimant is required to attend a hearing by subpoena, or agreement of counsel, or at the express direction of Workers' Compensation Board of Review, then the claimant, in addition to reasonable traveling and other expenses, shall be reimbursed for loss of wages incurred by the claimant in attending the hearing.

(e) The Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, may amend, correct, or set aside any order or decision on any issue entered by it which, at the time of issuance or any time after that, is discovered to be defective, or clearly erroneous, or the result of mistake, clerical error, or fraud, or with respect to any order or decision denying benefits, otherwise not supported by the evidence: *Provided*, That any objection filed prior to entry of the amended decision is an objection to the amended decision unless and until the Workers' Compensation Board of Review enters an order dismissing the objection as moot in light of the amendment. Jurisdiction to issue an amended decision pursuant to this subsection continues until the expiration of two years from the date of a decision to which the amendment is made unless the decision is sooner affected by an action of the Workers' Compensation Board of



Review or a judicial officer or body: *Provided, however,* That corrective actions in the case of fraud may be taken at any time.

(f) This section becomes effective on July 1, 2022.

**§23-5-3. Refusal to reopen claim; notice; objection; effective until June 30, 2022.**

(a) If it appears to the Insurance Commissioner, private insurance carriers, and self-insured employers, whichever is applicable, that an application filed under §23-2-1 *et seq.* of this code fails to disclose a progression or aggravation in the claimant's condition, or some other fact or facts which were not previously considered in its former findings and which would entitle the claimant to greater benefits than the claimant has already received, the Insurance Commissioner, private insurance carriers, and self-insured employers, whichever is applicable, shall, within a reasonable time, notify the claimant and the employer that the application fails to establish a prima facie cause for reopening the claim. The notice shall be in writing stating the reasons for denial and the time allowed for objection to the decision of the commission. The claimant may, within 60 days after receipt of the notice, object in writing to the finding. Unless the objection is filed within the 60-day period, no objection shall be allowed. This time limitation is a condition of the right to objection and hence jurisdictional. Upon receipt of an objection, the Office of Judges shall afford the claimant an evidentiary hearing as provided in §23-9-1 *et seq.* of this code.

(b) This section is of no force and effect after June 30, 2022.

**§23-5-3a. Refusal to reopen claim; notice; objection; effective July 1, 2022.**

(a) If it appears to the Insurance Commissioner, private insurance carriers, and self-insured employers, whichever is applicable, that an application filed under §23-5-2a of this code fails to disclose a progression or aggravation in the claimant's condition, or some other fact or facts which were not previously considered in its former findings, and which would entitle the claimant to greater benefits than the claimant has already received, the Insurance Commissioner, private insurance carriers, and self-insured employers, whichever is applicable, shall, within a reasonable time, notify the claimant and the employer that the application fails to establish a prima facie cause for reopening the claim. The notice shall be in writing stating the reasons for denial and the time allowed for objection to the decision of the commission. The claimant may, within 60 days after receipt of the notice, object in writing to the finding. Unless the objection is filed within the 60-day period, no objection shall be allowed. This time limitation is a condition of the right to objection and hence jurisdictional. Upon receipt of an objection, the Workers' Compensation Board of Review shall afford the claimant an evidentiary hearing as provided in §23-5-9a of this code.

(b) This section becomes effective on July 1, 2022.

**§23-5-4. Application by employer for modification of award; objection to modification; hearing.**

In any case in which an employer makes application in writing for a modification of any award previously made to an employee of the employer, the commission, the successor to the commission, other private insurance carriers and self-insured employers, whichever is applicable, shall make a decision upon the application. If the application discloses cause for a further adjustment, the commission, the successor to the commission, other private insurance carriers

and self-insured employers, whichever is applicable, shall, after due notice to the employee, make the modifications or changes with respect to former findings or orders that are justified. Any party dissatisfied with any modification or change made or by the denial of an application for modification is, upon proper and timely objection, entitled to a hearing as provided in either section nine or nine-a of this article.

**§23-5-5. Refusal of modification; notice; objection; effective until June 30, 2022.**

If in any case it appears to the commission, the successor to the commission, other private insurance carriers, and self-insured employers, whichever is applicable, that the application filed pursuant to §23-4-1 *et seq.* of this code fails to disclose some fact or facts which were not previously considered by the commission in its former findings, and which would entitle the employer to any modification of the previous award, the commission, the successor to the commission, other private insurance carriers, and self-insured employers, whichever is applicable, shall, within 60 days from the receipt of the application, notify the claimant and employer that the application fails to establish a just cause for modification of the award. The notice shall be in writing stating the reasons for denial and the time allowed for objection to the decision of the commission, the successor to the commission, other private insurance carriers, and self-insured employers, whichever is applicable. The employer may, within 30 days after receipt of the notice, object in writing to the decision. Unless the objection is filed within the 30-day period, no objection shall be allowed. This time limitation is a condition of the right to objection and hence jurisdictional. Upon receipt of the objection, the office of judges shall afford the employer an evidentiary hearing as provided in §23-9-1 *et seq.* of this code.

(b) This section is of no force and effect after June 30, 2022.

**§23-5-5a. Refusal of modification; notice; objection; effective July 1, 2022.**

(a) If in any case it appears to the Insurance Commissioner, other private insurance carriers, and self-insured employers, whichever is applicable, that the application filed pursuant to §23-5-4 of this code fails to disclose some fact or facts which were not previously considered in former findings, and which would entitle the employer to any modification of the previous award, the Insurance Commissioner, other private insurance carriers, and self-insured employers, whichever is applicable, shall, within 60 days from the receipt of the application, notify the claimant and employer that the application fails to establish a just cause for modification of the award. The notice shall be in writing stating the reasons for denial and the time allowed for objection to the decision of the Insurance Commissioner, other private insurance carriers, and self-insured employers, whichever is applicable. The employer may, within 30 days after receipt of the notice, object in writing to the decision. Unless the objection is filed within the 30-day period, no objection shall be allowed. This time limitation is a condition of the right to objection and hence jurisdictional. Upon receipt of the objection, the Workers' Compensation Board of Review shall afford the employer an evidentiary hearing as provided in §23-5-9 of this code.

(b) This section becomes effective on July 1, 2022.

**§23-5-6. Time periods for objections and appeals; extensions; effective until June 30, 2022.**

(a) Notwithstanding the fact that the time periods set forth for objections, protests and appeals to or from the workers' compensation Office of Judges are jurisdictional, the periods may be extended or excused upon application of either party within a period of time equal to the applicable period by requesting an extension of the time period showing good cause or excusable neglect,

accompanied by the objection or appeal petition. In exercising discretion, the administrative law judge, appeal board, or court, as the case may be, shall consider whether the applicant was represented by counsel and whether timely and proper notice was actually received by the applicant or the applicant's representative.

(b) This section is of no force and effect after June 30, 2022.

**§23-5-6a. Time periods for objections and appeals; extensions; effective July 1, 2022.**

(a) Notwithstanding the fact that the time periods set forth for objections, protests, and appeals to or from the Workers' Compensation Board of Review are jurisdictional, the periods may be extended or excused upon application of either party within a period of time equal to the applicable period by requesting an extension of the time period showing good cause or excusable neglect, accompanied by the objection or appeal petition. In exercising discretion, the Workers' Compensation Board of Review or court, as the case may be, shall consider whether the applicant was represented by counsel and whether timely and proper notice was actually received by the applicant or the applicant's representative.

(b) This section becomes effective on July 1, 2022.

**§23-5-8. Designation of Office of Administrative Law Judges; powers of chief administrative law judge; effective until June 30, 2022.**

(a) The workers' compensation office of administrative law judges previously created pursuant to chapter twelve, acts of the Legislature, 1990, second extraordinary session, is hereby continued and designated to be an integral part of the workers' compensation system of this state. The Office of Judges shall be under the supervision of a chief administrative law judge who shall be appointed by the Governor with the advice and consent of the Senate.

(b) The chief administrative law judge shall be a person who has been admitted to the practice of law in this state and shall also have had at least four years of experience as an attorney. The chief administrative law judge's salary shall be set by the workers' compensation board of managers. The salary shall be within the salary range for comparable chief administrative law judges as determined by the state Personnel Board created by §29-6-6 of this code. The chief administrative law judge may only be removed by a vote of two-thirds of the members of the Workers' Compensation Board of managers. Upon transfer of the Office of Judges to the Insurance Commissioner, the chief administrative law judge shall continue to serve as chief administrative law judge until December 31, 2007. Thereafter, appointments of the chief administrative law judge shall be for terms of four years beginning January 1, 2008, and the chief administrative law judge may be removed only for cause by the vote of four members of the Industrial Council. No other provision of this code purporting to limit the term of office of any appointed official or employee or affecting the removal of any appointed official or employee is applicable to the chief administrative law judge.

(c) The chief administrative law judge shall employ administrative law judges and other personnel that are necessary for the proper conduct of a system of administrative review of orders issued by the Workers' Compensation Commission which orders have been objected to by a party. The employees shall be in the classified service of the state. Qualifications, compensation, and personnel practice relating to the employees of the office of judges, other than the chief administrative law judge, shall be governed by the provisions of this code and rules of the classified service pursuant to §29-6-1 of this code. All additional administrative law judges shall

be persons who have been admitted to the practice of law in this state and shall also have had at least two years of experience as an attorney. The chief administrative law judge shall supervise the other administrative law judges and other personnel which collectively shall be referred to in this chapter as the Office of Judges.

(d) The administrative expense of the Office of Judges shall be included within the annual budget of the Workers' Compensation Commission and, upon termination of the commission, the Insurance Commissioner.

(e) The Office of Judges shall, from time to time, promulgate rules of practice and procedure for the hearing and determination of all objections to findings or orders of the Workers' Compensation Commission. The Office of Judges shall not have the power to initiate or to promulgate legislative rules as that phrase is defined in §29A-3-1 *et seq.* of this code. Any rules adopted pursuant to this section which are applicable to the provisions of this article are not subject to §29A-3-9 through §29A-3-16 of this code. The Office of Judges shall follow the remaining provisions of said chapter for giving notice to the public of its actions and the holding of hearings or receiving of comments on the rules.

(f) The chief administrative law judge has the power to hear and determine all disputed claims in accordance with the provisions of this article, establish a procedure for the hearing of disputed claims, take oaths, examine witnesses, issue subpoenas, establish the amount of witness fees, keep records, and make reports that are necessary for disputed claims and exercise any additional powers, including the delegation of powers to administrative law judges or hearing examiners that are necessary for the proper conduct of a system of administrative review of disputed claims. The chief administrative law judge shall make reports that are requested of him or her by the workers' compensation board of managers.

(g) Effective upon termination of the commission, the Office of Judges and the Board of Review shall be transferred to the Insurance Commissioner, which shall have the oversight and administrative authority heretofore provided to the executive director and the board of managers.

(h) This section is of no force and effect after June 30, 2022.

**§23-5-8a. Transfer of powers and duties of the Office of Administrative Law Judges to the Workers' Compensation Board of Review; powers of the Workers' Compensation Board of Review in relation to review of objections; effective July 1, 2022.**

(a) The Workers' Compensation Office of Administrative Law Judges, referred to as the Office of Judges, shall terminate on or before October 1, 2022, as provided in §23-5-8b of this code. All powers and duties of the Office of Judges to review objections, protests, or any other matter authorized by this chapter, shall be transferred to the Workers' Compensation Board of Review on July 1, 2022: *Provided*, That any objection or other matter filed pursuant to this chapter and pending before the Office of Judges upon its termination, in which a final decision has not been issued, shall also be transferred to the Workers' Compensation Board of Review as provided in §23-5-8b of this code.

(b) Pursuant to §23-5-11a(n) of this code, the Workers' Compensation Board of Review shall employ hearing examiners and other personnel that are necessary for the proper conduct of a system of administrative review of objections to decisions of the Insurance Commissioner, private carriers, and self-insured employers, whichever is applicable, made pursuant to the provisions of §23-5-1a of this code and issued after June 30, 2022. All hearing examiners hired by the Workers'

Compensation Board of Review shall be persons who have been admitted to the practice of law in this state and shall also have had at least four years of experience as an attorney. The chair of the Workers' Compensation Board of Review shall supervise hearing examiners and other personnel of the board, which collectively shall be referred to in this chapter as the Workers' Compensation Board of Review.

(c) The Workers' Compensation Board of Review has the power to hear and determine all objections in accordance with the provisions of this article, establish a procedure for the hearing of objections, take oaths, examine witnesses, issue subpoenas, establish the amount of witness fees, keep records, and make reports that are necessary for reviewing objections, and exercise any additional powers, including the delegation of powers to hearing examiners that are necessary for the proper conduct of a system of administrative review of objections. The chair of the Workers' Compensation Board of Review shall make reports that are requested of him or her by the Insurance Commissioner.

(d) Effective upon termination of the Office of Judges, the Insurance Commissioner shall have oversight and administrative authority over the Workers' Compensation Board of Review as heretofore provided to the Insurance Commissioner over the Office of Judges.

(e) This section becomes effective on July 1, 2022.

**§23-5-8b. Transfer of jurisdiction to review objections to Workers' Compensation Board of Review; termination of Office of Judges; appeals of board decisions to Intermediate Court of Appeals; effective July 1, 2022.**

(a) The Office of Judges has no jurisdiction to review objections to a decision of the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, made pursuant to the provisions of this chapter and issued after June 30, 2022. The Workers' Compensation Board of Review has exclusive jurisdiction to review objections to a decision of the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, made pursuant to the provisions of this chapter and issued after June 30, 2022.

(b) On or before September 30, 2022, the Office of Judges shall issue a final decision in, or otherwise dispose of, each and every objection or other matter pending before the Office of Judges. If the Office of Judges does not issue a final decision or otherwise dispose of any objection or other matter pending before the Office of Judges on or before September 30, 2022, the objection or other matter shall be transferred to the Workers' Compensation Board of Review. For any objections transferred from the Office of Judges to the Workers' Compensation Board of Review, the Board of Review shall adopt any existing records of proceedings in the Office of Judges, conduct further proceedings, and collect evidence as it determines to be necessary, and issue a final decision or otherwise dispose of the case according to the procedural rules promulgated pursuant to §23-5-11a(m) of this code.

(c) Upon the Office of Judges' disposition of every matter pending before the office, or on October 1, 2022, whichever occurs earlier, the Office of Judges is terminated.

(d) The West Virginia Intermediate Court of Appeals, created in §51-11-1 *et seq.* of this code, has exclusive appellate jurisdiction over the following:

(1) Decisions or orders issued by the Office of Judges after June 30, 2022, and prior to its termination; and

(2) All final orders or decisions issued by the Workers' Compensation Board of Review after June 30, 2022.

(e) Notwithstanding the requirements of this section, the Workers' Compensation Board of Review shall review and decide all remaining appeals filed with the Board of Review, of Office of Judges' decisions issued prior to June 30, 2022, according to the procedure and requirements for such appeals heretofore provided in this article.

(f) This section becomes effective on July 1, 2022.

**§23-5-9. Hearings on objections to Insurance Commissioner; private carrier or self-insured employer decisions; mediation; remand; effective until June 30, 2022.**

(a) Objections to a decision of the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, made pursuant to the provisions of §23-5-1 *et seq.* of this code shall be filed with the Office of Judges. Upon receipt of an objection, the Office of Judges shall notify the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, and all other parties of the filing of the objection. The Office of Judges shall establish by rule promulgated in accordance with the provisions of §23-5-8(e) of this code an adjudicatory process that enables parties to present evidence in support of their positions and provides an expeditious resolution of the objection. The employer, the claimant, the Insurance Commissioner, private carrier, or self-insured employer, whichever are applicable, shall be notified of any hearing at least 10 days in advance. The Office of Judges shall review and amend, or modify, as necessary, its procedural rules by July 1, 2007.

(b) The Office of Judges shall establish a program for mediation to be conducted in accordance with the requirements of rule twenty-five of the West Virginia Trial Court Rules. The parties may agree that the result of the mediation is binding. A case may be referred to mediation by the administrative law judge on his or her own motion, on motion of a party or by agreement of the parties. Upon issuance of an order for mediation, the Office of Judges shall assign a mediator from a list of qualified mediators maintained by the West Virginia State Bar.

(c) The Office of Judges shall keep full and complete records of all proceedings concerning a disputed claim. Subject to the rules of practice and procedure promulgated pursuant to §23-5-8 of this code, the record upon which the matter shall be decided shall include any evidence submitted by a party to the Office of Judges and evidence taken at hearings conducted by the Office of Judges. The record may include evidence or documents submitted in electronic form or other appropriate medium in accordance with the rules of practice and procedure. The Office of Judges is not bound by the usual common law or statutory rules of evidence.

(d) All hearings shall be conducted as determined by the chief administrative law judge pursuant to the rules of practice and procedure promulgated pursuant to §23-5-8 of this code. Upon consideration of the designated record, the chief administrative law judge or other authorized adjudicator within the office of judges shall, based on the determination of the facts of the case and applicable law, render a decision affirming, reversing, or modifying the action protested. The decision shall contain findings of fact and conclusions of law and shall be mailed to all parties.

(e) The Office of Judges may remand a claim to the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, for further development of the facts or administrative matters as, in the opinion of the administrative law judge, may be necessary for a

full and complete disposition of the case. The administrative law judge shall establish a time within which the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, must report back to the administrative law judge.

(f) The decision of the Office of Judges regarding any objections to a decision of the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, is final and benefits shall be paid or denied in accordance with the decision, unless an order staying the payment of benefits is specifically entered by the Workers' Compensation Board of Review created in §23-5-11 of this code or by the administrative law judge who granted the benefits. No stay with respect to any medical treatment or rehabilitation authorized by the Office of Judges may be granted. If the decision is subsequently appealed and reversed in accordance with the procedures set forth in this article, and any overpayment of benefits occurs as a result of such reversal, any such overpayment may be recovered pursuant to the provisions of §23-4-1C(h) and §23-4-1D(d) of this code, as applicable.

(h) This section is of no force and effect after June 30, 2022.

**§23-5-9a. Hearings on objections to Insurance Commissioner; private carrier, or self-insured employer decisions; mediation; remand; effective July 1, 2022.**

(a) Objections to a decision of the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, made pursuant to the provisions of §23-5-1a of this code, shall be filed with the Workers' Compensation Board of Review. Upon receipt of an objection, the Workers' Compensation Board of Review shall notify the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, and all other parties of the filing of the objection. The Workers' Compensation Board of Review shall establish by rule, promulgated in accordance with the provisions of §23-5-11a(m) of this code, an adjudicatory process that enables parties to present evidence in support of their positions and provides an expeditious resolution of the objection. The employer, the claimant, the Insurance Commissioner, the private carrier, or the self-insured employer, whichever is applicable, shall be notified of any hearing at least 10 days in advance.

(b) The chair of the Workers' Compensation Board of Review shall assign, on a rotating basis, a member of the Board of Review to preside over the review process and issue a decision in each objection that is properly filed with the board of review. The member of the Workers' Compensation Board of Review assigned to an objection shall review evidence, conduct proceedings, and develop a record as is necessary for a full and thorough review of the objection: *Provided*, That the board member may delegate such duties to a hearing examiner employed by the board of review, pursuant to §23-5-8a and §23-5-11a(n) of this code: *Provided, however*, That any order or decision of the Board of Review must be issued and signed by the member of the Board assigned to the objection, as provided in subsection (e) of this section: *Provided further*, That a time frame order, continuance order, show cause order, failure to prosecute order, or other interlocutory order as permitted by the Workers' Compensation Board of Review's procedural rules may be issued and signed by a hearing examiner only, and is not subject to the general requirement that orders be issued and signed by a member of the board.

(c) The Workers' Compensation Board of Review shall establish a program for mediation to be conducted in accordance with the requirements of Rule 25 of the West Virginia Trial Court Rules. The parties may agree that the result of the mediation is binding. A case may be referred to mediation by the Board of Review member assigned to the objection on his or her own motion, on motion of a party, or by agreement of the parties. Upon issuance of an order for mediation, the

Workers' Compensation Board of Review shall assign a mediator from a list of qualified mediators maintained by the West Virginia State Bar.

(d) The Workers' Compensation Board of Review shall keep full and complete records of all proceedings concerning an objection. Subject to the rules of practice and procedure promulgated pursuant to §23-5-11a(m) of this code, the record upon which the matter shall be decided shall include any evidence submitted by a party to the Workers' Compensation Board of Review and evidence taken at hearings conducted by the Board of Review. The record may include evidence or documents submitted in electronic form or other appropriate medium in accordance with the rules of practice and procedure. The Workers' Compensation Board of Review is not bound by the usual common law or statutory rules of evidence.

(e) All hearings shall be conducted as determined by the Workers' Compensation Board of Review according to the rules of practice and procedure promulgated pursuant to §23-5-11a(m) of this code. If a hearing examiner reviews an objection, the hearing examiner shall, at the conclusion of the review process, submit the designated record to the member of the Workers' Compensation Board of Review to whom the objection is assigned, along with the hearing examiner's recommendation of a decision affirming, reversing, or modifying the action that was subject to the objection. Upon consideration of the designated record and, if applicable, the recommendation of the hearing examiner, the member of the Workers' Compensation Board of Review assigned to the objection shall, based on the determination of the facts of the case and applicable law, render a decision affirming, reversing, or modifying the action that was subject to the objection. The decision shall contain findings of fact and conclusions of law, shall be signed by the member of the Workers' Compensation Board of Review rendering the decision, and shall be mailed to all parties.

(f) The Workers' Compensation Board of Review may remand a claim to the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, for further development of the facts or administrative matters as, in the opinion of the member of the board of review assigned to the objection, may be necessary for a full and complete disposition of the case. The member of the Workers' Compensation Board of Review assigned to the objection shall establish a time within which the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, must report back to the board of review.

(g) The decision of the Workers' Compensation Board of Review regarding any objections to a decision of the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, is final, and benefits shall be paid or denied in accordance with the decision, unless an order staying the payment of benefits is specifically entered by a court with appellate jurisdiction over the decision or by the member of the Office of Judges who granted the benefits. A stay with respect to any medical treatment or rehabilitation authorized by the Workers' Compensation Board of Review may not be granted. If the decision is subsequently appealed and reversed in accordance with the procedures set forth in this article, and any overpayment of benefits occurs as a result of the reversal, the overpayment may be recovered pursuant to the provisions of §23-4-1c(h) or §23-4-1d(d) of this code, as applicable.

(h) This section becomes effective on July 1, 2022.

**§23-5-10. Appeal from administrative law judge decision to appeal board; effective until June 30, 2022.**



(a) The employer, claimant, Workers' Compensation Commission, the successor to the commission, other private insurance carriers and self-insured employers, whichever is applicable, may appeal to the appeal board created in §23-11-1 *et seq.* of this code for a review of a decision by an administrative law judge. No appeal or review shall lie unless application therefor be made within thirty days of receipt of notice of the administrative law judge's final action or in any event within sixty days of the date of such final action, regardless of notice and, unless the application for appeal or review is filed within the time specified, no such appeal or review shall be allowed, such time limitation being hereby declared to be a condition of the right of such appeal or review and hence jurisdictional.

(b) This section is of no force and effect after June 30, 2022.

**§23-5-10a. Appeal from a Workers' Compensation Board of Review decision to the Intermediate Court of Appeals; effective July 1, 2022.**

(a) The employer, claimant, Insurance Commissioner, other private insurance carriers, and self-insured employers, whichever is applicable, may appeal to the West Virginia Intermediate Court of Appeals, created by §51-11-1 *et seq.* of this code, for a review of a decision by the Workers' Compensation Board of Review. No appeal or review shall lie unless application is made within 30 days of receipt of notice of the Workers' Compensation Board of Review's final action or in any event within 60 days of the date of such final action, regardless of notice and, unless the application for appeal or review is filed within the time specified, no such appeal or review shall be allowed, such time limitation being hereby declared to be a condition of the right of such appeal or review and hence jurisdictional.

(b) This section becomes effective on July 1, 2022.

**§23-5-11. Workers' Compensation Board of Review generally; administrative powers and duties of the board; effective until June 30, 2022.**

(a) On January 31, 2004, the Workers' Compensation Appeal Board heretofore established in this section is hereby abolished.

(b) There is created the "Workers' Compensation Board of Review", which may also be referred to as "the Board of Review" or "the board". Effective February 1, 2004, the board of Review shall exercise exclusive jurisdiction over all appeals from the Workers' Compensation Office of Judges including any and all appeals pending with the board of Appeals on January 31, 2004.

(c) The board consists of three members.

(d) The Governor shall appoint, from names submitted by the "Workers' Compensation Board of Review Nominating Committee", with the advice and consent of the Senate, three qualified attorneys to serve as members of the Board of Review. If the Governor does not select a nominee for any vacant position from the names provided by the nominating committee, he or she shall notify the nominating committee of that circumstance and the committee shall provide additional names for consideration by the Governor. A member of the Board of Review may be removed by the Governor for official misconduct, incompetence, neglect of duty, gross immorality, or malfeasance, and then only after notice and opportunity to respond and present evidence. No more than two of the members of the board may be of the same political party. The members of the Board of Review shall be paid an annual salary of \$85,000: *Provided*, That on and after July

1, 2008, the Governor shall set the salary of the members of the board: *Provided, however,* That the annual salary of a member of the Board of Review shall not exceed \$110,000. Members are entitled to be reimbursed for actual and necessary travel expenses incurred in the discharge of official duties in a manner consistent with the guidelines of the Travel Management Office of the Department of Administration.

(e) The nominating committee consists of the following members: (1) The President of the West Virginia State Bar who serves as the chairperson of the committee; (2) an active member of the West Virginia State Bar Workers' Compensation Committee selected by the major trade association representing employers in this state; (3) an active member of the West Virginia State Bar Workers' Compensation Committee selected by the highest ranking officer of the major employee organization representing workers in this state; (4) the Dean of the West Virginia University School of Law; and (5) the Chairman of the Judicial Investigation Committee.

(f) The nominating committee is responsible for reviewing and evaluating candidates for possible appointment to the Board of Review by the Governor. In reviewing candidates, the nominating committee may accept comments from and request information from any person or source.

(g) Each member of the nominating committee may submit up to three names of qualified candidates for each position on the Board of Review: *Provided,* That the member of the nominating committee selected by the major trade organization representing employers of this state shall submit at least one name of a qualified candidate for each position on the board who either is, or who represents, small business employers of this state. After careful review of the candidates, the committee shall select a minimum of one candidate for each position on the board.

(h) Of the initial appointments, one member shall be appointed for a term ending December 31, 2006; one member shall be appointed for a term ending December 31, 2008; and one member shall be appointed for a term ending December 31, 2010. Thereafter, the appointments shall be for six-year terms.

(i) A member of the Board of Review must, at the time he or she takes office and thereafter during his or her continuance in office, be a resident of this state, be a member in good standing of the West Virginia State Bar, have a minimum of 10 years' experience as an attorney admitted to practice law in this state prior to appointment and have a minimum of five years' experience in preparing and presenting cases or hearing actions and making decisions on the basis of the record of those hearings before administrative agencies, regulatory bodies, or courts of record at the federal, state, or local level.

(j) No member of the Board of Review may hold any other office, or accept any appointment or public trust, nor may he or she become a candidate for any elective public office or nomination thereto. Violation of this subsection requires the member to vacate his or her office. No member of the Board of Review may engage in the practice of law during his or her term of office.

(k) A vacancy occurring on the board other than by expiration of a term shall be filled in the manner original appointments were made, for the unexpired portion of the term.

(l) The board shall designate one of its members in rotation to be chairman of the board for as long as the board may determine by order made and entered of record. In the absence of the chairman, any other member designated by the members present shall act as chairman.

(m) The Board of Review shall meet as often as necessary to hold review hearings, at such times and places as the chairman may determine. Two members shall be present in order to conduct review hearings or other business. All decisions of the board shall be determined by a majority of the members of the board.

(n) The Board of Review shall make general rules regarding the pleading, including the form of the petition and any responsive pleadings, practice, and procedure to be used by the board.

(o) The Board of Review may hire a clerk and other professional and clerical staff necessary to carry out the requirements of this article. It is the duty of the clerk of the Board of Review to attend in person, or by deputy, all the sessions of the board, to obey its orders and directions, to take care of and preserve in an office, kept for the purpose, all records and papers of the board, and to perform other duties as prescribed by law or required of him or her by the board. All employees of the board serve at the will and pleasure of the board. The board's employees are exempt from the salary schedule or pay plan adopted by the Division of Personnel. All personnel of the Board of Review are under the supervision of the chairman of the Board of Review.

(p) If considered necessary by the board, the board may, through staffing or other resources, procure assistance in review of medical portions of decisions.

(q) Upon the conclusion of any hearing, or prior thereto with concurrence of the parties, the board shall promptly determine the matter and make an award in accordance with its determination.

(r) The award shall become a part of the commission file. A copy of the award shall be sent forthwith by mail to all parties in interest.

(s) The award is final when entered. The award shall contain a statement explaining the rights of the parties to an appeal to the Board of Review and the applicable time limitations involved.

(t) The board shall submit to the Insurance Commissioner a budget sufficient to adequately provide for the administrative and other operating expenses of the board.

(u) The board shall report monthly to the Industrial Council on the status of all claims on appeal.

(v) Effective upon termination of the commission, the Board of Review shall be transferred to the Insurance Commissioner which shall have the oversight and administrative authority heretofore provided to the executive director and the board of managers.

(w) This section is of no force and effect after June 30, 2022.

**§23-5-11a. Workers' Compensation Board of Review generally; administrative powers and duties of the board; effective July 1, 2022.**

(a) The "Workers' Compensation Board of Review", which may also be referred to as "the Board of Review" or "the board" is hereby continued and granted exclusive jurisdiction over all objections to decisions of the Insurance Commissioner, private carriers, and self-insured employers, whichever is applicable, including any and all matters pending before the Office of Judges after September 30, 2022.

(b) The board consists of five members.

(c) The Governor shall appoint, with the advice and consent of the Senate, five attorneys qualified in accordance with subsection (f) of this section to serve as members of the Board of Review. A member of the Board of Review may be removed by the Governor for official misconduct, incompetence, neglect of duty, gross immorality, or malfeasance and then only after notice and opportunity to respond and present evidence. No more than three of the members of the board may be of the same political party. The Governor shall set the salary of the members of the board: *Provided, however,* That the annual salary of a member of the Board of Review shall not exceed \$125,000. Members are entitled to be reimbursed for actual and necessary travel expenses incurred in the discharge of official duties in a manner consistent with the guidelines of the Travel Management Office of the Department of Administration.

(d) Of the initial appointments of the two additional seats created during the 2021 Regular Session, one member shall be appointed for a term ending December 31, 2025; one member shall be appointed for a term ending December 31, 2027. Thereafter, The appointments shall be for six-year terms.

(e) A member of the Board of Review must, at the time he or she takes office and thereafter during his or her continuance in office, be a resident of this state, be a member in good standing of the West Virginia State Bar, have a minimum of 10 years' experience as an attorney admitted to practice law in this state prior to appointment and have a minimum of five years' experience in preparing and presenting cases or hearing actions and making decisions on the basis of the record of those hearings before administrative agencies, regulatory bodies or courts of record at the federal, state or local level.

(f) No member of the Board of Review may hold any other office, or accept any appointment or public trust, nor may he or she become a candidate for any elective public office or nomination thereto. Violation of this subsection requires the member to vacate his or her office. No member of the Board of Review may engage in the practice of law during his or her term of office.

(g) A vacancy occurring on the board other than by expiration of a term shall be filled in the manner original appointments were made, for the unexpired portion of the term.

(h) The board shall designate one of its members in rotation to be chair of the board for as long as the board may determine by order made and entered of record. In the absence of the chair, any other member designated by the members present shall act as chair.

(i) The Board of Review shall meet as often as necessary to conduct the board's administrative business and make rules of practice and procedure, at such times and places as the chair may determine. Two members shall be present in order to conduct administrative business and make rules of practice and procedure. All decisions of the board upon administrative matters, pursuant to this section, shall be determined by a majority of the members of the board.

(j) The Board of Review shall, from time to time, promulgate rules of practice and procedure for the review and determination of all objections filed with the board. The board does not have the power to initiate or to promulgate legislative rules as that phrase is defined in §29A-3-1 *et seq.* of this code. Any rules adopted pursuant to this section which are applicable to the provisions of this article are not subject to §29A-3-9 through §29A-3-16 of this code. The board shall follow the remaining provisions of chapter 29A of this code for giving notice to the public of its actions and the holding of hearings or receiving of comments on the rules.

(k) The Board of Review may hire a clerk, hearing examiners, and other professional and clerical staff necessary to carry out the requirements of this article. It is the duty of the clerk of the Board of Review to attend in person, or by deputy, all the sessions of the board, to obey its orders and directions, to take care of and preserve in an office, kept for the purpose, all records and papers of the board and to perform other duties as prescribed by law or required of him or her by the board. All employees of the board serve at the will and pleasure of the board. The board's employees are exempt from the salary schedule or pay plan adopted by the Division of Personnel: *Provided*, That for the purpose of any applicable Division of Personnel Class Specifications, hearing examiners must be classified under a class with "attorney" in the class title. All personnel of the Board of Review are under the supervision of the chair of the Board of Review.

(l) The administrative expenses of the Board of Review shall be included within the annual budget of the Insurance Commissioner, and the Insurance Commissioner shall have administrative authority and oversight over the Board of Review.

(m) The amendments to this section made during the 2021 Regular Session of the Legislature shall become effective on July 1, 2022: *Provided*, That the board is authorized to promulgate rules and hire staff, pursuant to subsection (k) and (l) of this section respectively, prior to July 1, 2022, to the extent necessary to comply with the requirements of this article that shall become effective on that date.

**§23-5-12. Appeal to board; procedure; remand and supplemental hearing; effective until June 30, 2022.**

(a) Any employer, employee, claimant, or dependent who shall feel aggrieved at any final action of the administrative law judge taken after a hearing held in accordance with the provisions of §23-5-9 of this code shall have the right to appeal to the board created in §23-11-1 of this code for a review of such action. The Workers' Compensation Commission, the successor to the commission, other private insurance carriers and self-insured employers, whichever is applicable, shall likewise have the right to appeal to the board any final action taken by the administrative law judge. The aggrieved party shall file a written notice of appeal with the board of review, with a copy to the office of judges, within thirty days after receipt of notice of the action complained of or, in any event, regardless of notice, within sixty days after the date of the action complained of, and unless the notice of appeal is filed within the time specified, no appeal shall be allowed, the time limitation is a condition of the right to appeal and hence jurisdictional. The board shall notify the other parties immediately upon the filing of a notice of appeal. The notice of appeal shall state the ground for review and whether oral argument is requested. The Office of Judges, after receiving a copy of the notice of appeal, shall forthwith make up a transcript of the proceedings before the Office of Judges and certify and transmit it to the board. The certificate shall incorporate a brief recital of the proceedings in the case and recite each order entered and the date thereof.

(b) The board shall set a time and place for the hearing of arguments on each claim and shall notify the interested parties thereof. The review by the board shall be based upon the record submitted to it and such oral argument as may be requested and received. The board may affirm, reverse, modify, or supplement the decision of the administrative law judge and make such disposition of the case as it determines to be appropriate. Briefs may be filed by the interested parties in accordance with the rules of procedure prescribed by the board. The board may affirm the order or decision of the administrative law judge or remand the case for further proceedings. It shall reverse, vacate, or modify the order or decision of the administrative law judge if the substantial rights of the petitioner or petitioners have been prejudiced because the administrative law judge's findings are:

(1) In violation of statutory provisions; or

(2) In excess of the statutory authority or jurisdiction of the administrative law judge; or

(3) Made upon unlawful procedures; or

(4) Affected by other error of law; or

(5) Clearly wrong in view of the reliable, probative, and substantial evidence on the whole record; or

(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(c) After a review of the case, the board shall issue a written decision and send a copy by mail to the parties.

(1) All decisions, findings of fact and conclusions of law of the Board of Review shall be in writing and state with specificity the laws and facts relied upon to sustain, reverse, or modify the administrative law judge's decision.

(2) Decisions of the Board of Review shall be made by a majority vote of the board of review.

(3) A decision of the Board of Review is binding upon the executive director and the commission and the successor to the commission, other private insurance carriers, and self-insured employers, whichever is applicable, with respect to the parties involved in the particular appeal. The executive director, the successor to the commission, other private insurance carriers, and self-insured employers, whichever is applicable, shall have the right to seek judicial review of a board of review decision irrespective of whether or not he or she appeared or participated in the appeal to the Board of Review.

(d) Instead of affirming, reversing, or modifying the decision of the administrative law judge, the board may, upon motion of any party or upon its own motion, for good cause shown, to be set forth in the order of the board, remand the case to the chief administrative law judge for the taking of such new, additional, or further evidence as in the opinion of the board may be necessary for a full and complete development of the facts of the case. In the event the board shall remand the case to the chief administrative law judge for the taking of further evidence, the administrative law judge shall proceed to take new, additional, or further evidence in accordance with any instruction given by the board within 30 days after receipt of the order remanding the case. The chief administrative law judge shall give to the interested parties at least 10 days' written notice of the supplemental hearing, unless the taking of evidence is postponed by agreement of parties, or by the administrative law judge for good cause. After the completion of a supplemental hearing, the administrative law judge shall, within 60 days, render his or her decision affirming, reversing, or modifying the former action of the administrative law judge. The decision shall be appealable to and proceeded with by the Board of Review in the same manner as other appeals. In addition, upon a finding of good cause, the board may remand the case to the Workers' Compensation Commission, the successor to the commission, other private insurance carriers, and self-insured employers, whichever is applicable, for further development. Any decision made by the commission, the successor to the commission, other private insurance carriers, and self-insured employers, whichever is applicable, following a remand shall be subject to objection to the Office

of Judges and not to the board. The board may remand any case as often as in its opinion is necessary for a full development and just decision of the case.

(e) All appeals from the action of the administrative law judge shall be decided by the board at the same session at which they are heard, unless good cause for delay thereof be shown and entered of record.

(f) In all proceedings before the board, any party may be represented by counsel.

(g) This section is of no force and effect after June 30, 2022.

**§23-5-12a. Appeal of board decisions to the Intermediate Court of Appeals; procedure; remand and supplemental hearing; effective July 1, 2022.**

(a) Any employer, employee, claimant, or dependent who shall feel aggrieved by a decision of the Workers' Compensation Board of Review shall have the right to appeal to the West Virginia Intermediate Court of Appeals, created by §51-11-1 et seq. of this code, for a review of such action. The Insurance Commissioner, other private insurance carriers, and self-insured employers, whichever is applicable, shall likewise have the right to appeal to the Intermediate Court of Appeals any final action taken by the Workers' Compensation Board of Review. The aggrieved party shall file a written notice of appeal with the Intermediate Court of Appeals, with a copy to the Workers' Compensation Board of Review, within 30 days after receipt of notice of the action complained of or, in any event, regardless of notice, within 60 days after the date of the action complained of: *Provided*, That unless the notice of appeal is filed within the time specified, no appeal shall be allowed: *Provided, however*, That the time limitation is a condition of the right to appeal and hence jurisdictional. The board shall notify the other parties immediately upon the filing of a notice of appeal. The notice of appeal shall state the grounds for review and whether oral argument is requested. The Workers' Compensation Board of Review, after receiving a copy of the notice of appeal, shall forthwith make up a transcript of any proceedings before the board of review and certify and transmit it to the Intermediate Court of Appeals. The certificate shall incorporate a brief recital of the proceedings in the matter and recite each order entered or decision issued and the date thereof.

(b) The Intermediate Court of Appeals shall set a time and place for the hearing of arguments on each claim and shall notify the interested parties thereof. The review by the court shall be based upon the record submitted to it and such oral argument as may be requested and received. The Intermediate Court of Appeals may affirm, reverse, modify, or supplement the decision of the Workers' Compensation Board of Review and make such disposition of the case as it determines to be appropriate. Briefs may be filed by the interested parties in accordance with the rules of procedure prescribed by the court. The Intermediate Court of Appeals may affirm the order or decision of the Workers' Compensation Board of Review or remand the case for further proceedings. It shall reverse, vacate, or modify the order or decision of the Workers' Compensation Board of Review, if the substantial rights of the petitioner or petitioners have been prejudiced because the Board of Review's findings are:

(1) In violation of statutory provisions;

(2) In excess of the statutory authority or jurisdiction of the Board of Review;

(3) Made upon unlawful procedures;

(4) Affected by other error of law;

(5) Clearly wrong in view of the reliable, probative, and substantial evidence on the whole record; or

(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(c) After a review of the case, the Intermediate Court of Appeals shall issue a written decision and send a copy by mail to the parties.

(1) All decisions, findings of fact, and conclusions of law of the Intermediate Court of Appeals shall be in writing and state with specificity the laws and facts relied upon to sustain, reverse, or modify the Board of Review's decision.

(2) A decision of the Intermediate Court of Appeals is binding upon the Insurance Commissioner, other private insurance carriers, and self-insured employers, whichever is applicable, with respect to the parties involved in the particular appeal. The Insurance Commissioner, other private insurance carriers, and self-insured employers, whichever is applicable, shall have the right to seek judicial review of a final decision of the Intermediate Court of Appeals, pursuant to §51-11-13 of this code, irrespective of whether the party appeared or participated in the appeal to the Intermediate Court of Appeals.

(d) Instead of affirming, reversing, or modifying the decision of the Workers' Compensation Board of Review, the Intermediate Court of Appeals may, upon motion of any party or upon its own motion, for good cause shown, to be set forth in the order of the court, remand the case to the Board of Review for the taking of such new, additional, or further evidence as in the opinion of the court considers necessary for a full and complete development of the facts of the case. In the event the Intermediate Court of Appeals shall remand the case to the Board of Review for the taking of further evidence, the Board of Review shall proceed to take new, additional, or further evidence in accordance with any instruction given by the court within 30 days after receipt of the order remanding the case. The Workers' Compensation Board of Review shall give to the interested parties at least 10 days' written notice of the supplemental hearing, unless the taking of evidence is postponed by agreement of parties, or by the Board of Review for good cause. After the completion of a supplemental hearing, the Workers' Compensation Board of Review shall, within 60 days, render its decision affirming, reversing, or modifying the former action of the Workers' Compensation Board of Review. The decision shall be appealable to, and proceeded with, by the Intermediate Court of Appeals in the same manner as other appeals. In addition, upon a finding of good cause, the court may remand the case to the Insurance Commissioner, other private insurance carriers, or self-insured employers, whichever is applicable, for further development. Any decision made by the Insurance Commissioner, other private insurance carriers, or self-insured employers, whichever is applicable, following a remand, shall be subject to objection to the Workers' Compensation Board of Review and not to the Intermediate Court of Appeals. The Intermediate Court of Appeals may remand any case as often as, in its opinion, is necessary for a full development and just decision of the case.

(e) In all proceedings before the Intermediate Court of Appeals, any party may be represented by counsel.

(f) This section becomes effective on July 1, 2022.



**§23-5-13. Continuances and supplemental hearings; claims not to be denied on technicalities; effective until June 30, 2022.**

(a) It is the policy of this chapter that the rights of claimants for workers' compensation be determined as speedily and expeditiously as possible to the end that those incapacitated by injuries and the dependents of deceased workers may receive benefits as quickly as possible in view of the severe economic hardships which immediately befall the families of injured or deceased workers. Therefore, the criteria for continuances and supplemental hearings "for good cause shown" are to be strictly construed by the chief administrative law judge and his or her authorized representatives to prevent delay when granting or denying continuances and supplemental hearings. It is also the policy of this chapter to prohibit the denial of just claims of injured or deceased workers or their dependents on technicalities.

(b) This section is of no force and effect after June 30, 2022.

**§23-5-13a. Continuances and supplemental hearings; claims not to be denied on technicalities; effective July 1, 2022.**

(a) It is the policy of this chapter that the rights of claimants for workers' compensation be determined as speedily and expeditiously as possible to the end that those incapacitated by injuries and the dependents of deceased workers may receive benefits as quickly as possible in view of the severe economic hardships which immediately befall the families of injured or deceased workers. Therefore, the criteria for continuances and supplemental hearings "for good cause shown" are to be strictly construed by the Workers' Compensation Board of Review and its authorized representatives to prevent delay when granting or denying continuances and supplemental hearings. It is also the policy of this chapter to prohibit the denial of just claims of injured or deceased workers or their dependents on technicalities.

(b) This section becomes effective on July 1, 2022.

**§23-5-15. Appeals from final decisions of board to Supreme Court of Appeals prior to July 1, 2022; procedure; costs.**

a) As provided in §23-5-8b of this code, the provisions of this section do not apply to any decision issued by the Workers' Compensation Board of Review after June 30, 2022.

~~(a)~~ (b) Review of any final decision of the board, including any order of remand, may be prosecuted by either party or by the ~~Workers' Compensation Commission, the successor to the commission~~ Insurance Commissioner, other private insurance carriers, and self-insured employers, whichever is applicable, to the Supreme Court of Appeals within 30 days from the date of the final order by filing a petition therefor with the court against the board and the adverse party or parties as respondents. Unless the petition for review is filed within the 30-day period, no appeal or review shall be allowed, such time limitation is a condition of the right to such appeal or review and hence jurisdictional. The clerk of the Supreme Court of Appeals shall notify each of the respondents and the ~~Workers' Compensation Commission, the successor to the commission~~ Insurance Commissioner, other private insurance carriers, and self-insured employers, whichever is applicable, of the filing of such petition. The board shall, within 10 days after receipt of the notice, file with the clerk of the court the record of the proceedings had before it, including all the evidence. The court or any judge thereof in vacation may thereupon determine whether or not a review shall be granted. If review is granted to a nonresident of this state, he or she shall be required to execute and file with the clerk before an order or review shall become effective, a

bond, with security to be approved by the clerk, conditioned to perform any judgment which may be awarded against him or her. The board may certify to the court and request its decision of any question of law arising upon the record, and withhold its further proceeding in the case, pending the decision of court on the certified question, or until notice that the court has declined to docket the same. If a review is granted or the certified question is docketed for hearing, the clerk shall notify the board and the parties litigant or their attorneys and the ~~Workers' Compensation Commission, the successor to the commission~~ Insurance Commissioner, other private insurance carriers, and self-insured employers, whichever is applicable, of that fact by mail. If a review is granted or the certified question docketed, the case shall be heard by the court in the same manner as in other cases, except that neither the record nor briefs need be printed. Every review granted or certified question docketed prior to 30 days before the beginning of the term, shall be placed upon the docket for that term. The Attorney General shall, without extra compensation, represent the board in such cases. The court shall determine the matter brought before it and certify its decision to the board and to the commission. The cost of the proceedings on petition, including a reasonable attorney's fee, not exceeding \$30 to the claimant's attorney, shall be fixed by the court and taxed against the employer if the latter is unsuccessful. If the claimant, or the commission (in case the latter is the applicant for review) is unsuccessful, the costs, not including attorney's fees, shall be taxed against the commission, payable out of the Workers' Compensation Fund, or shall be taxed against the claimant, in the discretion of the court: But there shall be no cost taxed upon a certified question.

~~(b)~~ (c) In reviewing a decision of the Board of Review, the Supreme Court of Appeals shall consider the record provided by the board and give deference to the board's findings, reasoning, and conclusions, in accordance with subsections ~~(c)~~, (d) and (e) of this section.

~~(c)~~ (d) If the decision of the board represents an affirmation of a prior ruling by both the commission and the Office of Judges that was entered on the same issue in the same claim, the decision of the board may be reversed or modified by the Supreme Court of Appeals only if the decision is in clear violation of constitutional or statutory provision, is clearly the result of erroneous conclusions of law, or is based upon the board's material misstatement or mischaracterization of particular components of the evidentiary record. The court may not conduct a de novo reweighing of the evidentiary record. If the court reverses or modifies a decision of the board pursuant to this subsection, it shall state with specificity the basis for the reversal or modification and the manner in which the decision of the board clearly violated constitutional or statutory provisions, resulted from erroneous conclusions of law, or was based upon the board's material misstatement or mischaracterization of particular components of the evidentiary record.

~~(d)~~ (e) If the decision of the board effectively represents a reversal of a prior ruling of either the commission or the Office of Judges that was entered on the same issue in the same claim, the decision of the board may be reversed or modified by the Supreme Court of Appeals only if the decision is in clear violation of constitutional or statutory provisions, is clearly the result of erroneous conclusions of law, or is so clearly wrong based upon the evidentiary record that even when all inferences are resolved in favor of the board's findings, reasoning, and conclusions, there is insufficient support to sustain the decision. The court may not conduct a de novo reweighing of the evidentiary record. If the court reverses or modifies a decision of the board pursuant to this subsection, it shall state with specificity the basis for the reversal or modification and the manner in which the decision of the board clearly violated constitutional or statutory provisions, resulted from erroneous conclusions of law, or was so clearly wrong based upon the evidentiary record that even when all inferences are resolved in favor of the board's findings, reasoning, and conclusions, there is insufficient support to sustain the decision.

**§23-5-16. Fees of attorney for claimant; unlawful charging or receiving of attorney fees; effective until June 30, 2022.**

(a) An attorney's fee in excess of 20 percent of any award granted may not be charged or received by an attorney for a claimant or dependent. In no case may the fee received by the attorney of the claimant or dependent be in excess of 20 percent of the benefits to be paid during a period of 208 weeks. The interest on disability or dependent benefits as provided in this chapter may not be considered as part of the award in determining the attorney's fee. However, any contract entered into in excess of 20 percent of the benefits to be paid during a period of 208 weeks, as herein provided, is unlawful and unenforceable as contrary to the public policy of this state and any fee charged or received by an attorney in violation thereof is an unlawful practice and renders the attorney subject to disciplinary action.

(b) On a final settlement an attorney may charge a fee not to exceed 20 percent of the total value of the medical and indemnity benefits: *Provided*, That this attorney's fee, when combined with any fees previously charged or received by the attorney for permanent partial disability or permanent total disability benefits may not exceed 20 percent of an award of benefits to be paid during a period of 208 weeks.

(c) Except attorney's fees and costs recoverable pursuant to §23-2C-21(c) of this code, an attorney's fee for successful recovery of denied medical benefits may be charged or received by an attorney, and paid by the private carrier or self-insured employer, for a claimant or dependent under this section. In no event may attorney's fees and costs be awarded pursuant to both this section and §23-2C-21(c) of this code.

(1) If a claimant successfully prevails in a proceeding relating to a denial of medical benefits brought before the commission, successor to the commission, other private carrier, or self-insured employer, whichever is applicable, as a result of utilization review, arbitration, mediation, or other proceedings, or a combination thereof, relating to denial of medical benefits before the Office of Judges, Board of Review, or court, there shall additionally be charged against the private carriers or self-insured employers, whichever is applicable, the reasonable costs and reasonable hourly attorney fees of the claimant. Following the successful resolution of the denial in favor of the claimant, a fee petition shall be submitted by the claimant's attorney to the Insurance Commissioner or his or her successors, arbitrators, mediator, the Office of Judges, the Board of Review, or court, whichever enters a final decision on the issue. An attorney representing a claimant must submit a claim for attorney fees and costs within 30 days following a decision in which the claimant prevails and the order becomes final.

(2) The Insurance Commissioner or his or her successors, arbitrators, mediator, the Office of Judges, the Board of Review, or court shall enter an order within 30 days awarding reasonable attorney fees not to exceed \$125 per hour and reasonable costs of the claimant to be paid by the private carriers or self-insured employers, whichever is applicable, which shall be paid as directed. In no event may an award of the claimant's attorney's fees under this subsection exceed \$500 per litigated medical issue, not to exceed \$2,500 in a claim.

(3) In determining the reasonableness of the attorney fees to be awarded, the Insurance Commission, arbitrator, mediator, Office of Judges, Board of Review, or court shall consider the experience of the attorney, the complexity of the issue, the hours expended, and the contingent nature of the fee.

(d) This section is of no force and effect after June 30, 2022.

**§23-5-16a. Fees of attorney for claimant; unlawful charging or receiving of attorney fees.**

(a) An attorney's fee in excess of 20 percent of any award granted may not be charged or received by an attorney for a claimant or dependent. In no case may the fee received by the attorney of the claimant or dependent be in excess of 20 percent of the benefits, to be paid during a period of 208 weeks. The interest on disability or dependent benefits, as provided in this chapter, may not be considered as part of the award in determining the attorney's fee. However, any contract entered into in excess of 20 percent of the benefits to be paid during a period of 208 weeks, as herein provided, is unlawful and unenforceable as contrary to the public policy of this state and any fee charged or received by an attorney in violation thereof is an unlawful practice and renders the attorney subject to disciplinary action.

(b) On a final settlement an attorney may charge a fee not to exceed 20 percent of the total value of the medical and indemnity benefits: *Provided*, That this attorney's fee, when combined with any fees previously charged or received by the attorney for permanent partial disability or permanent total disability benefits may not exceed 20 percent of an award of benefits to be paid during a period of 208 weeks.

(c) Except attorney's fees and costs recoverable pursuant to §23-2C-21(c) of this code, an attorney's fee for successful recovery of denied medical benefits may be charged or received by an attorney and paid by the private carrier or self-insured employer, for a claimant or dependent under this section. In no event may attorney's fees and costs be awarded pursuant to both this section and §23-2C-21(c) of this code.

(1) If a claimant successfully prevails in a proceeding relating to a denial of medical benefits brought before the Insurance Commissioner, other private carrier, or self-insured employer, whichever is applicable, as a result of utilization review, arbitration, mediation, or other proceedings, or a combination thereof, relating to denial of medical benefits before the Workers' Compensation Board of Review, or a court, there shall additionally be charged against the private carriers or self-insured employers, whichever is applicable, the reasonable costs and reasonable hourly attorney's fees of the claimant. Following the successful resolution of the denial in favor of the claimant, a fee petition shall be submitted by the claimant's attorney to the Insurance Commissioner or his or her successors, arbitrators, mediator, the Workers' Compensation Board of Review, or a court, whichever enters a final decision on the issue. An attorney representing a claimant must submit a claim for attorney's fees and costs within 30 days following a decision in which the claimant prevails and the order becomes final.

(2) The Insurance Commissioner or his or her successors, arbitrators, mediators, the Workers' Compensation Board of Review, or a court shall enter an order within 30 days awarding reasonable attorney's fees not to exceed \$125 per hour and reasonable costs of the claimant to be paid by the private carriers or self-insured employers, whichever is applicable, which shall be paid as directed. In no event may an award of the claimant's attorney's fees under this subsection exceed \$500 per litigated medical issue, not to exceed \$2,500 in a claim.

(3) In determining the reasonableness of the attorney's fees to be awarded, the Insurance Commissioner, arbitrator, mediator, Workers' Compensation Board of Review, or court shall consider the experience of the attorney, the complexity of the issue, the hours expended, and the contingent nature of the fee.

(d) This section becomes effective on July 1, 2022.

**CHAPTER 29A. STATE ADMINISTRATIVE PROCEDURES ACT.****ARTICLE 5. CONTESTED CASES.****§29A-5-4. Judicial review of contested cases.**

(a) Any party adversely affected by a final order or decision in a contested case is entitled to judicial review thereof under this chapter, but nothing in this chapter shall be deemed to prevent other means of review, redress, or relief provided by law.

(b) Proceedings for review of any final order or decision issued on or before June 30, 2022, shall be instituted by filing a petition, at the election of the petitioner, in either the Circuit Court of Kanawha County, West Virginia, or in the circuit court of the county in which the petitioner or any one of the petitioners resides or does business, or with the judge thereof in vacation, within 30 days after the date upon which such party received notice of the final order or decision of the agency. Notwithstanding any provision of this code to the contrary, proceedings for judicial review of any final order or decision issued after June 30, 2022, must be instituted by filing an appeal to the Intermediate Court of Appeals as provided in §51-11-1 et seq. of this code. A copy of the petition shall be served upon the agency and all other parties of record by registered or certified mail. The petition shall state whether the appeal is taken on questions of law or questions of fact, or both. No appeal bond shall be required to affect any such appeal.

(c) The filing of the petition shall not stay enforcement of the agency order or decision or act as a supersedeas thereto, but the agency may stay such enforcement, and the appellant, at any time after the filing of his or her petition, may apply to such ~~circuit~~ court for a stay of or supersedeas to such final order or decision. Pending the appeal, the court may grant a stay or supersedeas upon such terms as it deems proper.

(d) Within 15 days after receipt of a copy of the petition by the agency, or within such further time as the court may allow, the agency shall transmit to such ~~circuit~~ court the original or a certified copy of the entire record of the proceeding under review, including a transcript of all testimony and all papers, motions, documents, evidence, and records as were before the agency, all agency staff memoranda submitted in connection with the case, and a statement of matters officially noted; but, by stipulation of all parties to the review proceeding, the record may be shortened. The expense of preparing such record shall be taxed as a part of the costs of the appeal. The appellant shall provide security for costs satisfactory to the court. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs involved. Upon demand by any party to the appeal, the agency shall furnish, at the cost of the party requesting same, a copy of such record. In the event the complete record is not filed with the court within the time provided for in this section, the appellant may apply to the court to have the case docketed, and the court shall order such record filed.

(e) Appeals taken on questions of law, fact, or both, shall be heard upon assignments of error filed in the cause or set out in the briefs of the appellant. Errors not argued by brief may be disregarded, but the court may consider and decide errors which are not assigned or argued. The court or judge shall fix a date and time for the hearing on the petition, but such hearing, unless by agreement of the parties, shall not be held sooner than 10 days after the filing of the petition, and notice of such date and time shall be forthwith given to the agency.

(f) The review shall be conducted by the court without a jury and shall be upon the record made before the agency, except that in cases of alleged irregularities in procedure before the agency, not shown in the record, testimony thereon may be taken before the court. The court may hear oral arguments and require written briefs.

(g) The court may affirm the order or decision of the agency or remand the case for further proceedings. It shall reverse, vacate, or modify the order or decision of the agency if the substantial rights of the petitioner or petitioners have been prejudiced because the administrative findings, inferences, conclusions, decision, or order are:

(1) In violation of constitutional or statutory provisions; ~~or~~

(2) In excess of the statutory authority or jurisdiction of the agency; ~~or~~

(3) Made upon unlawful procedures; ~~or~~

(4) Affected by other error of law; ~~or~~

(5) Clearly wrong in view of the reliable, probative, and substantial evidence on the whole record; or

(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(h) The judgment of the circuit court or the Intermediate Court of Appeals, whichever is applicable, shall be final unless reversed, vacated, or modified on appeal to the Supreme Court of Appeals of this state in accordance with the provisions of §29A-6-1 of this code.

## **ARTICLE 6. APPEALS.**

### **§29A-6-1. Supreme Court of Appeals.**

(a) Any party adversely affected by the final judgment of the circuit court under this chapter may seek review thereof by appeal to the Supreme Court of Appeals of this state, and jurisdiction is hereby conferred upon such court to hear and entertain such appeals upon application made therefor in the manner and within the time provided by law for civil appeals generally: Provided, That a circuit court has no jurisdiction to review a final order or decision in a contested case issued after June 30, 2022.

(b) Any party adversely affected by the final order, decision, or judgment of the Intermediate Court of Appeals under this chapter may seek review thereof by petition to the Supreme Court of Appeals, pursuant to the requirements of §51-11-1 et seq. of this code.

## **CHAPTER 51. COURTS AND THEIR OFFICERS.**

### **ARTICLE 2A. FAMILY COURTS.**

#### **§51-2A-24. Review by Intermediate Court of Appeals; transfer of jurisdiction from circuit court.**

a) Notwithstanding any provision of this code to the contrary, an appeal of a final order or decision entered by a family court after June 30, 2022, must be made to the Intermediate Court of Appeals, as provided in §51-11-1 et seq. of this code.

(b) Notwithstanding any provision of this code to the contrary, a circuit court has no jurisdiction to review a final order or decision entered by a family court after June 30, 2022, if review of the final order or decision is within the jurisdiction of the Intermediate Court of Appeals, as provided in §51-11-5 of this code.

## **ARTICLE 9. RETIREMENT SYSTEM FOR JUDGES OF COURTS OF RECORD.**

### **§51-9-1a. Definitions.**

(a) As used in this article, the term “judge”, “judge of any court of record”, or “judge of any court of record of this state” means, refers to, and includes judges of the several circuit courts, judges of the Intermediate Court of Appeals, and justices of the Supreme Court of Appeals. For purposes of this article, the terms do not mean, refer to, or include family court judges.

(b) “Actuarially equivalent” or “of equal actuarial value” means a benefit of equal value computed upon the basis of the mortality table and interest rates as set and adopted by the retirement board in accordance with the provisions of this article: *Provided*, That when used in the context of compliance with the federal maximum benefit requirements of Section 415 of the Internal Revenue Code, “actuarially equivalent” shall be computed using the mortality tables and interest rates required to comply with those requirements.

(c) “Beneficiary” means any person, except a member, who is entitled to an annuity or other benefit payable by the retirement system.

(d) “Board” means the Consolidated Public Retirement Board created pursuant to §5-10D-1 *et seq.* of this code.

(e) “Final average salary” means the average of the highest 36 consecutive months’ compensation received by the member as a judge of any court of record of this state.

(f) “Internal Revenue Code” means the Internal Revenue Code of 1986, as it has been amended.

(g) “Member” means a judge participating in this system.

(h) “Plan year” means the 12-month period commencing on July 1 of any designated year and ending the following June 30.

(i) “Required beginning date” means April 1 of the calendar year following the later of: (1) The calendar year in which the member attains age 70 and one-half; or (2) the calendar year in which the member retires or otherwise separates from covered employment.

(j) “Retirement system” or “system” means the Judges’ Retirement System created and established by this article. Notwithstanding any other provision of law to the contrary, the provisions of this article are applicable only to circuit judges, judges of the Intermediate Court of Appeals, and justices of the Supreme Court of Appeals in the manner specified in this article. No service as a family court judge may be construed to qualify a person to participate in the Judges’ Retirement System or used in any manner as credit toward eligibility for retirement benefits under the Judges’ Retirement System.

**ARTICLE 11. THE WEST VIRGINIA APPELLATE REORGANIZATION ACT.****§51-11-1. Short title**

This article is known and may be cited as the West Virginia Appellate Reorganization Act of 2021.

**§51-11-2. Definitions.**

For the purpose of this article:

“Circuit court” means a circuit court of this state, as provided in §51-2-1 of this code.

“Clerk” means the Clerk of the Supreme Court of Appeals of West Virginia.

“Intermediate Court of Appeals” means the Intermediate Court of Appeals of West Virginia created by this article.

“Judge” means a person appointed or elected to serve as a Judge for the Intermediate Court of Appeals, pursuant to this article.

“Supreme Court of Appeals” means the Supreme Court of Appeals of West Virginia.

**§51-11-3. West Virginia Intermediate Court of Appeals; constitutional authority; Court created; judges; qualifications of judges; location; clerk.**

(a) The Legislature finds that:

(1) Section one, article VIII of the Constitution of West Virginia explicitly recognizes the power of the Legislature to establish an intermediate court of appeals.

(2) Section six, article VIII of the Constitution of West Virginia acknowledges that appellate jurisdiction “may be conferred by law exclusively upon an intermediate appellate court” and numerous additional references to the potential creation of an intermediate appellate court by the Legislature appear throughout the Constitution.

(b) In accordance with Section One, Article VIII of the West Virginia Constitution, the West Virginia Intermediate Court of Appeals is created. The Intermediate Court is a court of record and shall issue, as appropriate in each appeal, written opinions, orders, and decisions. The court shall be established and operable on or before July 1, 2022.

(c) The Intermediate Court of Appeals shall convene, conduct proceedings, and issue decisions, rulings, and opinions of the court.

(d) The Intermediate Court of Appeals shall consist of three judges, initially appointed by the Governor in accordance with §51-11-6 of this code.

(1) An Intermediate Court of Appeals Judge must be a member in good standing of the West Virginia State Bar and admitted to practice law in this state for at least ten years prior to appointment or election to the Intermediate Court of Appeals.



(2) An Intermediate Court of Appeals Judge must have been a resident of the State of West Virginia for five years prior to election to the Intermediate Court of Appeals.

(3) An Intermediate Court of Appeals Judge may not engage in any other business, occupation or employment inconsistent with the expeditious, proper and impartial performance of his or her duties as a judicial officer. An Intermediate Court of Appeals Judge is not permitted to engage in the outside practice of law and shall devote full time to his or her duties as a judicial officer.

(4) A person sitting as an Intermediate Court of Appeals Judge may not retain his or her position as judge upon becoming a pre-candidate or candidate for any other elected public office, judicial or nonjudicial.

(e) The Intermediate Court of Appeals may be located in any seat of county government within the state, or in any other place which is convenient to litigants designated by the Intermediate Court of Appeals for the purpose of hearing oral argument, or may be located in a fixed location, in a facility provided by the Clerk pursuant to §51-11-8 of this code.

(f) The Clerk of the Supreme Court shall act as clerk of the Intermediate Court of Appeals. The Clerk shall keep a complete record of the cases and proceedings of the Intermediate Court of Appeals. The Clerk, subject to the approval of the Supreme Court, may employ additional staff for the performance of duties relating to the court of appeals and designate a deputy clerk to oversee the administration of the Intermediate Court of Appeal

**§23-5-15. Appeals from final decisions of board to Supreme Court of Appeals prior to July 1, 2022; procedure; costs.**

**§51-11-4. Jurisdiction; limitations.**

(a) The Intermediate Court of Appeals has no original jurisdiction.

(b) Unless specifically provided otherwise in this article, appeals of the following matters shall be made to the Intermediate Court of Appeals, which has appellate jurisdiction over such matters:

(1) Final judgments or orders of a circuit court in civil cases, entered after June 30, 2022; *Provided*, that the Supreme Court of Appeals may, on its own accord, obtain jurisdiction over any civil case filed in the Intermediate Court;

(2) Final judgments or orders of a family court, entered after June 30, 2022;

(3) Final judgments or orders of a circuit court concerning guardianship or conservatorship matters, entered after June 30, 2022, pursuant to §44A-1-1 *et seq.* of this code;

(4) Final judgments, orders, or decisions of an agency or an administrative law judge entered after June 30, 2022, heretofore appealable to the Circuit Court of Kanawha County pursuant to §29A-5-4 or any other provision of this code;

(5) Final orders or decisions of the Health Care Authority issued prior to June 30, 2022, in a certificate of need review, but transferred to the jurisdiction of the Intermediate Court of Appeals upon termination of the Office of Judges pursuant to §16-2D-16a of this code;

(6) Final orders or decisions issued by the Office of Judges after June 30, 2022, and prior to its termination, as provided in §16-2D-16 and §23-5-8a of this code; and

(7) Final orders or decisions of the Workers' Compensation Board of Review pursuant to §23-5-1 et seq. of this code, entered after June 30, 2022.

(c) In appeals properly filed pursuant to subsection (b) of this section, the parties shall be afforded a full and meaningful review on the record of the lower tribunal and an opportunity to be heard.

(d) The Intermediate Court of Appeals does not have appellate jurisdiction over the following matters:

(1) Judgments or final orders issued in any criminal proceeding in this state: *Provided*, that if the West Virginia Supreme Court of Appeals should adopt a policy of discretionary review of criminal appeals then the Intermediate Court of Appeals shall have appellate jurisdiction of such judgments or final orders;

(2) Judgments or final orders issued in any juvenile proceeding pursuant to §49-4-701 et seq. of this code;

(3) Judgments or final orders issued in child abuse and neglect proceedings pursuant to §49-4-601 et seq. of this code;

(4) Orders of commitment, issued pursuant to §27-5-1 et seq. of this code;

(5) Any proceedings of the Lawyer Disciplinary Board;

(6) Any proceedings of the Judicial Investigation Commission;

(7) Final decisions of the Public Service Commission, issued pursuant to §24-5-1 of this code;

(8) Interlocutory appeals;

(9) Certified questions of law; and

(10) Extraordinary remedies, as provided in §53-1-1 et seq. of this code, and any appeal of a decision or order of another court regarding an extraordinary remedy.

**§51-11-5. Motion for direct review by Supreme Court of Appeals.**

(a) Within 20 days after a petition for appeal is filed in the Intermediate Court of Appeals, a party may file a motion in the Supreme Court of Appeals for direct review of a final judgment or order that is otherwise within the appellate jurisdiction of the Intermediate Court of Appeals pursuant to §51-11-5 of this code.

(b) The Supreme Court of Appeals may grant a motion filed pursuant to this section if both of the following extraordinary circumstances exist:

(1) The appeal involves a question of fundamental public importance; and

(2) The appeal involves exigencies, in which time is of the essence, necessitating direct review of the appeal by the Supreme Court of Appeals.

(c) Notwithstanding any other provision of this code, if the Supreme Court of Appeals grants a motion filed pursuant to this section within 20 days after such motion is filed, jurisdiction over the appeal is transferred to the Supreme Court of Appeals according to all applicable rules of the court:

**§51-11-6. Election of judges; initial appointment and election; vacancies; length and conditions of judicial terms.**

(a) The three Judges of the Intermediate Court of Appeals shall be elected on a nonpartisan basis to serve 10-year terms, subject to the exceptions for initial appointments and elections contained in subsection (b) and subsection (c) of this section.

(b) *Nomination and election to fill initial vacancies.* —The Judges shall be nominated and appointed according to the following procedure:

(1) (A) On or before January 1, 2022, the Judicial Vacancy Advisory Commission, established pursuant to §3-10-3a of this code, shall publish notice of the judicial vacancies for the Intermediate Court of Appeals and begin accepting applications from qualified individuals for the position of Judge of the Intermediate Court of Appeals. The Commission is responsible for reviewing and evaluating candidates for possible appointment to the Intermediate Court of Appeals by the Governor. In reviewing candidates, the Commission may accept applications from any attorney who believes he or she to be qualified for the judgeships. The Commission may accept comments from and request information from any person or source.

(B) The Commission shall recommend three qualified nominees for each position for Intermediate Court of Appeals Judge: *Provided*, That each person on the list must meet the requirements of §51-11-3(d) of this code at the time such person will begin his or her term on the court.

(2) The Governor shall review the list certified by the Judicial Vacancy Advisory Commission and nominate three qualified candidates to serve as judge. The Governor shall make his or her nominations without regard to political partisanship or affiliation. If the Governor does not select a nominee for the position of judge from the names provided by the Commission, he or she shall notify the committee of that circumstance and the Commission shall provide additional names for consideration by the Governor.

(3) The initial appointment term for each of the judges, at the discretion of the Governor, shall be as follows: one judge shall be selected to serve a two and one-half year term set to expire on December 31, 2024, one judge shall be selected to serve a four and one-half year term set to expire on December 31, 2026, and one judge shall be elected to serve a six and one-half year term set to expire on December 31, 2028.

(4) Upon confirmation by the West Virginia Senate, an individual appointed to serve as a Judge of the Intermediate Court of Appeals pursuant to this subsection shall take an oath of office and commence his or her duties on July 1, 2022.

(c) After the initial appointment, the Judges of the Intermediate Court of Appeals shall be elected on a nonpartisan basis by division during the primary election in every year during which

a sitting judge's term will expire for a ten-year term of office, and the judge's term shall commence on January 1 of the year following, as set forth in §3-5-1 et seq. of this code.

(d) If a vacancy occurs in the office of Intermediate Court Judge, the Governor shall fill the vacancy by appointment as provided in §3-10-3 and §3-10-3a of this code.

(e) No person sitting as a judge of the Intermediate Court of Appeals may retain his or her position as judge upon becoming a candidate for any elected public office, judicial or nonjudicial.

(f) The Legislature recognizes that the Chief Justice of the West Virginia Supreme Court of Appeals has authority to temporarily assign judges to the Intermediate Court of Appeals pursuant to section eight, article VIII of the Constitution of West Virginia, in the event that a judge is temporarily unable to serve on the court.

#### **§51-11-7. Rules of practice and procedure; fees; deadlines.**

(a) Section three, article VIII of the Constitution of West Virginia grants the Supreme Court of Appeals of West Virginia supervisory control over all intermediate appellate courts in the state, including the power to promulgate rules for the procedures of an intermediate appellate court created by statute. In accordance with those provisions, the Intermediate Court of Appeals is therefore subject to the administrative control, supervision, and oversight of the Supreme Court of Appeals and unless specifically provided otherwise in this article, the pleadings, practice, and procedure in all matters before the Intermediate Court of Appeals are governed by rules promulgated by the Supreme Court of Appeals.

(b) Filing; records. — All notices of appeals, petitions, documents, and records in connection with an appeal to the Intermediate Court of Appeals shall be filed in accordance with rules promulgated by the Supreme Court of Appeals. Appeals to the Intermediate Court of Appeals shall be filed with the Clerk of the Supreme Court of Appeals. All appeals and other related documents shall be filed by electronic means, when available.

(c) Fees. —

(1) The Clerk of the Supreme Court of Appeals may charge a party appealing to the Intermediate Court of Appeals a filing fee in the amount of \$200.

(2) All moneys collected pursuant to this subsection shall be deposited in the Ryan Brown Addiction Prevention and Recovery Fund, created by §16-53-2 of this code, and all expenditures from the fund shall comply with the requirements of that section.

(d) Appeal bonds. — The court may order the payment of an appeal bond before an appeal to the Intermediate Court of Appeals may commence, pursuant to rules promulgated by the Supreme Court of Appeals, and when applicable, the requirements of §58-5-14 of this code.

(e) Oral argument. — The Intermediate Court of Appeals has discretion to determine whether appellate review of a case before the court requires oral argument.

#### **§51-11-8. Administration of court.**

(a) In accordance with section three, article VIII of the Constitution of West Virginia, the Intermediate Court of Appeals is subject to the administrative control, supervision, and oversight

of the Supreme Court of Appeals. Under that same provisions, the Chief Justice of the Supreme Court of Appeals is the “administrative head” of all West Virginia courts, empowering the chief justice to exercise supervisory control over an intermediate court of appeals.

(b) The Administrative Director of the Supreme Court shall provide for the requisite physical facilities, furniture, fixtures and equipment necessary for the efficient operation of the Intermediate Court of Appeals.

(c) (1) In order to minimize any costs associated with the necessary facilities for the Intermediate Court of Appeals, the Administrative Director of the Supreme Court shall make existing courtrooms throughout the state, including the courtroom of the Supreme Court of Appeals, available for use by the Intermediate Court of Appeals at times convenient both to the Intermediate Court of Appeals and the local court.

(2) The Administrative Director of the Supreme Court may also contract with the Department of Administration, county commissions and private parties to provide for space that is suitable for the Intermediate Court of Appeals. Facilities may include, but are not limited to, courtrooms in county courthouses, courtrooms in federal courthouses, county commission rooms in county courthouses, rooms or facilities at institutions of higher education, and other suitable spaces in federal, state, county, or municipal buildings throughout the state.

(d) Chief Judge. — One Judge of the Intermediate Court of Appeals shall be chosen Chief Judge. The manner of choosing the Chief Judge and providing for periodic rotation of the position of Chief Judge shall be determined by rules to be established by the Supreme Court.

(e) Staff. — The Administrative Director of the Supreme Court of Appeals shall provide administrative support and may employ additional staff, as necessary, for the efficient operation of the Intermediate Court of Appeals. The budget for the payment of compensation and expenses of the Intermediate Court of Appeals staff shall be included in the appropriation to the Supreme Court of Appeals.

(f) The budget for the payment of the salaries and benefits for the Intermediate Court of Appeals Judges and staff, facilities, furniture, fixtures and equipment shall be included in the appropriation for the Supreme Court. To the extent possible, the Supreme Court shall designate existing facilities and existing staff members for use by the Intermediate Court of Appeals to minimize the costs for establishing and operating the Intermediate Court of Appeals.

#### **§51-11-9. Written opinions; precedential effect.**

(a) The Intermediate Court of Appeals shall issue, as appropriate in each appeal, written opinions, orders, and decisions: *Provided*, That a written decision on the merits shall be issued as a matter of right in each appeal that is properly filed and within the jurisdiction of the Intermediate Court of Appeals.

(b) A written opinion, order, or decision of the Intermediate Court of Appeals is binding precedent for the decisions of all circuit courts, family courts, magistrate courts, and agencies unless the opinion, order, or decision is overruled or modified by the Supreme Court of Appeals.

#### **§51-11-10. Discretionary review by Supreme Court of Appeals by petition**

(a) A party in interest may petition the Supreme Court of Appeals for appeal of a final order or judgment of the Intermediate Court of Appeals in accordance with rules promulgated by the Supreme Court of Appeals.

(b) Upon the proper filing of a notice of appeal in the Supreme Court of Appeals, the order or judgment of the Intermediate Court of Appeals may be stayed pending the appeal, in accordance with rules promulgated by the Supreme Court of Appeals.

(c) The Supreme Court of Appeals has discretion to grant or deny the petition for appeal or certiorari of a decision by the Intermediate Court of Appeals.

#### **§51-11-11. Judicial compensation and benefits; expenses.**

(a) The annual salary of a Judge of the Intermediate Court of Appeals is \$142,500. The budget for the payment of compensation and expenses of Intermediate Court of Appeals judges shall be included in the appropriation for the Supreme Court of Appeals.

(b) Judges of the Intermediate Court of Appeals and staff shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties under the guidelines prescribed by the Administrative Director of the Supreme Court of Appeals.

#### **§51-11-12. Attorney General as counsel for state.**

The Attorney General shall appear as counsel for the state in all cases pending in the Intermediate Court of Appeals, subject to the same requirements and restrictions provided in §5-3-2 of this code that apply to the Attorney General's representation of the state in cases pending in the Supreme Court of Appeals.

#### **§51-11-13. Severability.**

The provisions of this article are severable. If any portion of this article is declared unconstitutional or the application of any part of this article is held invalid, the remaining portions of this article and their applicability shall remain valid and enforceable.

### **CHAPTER 58. APPEAL AND ERROR.**

#### **ARTICLE 5. APPELLATE RELIEF IN THE INTERMEDIATE COURT OF APPEALS AND THE SUPREME COURT OF APPEALS.**

##### **§58-5-1. When appeal lies.**

(a) A party to a civil action may appeal to the Supreme Court of Appeals from a final judgment of any circuit court or from an order of any circuit court constituting a final judgment as to one or more but fewer than all claims or parties upon an express determination by the circuit court that there is no just reason for delay and upon an express direction for the entry of judgment as to such claims or parties: *Provided*, That an appeal of a final order or judgment of a circuit court entered after June 30, 2022, shall be to the Intermediate Court of Appeals, as required by §51-11-1 et seq. of this code.

(b) As provided in §51-11-13 of this code, a party in interest may petition the Supreme Court of Appeals for appeal of a final order or judgment of the Intermediate Court of Appeals in accordance with rules promulgated by the Supreme Court of Appeals.

(c) The defendant in a criminal action may appeal to the Supreme Court of Appeals from a final judgment of any circuit court in which there has been a conviction, or which affirms a conviction obtained in an inferior court.;

And,

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

**Eng. Com. Sub. for Com. Sub. for Senate Bill 275**—A Bill to amend and reenact §3-1-16 of the Code of West Virginia, 1931, as amended; to amend and reenact §3-4A-11a of said Code; to amend said code by adding thereto a new section, designated §3-5-6e; to amend and reenact §3-5-7, and §3-5-13 of said Code; to amend and reenact §3-10-3 and §3-10-3a of said Code; to amend and reenact §6-5-1 of said Code; to amend said code by adding thereto a new section, designated §16-2D-16a; to amend said code by adding thereto a new section, designated §23-1-1h; to amend and reenact §23-5-1, §23-5-3, §23-5-4; §23-5-5, §23-5-6, §23-5-8, §23-5-9, §23-5-10, §23-5-11, §23-5-12, §23-5-13, §23-5-15, and §23-5-16 of said code; to amend said code by adding thereto twelve new sections, designated §23-5-1a, §23-5-3a, §23-5-5a, §23-5-6a, §23-5-8a, §23-5-8b, §23-5-9a, §23-5-10a, §23-5-11a, §23-5-12a, §23-5-13a, and §23-5-16a; to amend and reenact §29A-5-4 of said code; to amend and reenact §29A-6-1 of said code; to amend said code by adding thereto a new section, designated §51-2A-24; to amend and reenact §51-9-1a of said code; to amend said code by adding thereto a new article, designated §51-11-1, §51-11-2, §51-11-3, §51-11-4, §51-11-5, §51-11-6, §51-11-7, §51-11-8, §51-11-9, §51-11-10, §51-11-11, §51-11-12 and §51-11-13; and to amend and reenact §58-5-1 of said code, all relating generally to creating an Intermediate Court of Appeals; requiring the election of judges of the Intermediate Court of Appeals be on a nonpartisan basis; requiring that elections to certain offices be on a division basis when more than one judge of the Intermediate Court of Appeals is to be elected; providing for the timing, day and frequency of election; providing for the commencement of terms of office; establishing ballot design and printing; providing that election for Judge of the Intermediate Court of Appeals is to be held on the same date as the primary election; requiring nonpartisan ballots be used; establishing filing announcement of candidacies, including the timing, location and information necessary thereto; providing for the order of appearance of offices on the ballot; establishing ballot content; providing for the filling of vacancies on the Intermediate Court of Appeals; defining terms; providing that the Judicial Vacancy Advisory Commission assist initial and subsequent vacancies on the Intermediate Court of Appeals; clarifying meaning of quorum for Judicial Vacancy Advisory Commission; transferring jurisdiction over appeals of decisions of the Health Care Authority in certificate-of-need reviews from the Workers' Compensation Office of Administrative Law Judges and Circuit Court of Kanawha County to the Intermediate Court of Appeals; establishing procedures and time frames for transfer or disposition of unresolved appeals pending with the Office of Judges; transferring jurisdiction over all workers' compensation claims and transferring all powers and duties related thereto from the Office of Judges to the Workers' Compensation Board of Review by a date certain; providing for additional two members to Workers' Compensation Board of Review; providing for modified procedure to appoint members to Workers' Compensation Board of Review; conferring appellate jurisdiction over Office of Judges decisions and Board of Review decisions to the Intermediate Court of Appeals after a date certain; sunseting certain provisions relating to duties and procedures of the Office of Judges with respect to workers' compensation claims; modifying duties and procedures of Board of Review with respect to workers' compensation claims; terminating the Office of Judges

by a date certain; authorizing the Board of Review to employ hearing examiners and other necessary personnel; establishing qualifications for hearing examiners hired by the Board of Review; setting forth powers of the Board of Review relating to workers' compensation claims; providing for reports requested by the Insurance Commissioner to be made by the chair of the Board of Review; providing for oversight and administrative authority of the Insurance Commissioner over the Board of Review; authorizing the Board of Review to promulgate procedural rules; granting due consideration and an interview to employees of the Office of Judges who apply for positions with the Board of Review on or before a date certain and directing the Board of Review that such consideration and interview prior to considering any other applicant; authorizing the Board of Review to hire attorneys as hearing examiners; requiring that all orders and decisions of the Board of Review pertaining to an objection be issued and signed by a single member of the Board of Review, with certain exceptions; permitting the board of review member assigned to an objection to delegate certain duties to a hearing examiner; establishing the administrative powers and duties of the Board of Review; increasing the limit on the annual salary of a Board of Review member; authorizing the Board Of Review to promulgate rules of practice and procedure, and establishing a process therefor; establishing duties of the chair of the Board of Review; providing that the administrative expenses of the Board of Review shall be included in annual budget of the Insurance Commissioner; providing that petitions for review of final decisions of the Workers' Compensation Board of Review must be made to the Intermediate Court of Appeals; establishing certain procedures and other requirements for appeals of Board of Review decisions made to the Intermediate Court of Appeals; providing that the Supreme Court of Appeals has discretion to review final decisions of the Intermediate Court of Appeals in workers' compensation claims; requiring that appeal of contested cases under the State Administrative Procedures Act be made to the Intermediate Court of Appeals; transferring jurisdiction to review family court final orders from circuit courts to the Intermediate Court of Appeals; creating an Intermediate Court of Appeals in West Virginia to be established and operable by a date certain; providing a short title; providing legislative findings; defining terms; establishing and defining an Intermediate Court of Appeals of three judges; providing eligibility criteria for judges of the Intermediate Court of Appeals; providing that judges of the Intermediate Court of Appeals may not be candidates for any elected public office during the judicial term; providing for the location of proceedings of the Intermediate Court of Appeals; providing for a Clerk of the Intermediate Court of Appeals; authorizing jurisdiction of the Intermediate Court of Appeals over certain matters; excluding certain matters from jurisdiction of the Intermediate Court of Appeals; providing that parties to an appeal in the Intermediate Court of Appeals shall have an opportunity for a full and meaningful review on the record of the lower tribunal and an opportunity to be heard; forbidding jurisdiction of the Intermediate Court of Appeals over certain matters; establishing a procedure by which parties to an appeal in the Intermediate Court of Appeals may file a motion for direct review of an appeal by the Supreme Court of Appeals in certain extraordinary circumstances; providing a process for initial appointment of judges to the Intermediate Court of Appeals to fill vacancies in the Intermediate Court of Appeals upon its creation; providing for the regular election of a judge of the Intermediate Court of Appeals upon the expiration of a sitting judge's term; establishing a procedures for the filling of vacancies in unexpired judicial terms by appointment and, in certain circumstances, subsequent election; providing that the Governor's judicial appointments must be made from a list of candidates submitted by the Judicial Vacancy Advisory Commission and are subject to advice and consent of the Senate; providing that procedures and operations of the Intermediate Court of Appeals shall comply with rules promulgated by the Supreme Court of Appeals; requiring that appeals to the Intermediate Court of Appeals and related filings be filed with the Clerk of the Supreme Court of Appeals; establishing certain requirements for the filing of appeals to the Intermediate Court of Appeals; clarifying that an appeal bond may be required before appeal to the Intermediate Court of Appeals may take effect; authorizing filing fees; providing for deposit of filing fees in a special revenue account to



fund the Ryan Brown Addiction Prevention and Recovery Fund; granting the Intermediate Court of Appeals discretion to require oral argument; recognizing the constitutional authority of the Supreme Court of Appeals to exercise administrative authority over the Intermediate Court of Appeals; providing that Intermediate Court of Appeals proceedings shall take place in publicly available facilities as arranged by the Administrative Director of the Supreme Court of Appeals; authorizing the Administrative Director of the Supreme Court of Appeals to employ staff for Intermediate Court of Appeals operations; providing for a Chief Judge of the Intermediate Court of Appeals; providing that the budget for Intermediate Court of Appeals operations shall be included in the appropriation for the Supreme Court of Appeals; authorizing the Intermediate Court of Appeals to issue opinions as binding precedent for lower courts; providing that the Intermediate Court of Appeals shall issue written decisions as a matter of right; providing for discretionary review of Intermediate Court of Appeals decisions by Supreme Court of Appeals; authorizing an annual salary, retirement benefits, and reimbursement of expenses for judges of the Intermediate Court of Appeals; providing for reimbursement of expenses of Intermediate Court of Appeals staff; authorizing the Attorney General to appear as Counsel for the State before the Intermediate Court of Appeals; providing for severability of any unconstitutional provisions; clarifying when appeal lies before the Intermediate Court of Appeals and the Supreme Court of Appeals; providing internal effective dates; removing obsolete language from the code; and making technical corrections to the code.

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

Following discussion,

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

Engrossed Committee Substitute for Committee Substitute for Senate Bill 275, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Karnes, Maroney, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—21.

The nays were: Baldwin, Caputo, Grady, Hamilton, Ihlenfeld, Jeffries, Lindsay, Martin, Romano, Stollings, Stover, and Unger—12.

Absent: Beach—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for Com. Sub. for S. B. 275) passed with its House of Delegates amended title.

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

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

**Senate Concurrent Resolution 20**, Supporting and celebrating centennial anniversary of Jones Act.

A message from the Clerk of the House of Delegates announced that that body had refused to concur in the Senate amendment to, and requested the Senate to recede therefrom, as to

**Eng. Com. Sub. for House Bill 2003**, Relating to the authority and obligations of the Governor and Legislature when in declared states of preparedness and emergency.

On motion of Senator Takubo, the Senate refused to recede from its amendment to the bill and requested the appointment of a committee of conference of three from each house on the disagreeing votes of the two houses.

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

Senators Trump, Clements, and Baldwin.

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

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

**Eng. Com. Sub. for House Bill 2014**, Relating to role of the Legislature in appropriating federal funds.

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

**Eng. Com. Sub. for House Bill 2017**—A Bill to repeal the following sections: §55-9-1, §55-9-2, §55-9-3, §61-1-4, §61-1-5, §61-1-7, §61-1-8, §61-1-9, §61-2-5a, §61-2-9a, §61-2-9b, §61-2-9c, §61-2-9d, §612-10, §61-2-10a, §61-2-10b, §61-2-14a, §61-2-14b, §61-2-14c, §61-2-14d, §61-2-14e, §61-2-14f, §61-2-14g, §61-2-14h, §61-2-15a, §61-2-16a, §61-2-26, §61-2-27, §61-2-27a, §61-2-28, §61-2-29, §61-2-29a, §61-2-29b, §61-2-30, §61-3-20a, §61-3-22a, §61-3-24a, §61-3-24b, §61-3-24c, §61-3-24d, §61-3-24e, §61-3-24f, §61-3-24g, §61-3-24h, §61-3-39, §61-3-39a, §61-3-39b, §61-3-39c, §61-3-39d, §61-3-39e, §61-3-39f, §61-3-39g, §61-3-39h, §61-3-39i, §61-3-39j, §61-3-39k, §61-3-39m, §61-3-39n, §61-3-39o, §61-3-39p, §61-3-39q, §61-3-40, §61-3-41, §61-3-42, §61-3-43, §61-3-44, §61-3-45, §61-3-45a, §61-3-46, §61-3-47, §61-3-48, §61-3-48a, §61-3-49, §61-3-49a, §61-3-49b, §61-3-50, §61-3-51, §61-3-52, §61-3-53, §61-3-54, §61-3-55, §61-3-56, §61-3-57, §61-3-58, §61-3-59, §61-3A-4a, §61-3C-14a, §61-3C-14b, §61-3C-14c, §61-3E-13, §61-5-12a, §61-5-12b, §61-5-25a, §61-5-27a, §61-5-28, §61-5-29, §61-6-2, §61-6-3, §61-6-14a, §61-6-18, §61-6-19, §61-6-20, §61-6-21, §61-6-22, §61-6-23, §61-6-24, §61-6-25; §61-7-9, §61-8-2, §61-8-9a, §61-8-10, §61-8-20, §61-8-25, §61-8-26, §61-8B-18, §61-8D-6, §61-8E-1, §61-8E-2, §61-8E-3, §61-9-9, §61-9-10, §61-9-11, §61-10-7, §61-10-8, §61-10-13, §61-10-14, §61-10-19, §61-10-34, §61-11-1, §61-11-3, and §61-11A-7 of the code of West Virginia 1931, as amended; to amend and reenact §15-12-8 of said code; to amend and reenact §61-1-1, §61-1-2, §61-1-3 said code; to amend and reenact §61-2-1, §61-2-2, §61-2-3, §61-2-4, §61-2-5, §61-2-6, §61-2-7, §61-2-8, §61-2-9, §61-2-11, §61-2-12, §61-2-13, §61-2-14, §61-2-15, and §61-2-16 said code; to amend and reenact §61-3-1, §61-3-2, §61-3-3, §61-3-4, §61-3-5, §61-3-6, §61-3-7, §61-3-8, §61-3-11, §61-3-12, §61-3-13, §61-3-14, §61-3-15, §61-3-16, §61-3-18, §61-3-19, §61-3-20, §61-3-21, §61-3-22, §61-3-23, §61-3-24, §61-3-25, §61-3-26, §61-3-27, §61-3-28, §61-3-29, §61-3-30, §61-3-31, §61-3-32, §61-3-33, §61-3-34, §61-3-35, §61-3-36, §61-3-37, and §61-3-38 said

code; to amend and reenact §61-3A-3 and §61-3A-7 said code; to amend and reenact §61-3B-2, §61-3B-3, §61-3B-4, §61-3B-5, §61-3B-6, and §61-3B-7 said code; to amend and reenact §61-3C-2, §61-3C-3, §61-3C-4, §61-3C-5, §61-3C-6, §61-3C-7, §61-3C-8, §61-3C-9, §61-3C-10, §61-3C-11, §61-3C-12, §61-3C-13, §61-3C-14, §61-3C-15, §61-3C-16, §61-3C-17, §61-3C-18, §61-3C-19, §61-3C-20, §61-3C-21; to amend and reenact §61-3D-2 and §61-3D-3 said code; to amend and reenact §61-3E-1, §61-3E-3, §61-3E-4, §61-3E-5, §61-3E-6, §61-3E-7, §61-3E-8, §61-3E-9, §61-3E-10, and §61-3E-12 said code; to amend and reenact §61-4-1, §61-4-2, §61-4-3, §61-4-4, §61-4-5, §61-4-6, §61-4-7, §61-4-8, and §61-4-9 said code; to amend and reenact §61-5-1, §61-5-2, §61-5-3, §61-5-4, §61-5-5, §61-5-6, §61-5-7, §61-5-8, §61-5-9, §61-5-10, §61-5-11, §61-5-12, §61-5-13, §61-5-14, §61-5-15, §61-5-16, §61-5-17, §61-5-18, §61-5-19, §61-5-20, §61-5-21, §61-5-22, §61-5-23, §61-5-24, §61-5-25, §61-5-26, and §61-5-27 said code; to amend and reenact §61-5A-9 said code; to amend and reenact §61-6-6, §61-6-7, §61-6-11, §61-6-12, §61-6-13, §61-6-14, §61-6-15, §61-6-16, and §61-6-17; §61-6-1, §61-6-1a, and §61-6-1b of said code; to amend and reenact §61-7-3, §61-7-4, §61-7-4a, §61-7-7, §61-7-10, §61-7-11, §61-7-11a, §61-7-12, §61-7-14, §61-7-15, and §61-7-15a said code; to amend and reenact §61-8-1, §61-8-5, §61-8-6, §61-8-7, §61-8-8, §61-8-9, §61-8-11, §61-8-12, §61-8-14, §61-8-15, §61-8-16, §61-8-19, §61-8-19a, §61-8-19b, §61-8-19c, §61-8-21, §61-8-22, §61-8-23, §61-8-27, §61-8-27a, §61-8-28, §61-8-28a, §61-8-29, §61-8-30, and §61-8-31 said code; to amend and reenact §61-8A-1, §61-8A-2, §61-8A-4, and §61-8A-5 said code; to amend and reenact §61-8B-3, §61-8B-4, §61-8B-5, §61-8B-7, §61-8B-8, §61-8B-9, §61-8B-9b, §61-8B-10 and §61-8B-12 of said code; to amend and reenact §61-8C-1, §61-8C-2, §61-8C-3, §61-8C-3a, and §61-8C-3b said code; to amend and reenact §61-8D-1, §61-8D-2, §61-8D-2a, §61-8D-3, §61-8D-3a, §61-8D-4, §61-8D-4a, §61-8D-5, §61-8D-5a, §61-8D-7, §61-8D-8, and §61-8D-10 said code; to amend and reenact §61-9-1, §61-9-2, §61-9-3, §61-9-4, §61-9-5, §61-9-6, §61-9-7, and §61-9-8 said code; to amend and reenact §61-10-1, §61-10-2, §61-10-3, §61-10-4, §61-10-5, §61-10-6, §61-10-9, §61-10-10, §61-10-11, §61-10-11a, §61-10-11b, §61-10-15, §61-10-16, §61-10-17, §61-10-20, §61-10-21, §61-10-22, §61-10-23, §61-10-30, §61-10-31, §61-10-32, and §61-10-33, said code; to amend and reenact §61-11-1a, §61-11-6, §61-11-8, and §61-11-8a of said code; to amend and reenact §61-12-8, §61-12-9, and §61-12-13 of said code; to amend and reenact §61-13-3 of said code; to amend and reenact §61-14-2, §61-14-3, §61-14-4, §61-14-5, §61-14-6, §61-14-7, and §61-14-8 of said code; to amend and reenact §61-15-2 and §61-16-2 of said code; to amend said code by adding thereto a new article designated as §23-5B-1, §23-5B-2, §23-5B-3, and §23-5B-4; to amend said code by adding thereto a new section, designated §30-29-9a; to amend said code by adding thereto two new sections, designated §30-1-27 and §30-1-28; to amend said code by adding a new section, designated §55-2-23; to amend said code by adding a new section, designated §60A-4-418; to amend said code by adding thereto nine new sections, designated §61-2-17, §61-2-18, §61-2-19, §61-2-20, §61-2-21, §61-2-22, §61-2-23, §61-2-24, and §61-2-25; to amend said code by adding thereto two new sections, §61-3-9, §61-3-10, and §61-3-17; to amend said code by adding thereto three new sections, designated §61-3B-8, §61-3B-9, and §61-3B-10; to amend said code by adding thereto two new sections, §61-3C-22 and §61-3C-23; to amend said code by adding thereto a new article, designated §61-3F-1, §61-3F-2, §61-3F-3, §61-3F-4, §61-3F-5, §61-3F-6, §61-3F-7, §61-3F-8, §61-3F-9, §61-3F-10, §61-3F-11, §61-3F-12, §61-3F-13, §61-3F-14, §61-3F-15, §61-3F-16, and §61-3F-17; to amend said code by adding thereto a new section designated §61-4-10; to amend said code by adding thereto following five new sections, designated §61-8-5a, §61-8-6a, §61-8-8a, and §61-8-8b, to amend said code by adding thereto six new sections, designated §61-8B-4a, §61-9-6a, §61-10-1a, §61-10-9a, §61-10-9b, and §61-10-10a; to amend said code by adding thereto a new article designated §61-17-1, §61-17-2, §61-17-3, §61-17-4, §61-17-5, and §61-17-6; and to amend said code by adding a new article designated §61-18-1, §61-18-2, §61-18-3, and §61-18-4; all relating to revising the criminal code generally; relating to the failure of a sex offender to register or provide notice of registration changes and the penalty for the same; crimes against the worker's compensation

system generally; the crime of omission to subscribe for workers' compensation insurance; the crime of failure to file a premium tax report or pay premium taxes; crimes relating to false testimony or statements concerning such; the crime of failure to file reports; criminal penalties for such actions or inactions; provisions for asset forfeiture; venue for trial of such crimes; the crime of wrongfully seeking workers' compensation; criminalizing false testimony or statements given in support of the same; criminal penalties for these offenses; venue for the trial of such crimes; workers' compensation health care offenses; fraud; theft or embezzlement; false statements; criminal penalties for the above offenses; notice requirements; prohibition against providing future services; penalties for the same; provisions for asset forfeiture; venue for the trial of such crimes; defining the crime of providing false documentation to workers' compensation, to the Insurance Commissioner or a private carrier of workers' compensation insurance; criminalizing altering documents or certificates from workers' compensation; criminal penalties for such offenses; venue for the trial of such crimes; the required reporting of gunshot and other wounds; the required reporting of burns; penalty for aiding and abetting; railroad employees being conservators of the peace; special railroad policemen; and the powers and duties of the same; relating to shooting ranges; limitations on nuisance actions; and noise ordinances; relating generally to criminal activity and the punishment thereof; wanton endangerment involving the use of fire; and the criminal penalty for the same; relating to crimes against the government, treason, the definition of the crime of treason, and penalties therefor, the crime of failure to give information of treason and its penalty, and the crime of desecration of the flag, and its penalty; relating to crimes against the person, first and second degree murder defined, and punishment for the same; delineating provisions for allegations in indictment for homicide; defining voluntary manslaughter and the penalty thereof; defining involuntary manslaughter, and specifying the penalty for the same; defining concealment of a deceased human body, and specifying the penalty for the same; clarifying that Homicide is punishable within the state if injury occurs within and death without, or vice versa; defining an attempt to kill or injure by poison, and specifying the penalty for the same; defining the crime of abortion and the penalty for the same; defining malicious or unlawful assault, assault, and battery, and specifying the penalties for each and aggravated factors and enhanced penalties; explaining provisions of sentencing for such acts committed by incarcerated persons; defining assault during the commission of or attempt to commit a felony, and specifying the penalty for the same; delineating that for violent crimes against the elderly a sentence is not subject to suspension or probation; defining harassment, and providing penalties, and certain definitions for the same; defining strangulation, suffocation, and asphyxiation and providing definitions and penalties for the same; defining robbery or attempted robbery and specifying the penalties for the same; defining extortion, and attempted extortion by threat, and specifying the penalty for these; defining kidnapping and specifying penalties for the same; defining concealment or removal of a minor child from custodian or from person entitled to visitation; and setting forth penalties and defenses for the same; providing that one aiding or abetting in kidnapping or in concealing or removing a minor child is guilty as a principal, and explaining venue for those offenses; defining unlawful restraint and providing penalties for the same; prohibiting the purchase or sale of a child, setting the criminal penalty for the same, and providing definitions and exceptions; the failure to remove doors from abandoned refrigerators, freezers and other appliances, and providing penalties for the same; providing definitions for various forms of domestic violence and criminal penalties; providing definitions and criminal penalties for the abuse or neglect of an incapacitated adult; providing criminal penalties for the death of an incapacitated adult by a caregiver; defining and providing criminal penalties for the financial exploitation of an elderly person, protected person or incapacitated adult; recognizing an embryo or fetus as a distinct unborn victim of certain crimes of violence against the person; relating to crimes against property; arson; the degrees of arson, and definitions and criminal penalties for the same; burning, or attempting to burn, insured property and the criminal penalty for the same; causing injuries during an arson-related crime, and the criminal penalties for the same; recovery of costs incurred

in fighting fires caused by arson; defining burglary, the entry of dwelling house or outbuilding, and providing criminal penalties for the same; defining entry of a house, building, vehicle, or enclosed property, the criminal penalties for the same, and specifying counts in indictment for the same; manufacture or possession of burglary tools, and the criminal penalties for the same; setting forth criminal offenses involving theft detection shielding devices, their criminal penalties and providing for detention of persons suspected of this offense; grand larceny, aggravated grand larceny, and petit larceny distinguished, setting forth the criminal penalties for each, defining larceny of bank notes, checks, writings of value and book accounts, and delineating the determination of value in larceny; explaining receiving or transferring stolen goods and providing a criminal penalty; providing a criminal penalty for bringing into this state, receiving or disposing of property stolen in another state; embezzlement, and the criminal penalties for the same; falsifying accounts, and the criminal penalties for the same; Possession or use of automated sales suppression devices, and the criminal penalties for the same; the offenses of destroying or concealing a will, and embezzlement by fiduciary, and the criminal penalties for the same; obtaining money, property and services by false pretenses, disposing of property to defraud creditors, and the criminal penalties for each of these; the offenses of attempted or fraudulent use, forgery, traffic of credit cards, possession and transfer of credit cards and credit card making equipment, the false or fraudulent use of telephonic services, and the criminal penalties for these offenses; intercepting or monitoring customer telephone calls, and the criminal penalties for the same; requirements for finding fraudulent schemes and provisions for the cumulation of amounts where a common scheme exists, and the criminal penalties for the same; the casting away, destroying, or interfering with floating craft or material, and the criminal penalties for the same; interference with or destruction of buoys, signal lights or other aids to navigation, and the criminal penalties for the same; the offense of malicious killing of animals by poison or otherwise, and the criminal penalties for the same; the removal out of a county of property securing a claim, and the criminal penalties for such offense; the fraudulent disposition of personal property in possession by virtue of lease, notice to return, failure to return, and penalties where such property is not returned; noting a right to immediate possession in such instances; making a false statement as to financial condition of person, firm or corporation, and the criminal penalty for the same; publication of false advertisements, and the criminal penalty for the same; fraudulently obtaining food or lodging, and the criminal penalty for the same; intoxication of a person in charge of locomotive engine or car, and the criminal penalty for the same; the offenses of jumping on or off car or train in motion; driving vehicle upon track or bridge except at crossings, and the criminal penalty for the same; procuring gas, water or electricity, by device, with intent to defraud, and the criminal penalty for the same; placing a dam or obstructions in watercourses, and the criminal penalty for the same; setting forth requirements for the purchase of scrap metal by scrap metal purchasing businesses, salvage yards, or recycling facilities; requiring certificates, records, and reports of such purchases; providing criminal penalties for violations of these provisions; setting forth requirements for the purchase of items by precious metals and gem dealers, records to be kept by them, and delineating prohibited acts, and the criminal penalty for the same; criminalizing the unauthorized use of dumpsters and setting forth penalties; defining the offense of identity theft and providing a penalty; criminalizing the failure to pay for gasoline and providing a penalty; the offense of scanning device or re-encoder fraud, delineating when it is a felony; providing definitions; and setting forth criminal penalties for the same; the offense of possession of bogus receipts or universal product codes with intent to defraud, and the criminal penalties for the same; the offense of misrepresentation of past or present military status or military awards to obtain anything of value, and delineating criminal penalties for the same; relating to shoplifting; prescribing penalties; defining the crime of organized retail theft, and providing penalties for that offence, all relating to trespass; trespass in a structure or conveyance and penalties for the same; trespass on property other than a structure or conveyance, removal, injury to or destruction of property, monuments designating land boundaries and of certain no trespassing signs and penalties for the same;

trespass on student residence premises or student facility premises of an institution of higher education and penalties for the same; trespass on state government property; aiding and abetting; penalties for each of those offenses; defining the offense of mine trespass, and penalties for the same; defining animal or crop facilities trespass; providing penalties for the same; allowing for injunctive relief in such instances; offenses involving damage to shrubbery, flowers, trees and timber; providing for a limitation of application of the relevant subsection, and providing penalties; prohibiting cutting, damaging, or carrying away without written permission, any timber, trees, growing plants or the products thereof; treble damages provided for the same; creating the Critical Infrastructure Protection Act; defining terms relevant to the same; prohibiting certain acts, including trespass and conspiracy to trespass against property designated a critical infrastructure facility; providing criminal penalties; and, allowing for certain forms of civil action in such instances; relating to the West Virginia Computer Crime And Abuse Act, defining terms; computer fraud; access to legislative or state-owned computer; criminal penalties for the same; unauthorized access to computer services and criminal penalties for the same; unauthorized possession of computer data or programs and criminal penalties for the same; unauthorized possession of computer data or programs and criminal penalties for the same; alteration, destruction, etc., of computer equipment, and criminal penalties for the same; unauthorized possession of computer information, and criminal penalties for the same; disclosure of computer security information and criminal penalties for the same; computer invasion of privacy and criminal penalties for the same; fraud and related activity in connection with access devices, and criminal penalties for the same; endangering public safety, and criminal penalties for the same; obscene, anonymous, harassing and threatening communications by computer, cell phones and electronic communication devices, and criminal penalties for the same; soliciting, etc. a minor via computer; soliciting a minor and traveling to engage the minor in prohibited sexual activity; cyberbullying or specific acts of electronic harassment of minors; definitions; criminal penalties for the same; exceptions; use of a computer as an instrument of forgery; civil relief and damages available; defenses to criminal prosecution; venue; prosecution under other criminal statutes not prohibited; personal jurisdiction; and, severability; relating to the theft of cable television services, the acquisition of cable television services, and penalties for wrongfully acquitting the same; sale or transfer of a device or plan intended for acquisition or diversion, and criminal penalties for the same; illegal possession of destructive devices, explosive materials or incendiary devices; and the criminal penalty for the same; criminal use of destructive device, explosive material or incendiary device; and the criminal penalty for the same; causing accidental or intentional death or injury; penalties; causing death or injury to an explosives detection animal; and the penalty for the same; manufacture, purchase, sale, advertising for sale, transporting or possession or use of a hoax bomb; possession or use in commission of a felony; and the penalty for the same; theft of explosive material from storage magazines or buildings; and the penalty for the same; receipt, possession, storage, sale or transportation of stolen explosive material; and the criminal penalty; wanton endangerment involving destructive devices, explosive materials or incendiary devices; and the criminal penalty; contraband, seizure, forfeiture of explosive devices; relating to crimes involving worthless checks; obtaining property in return for worthless check, and the criminal penalties for the same; making, issuing, etc., worthless checks on a preexisting debt, and the criminal penalties for the same; payment as a defense to such offenses; requiring making a statement for the reason for dishonor a duty of the drawee; defining what constitutes prima facie evidence of knowledge, setting forth requirements for identity, and providing a criminal penalty for providing false information; requiring a notice of dishonor by payee, and providing for a service charge; prescribing manner of filing complaint for warrant and the form thereof; providing guidance for a complaint, what constitutes notice of complaint, and the issuance of a warrant; delineating payment procedures, and imposing costs; providing for the payment of costs in worthless check cases, and the disposition of certain costs; requiring the preparation of a list of worthless check warrants; the use of that worthless check list upon receipt of complaint for

warrant; delineating the duties of a prosecuting attorney upon receipt of notice of multiple worthless check warrants; requiring the magistrate court clerk to advise complainant; providing for the creation and operation of a program for worthless check offenders, and requirements for acceptance of a person in that program; requiring certain notice to persons accepted to the worthless check restitution program; agreement to suspend prosecution of a person accepted into the restitution program; providing for fees for participation in the worthless check restitution program; and, providing that statements by individuals referred to or participating in the worthless check restitution program are criminally inadmissible; relating to forgery, crimes against the currency, the forgery of public records, certificates, returns or attestation of a court or officer; and the criminal penalty for the same; forgery of official seals; keeping or concealing instrument for forging same; and the criminal penalty for the same; counterfeiting, and the criminal penalty for the same; making plates, etc., for forgery; possession of same; and the criminal penalty for that offense; forging or uttering other writing and the criminal penalty for the same; creation of unauthorized demand draft. possession of counterfeit currency with intent to utter; and the criminal penalty for the same; unauthorized currency, and the criminal penalty for the same; passing or receiving unauthorized currency knowingly, and the criminal penalty for the same; and, the unauthorized use, transfer, acquisition, alteration or possession of certain benefits and the criminal penalty for the same; payment cards and falsely making or lading the same, and the criminal penalty therefore; relating to crimes against public justice generally; perjury and subornation of perjury defined; false swearing defined, and the criminal penalties for perjury, subornation of perjury, and false swearing; aiding escape and other offenses relating to adults and juveniles in custody or confinement; and criminal penalties for the same; permitting escape; refusal of custody of prisoner; and criminal penalties for the same; persons in custody of institutions or officers. escapes and aiding in escapes; and criminal penalties for the same; terms of confinement in addition to previous sentence; escapes from, and other offenses relating to, state benevolent and correctional institution, or private prison or mental health facilities and criminal penalties for the same; escape from custody of the commissioner of corrections and criminal penalties for the same; escape from custody of the director of juvenile services; refusal of officer to make, or delay in making, arrest; and criminal penalties for the same; refusal of person to aid officer and criminal penalties for the same; refusal of officer to execute act or process of legislature or order of governor; and criminal penalty for the same; obstructing officer; fleeing from officer; making false statements to officer; interfering with emergency communications; criminal penalties for the same; definition; officer not liable for act done under statute or executive order afterward declared unconstitutional; compounding offenses and misprision and criminal penalties for the same; exacting excessive fees and criminal penalties for the same; issuing fraudulent fee bills and criminal penalties for the same. alteration, concealment or destruction of public record by officer and criminal penalty for the same; larceny, concealment or destruction of public record by person not officer; and criminal penalty for the same; corrupt summoning of jurors to find biased verdict; and criminal penalty for the same; procuring the summoning of biased juror by party other than officer; and criminal penalty for the same; discrimination against employee summoned for jury duty; and criminal penalty for the same; contempt of court; what constitutes contempt; jury trial; presence of defendant; criminal penalty for the same; fraudulent official proceedings; causing a public employee or official to file a fraudulent legal process and criminal penalty for the same; impersonation of a public official, employee or tribunal; and criminal penalties for the same; impersonation of a public official or tribunal; impersonation of a law-enforcement officer; and criminal penalties for the same; subsequent offense; failure to perform official duties and criminal penalty for the same; the failure to meet an obligation to pay support to a minor and criminal penalties for the same; relating to bribery and corrupt practices, and the criminal penalties for such offenses; relating to crimes against the peace generally; mobs and lynching, and the criminal penalties for the same; liability of county or city in such instances; disturbance of religious worship and the criminal penalty for the same; disturbance of schools, societies, and other assemblies

and the criminal penalty for the same; loitering on school property and the criminal penalty for the same; exceptions. camping upon governmental grounds or lawns and the criminal penalty for the same; public nuisance. false reports concerning bombs or other explosive devices and the criminal penalty for the same. falsely reporting an emergency incident and the criminal penalty for the same. willful disruption of governmental processes; offenses occurring at State Capitol Complex; and the criminal penalties for the same; threats of terrorist acts, conveying false information concerning terrorist acts and committing terrorist hoaxes prohibited; and the criminal penalties for the same prohibiting violations of an individual's civil rights; and the criminal penalties for the same; wearing masks, hoods or face coverings and the criminal penalty for the same; and falsely reporting child abuse and the criminal penalty for the same; classifying criminal penalties for failing to register as a sex offender, failure to provide information change, and providing false information to the sex offender registry; deleting requirement that a person be deemed a rioter if they failed to provide required assistance at a riot; classify the penalty for crime of failure to obey an order given at a riot or unlawful assembly; providing that the crime of disorderly conduct is a petty offense; defining the crime of bigamy; providing a misdemeanor penalty for bigamy; providing definitions related to the crimes of pimping, prostitution and pandering; defining the crime of prostitution; providing the penalty for prostitution; providing that a medical report certifying no sexually transmitted disease reduces penalty for prostitution; providing criminal penalty for solicitation of prostitute; providing enhanced criminal penalty for solicitation of an individual for prostitution who is less than 18 years of age, mentally defective or incapacitated; providing fines for soliciting prostitution be paid to the Crime Victims Compensation Fund in designated circumstances; clarifying the crime pandering; providing that a second offense of pandering, recruitment involving coercion or force, and recruitment of persons under the age of 18 are felony offenses; establishing that parents consenting to using a minor or mentally defective person for prostitution is guilty of a felony; establishing that causing a person to engage in prostitution because of debt or to receive value is subject to misdemeanor penalty; establishing that a person who forces, intimidates or threatens a spouse to engage in prostitution commits a felony offense; providing respective criminal penalties; establishing the criminal offense of abducting, enticing or harboring a child for prostitution; providing a criminal penalty; establishing the crime of promoting and advancing prostitution; defining a house of prostitution in context of promoting prostitution; permitting character evidence; providing criminal penalty, including additional fine; establishing the offense of sexual solicitation; providing a criminal penalty including additional fine; providing an affirmative defense to sexual solicitation for victims of trafficking; providing affirmative defenses to prostitution relating to human trafficking, abduction and mental defect or incapacitation; establishing aggravating circumstances, restitution and eligibility for Compensation Award to Victims of Crimes; providing that law enforcement notify DHHR of child victims; providing that any property used for or derived from prostitution is subject to forfeiture; providing that persons convicted be debarred from state or local contracts; clarifying that criminal indecent exposure cannot occur if victim grants permission; classifies criminal penalties for indecent exposure; classifies criminal penalties for inhaling or drinking certain intoxicating compounds; defines "step-relative" in context of the crime of incest; establishes that intercourse between two consenting adult step-relatives is not incest; classifies criminal penalty for incest; defines desecration and classifies criminal penalties for unlawful disinterment, desecration, injury to a grave marker or damage to cemetery; prohibits certain demonstrations at a funeral; classifies criminal penalty for prohibited funeral demonstrations; classifies criminal penalty for obscene, anonymous and threatening phone calls; classifies criminal penalties for cruelty to animals; classifies criminal penalty for animal fighting; classifies criminal penalty for attending an animal fighting venture; classifies criminal penalty for wagering at an animal fighting venture; establishes circumstances, sufficiency and application of a search warrant related to animal cruelty; extends search warrant authority for birds or animals kept for fighting to natural resources police; clarifies extent of searches without a warrant for fighting animals or birds; classifying criminal penalty for unlawful



admission of children to places injurious to health or morals; classifying criminal penalty for under age false identification; classifying criminal penalty for criminal invasion of privacy; classifying criminal penalty for nonconsensual public disclosure of private intimate images; classifying criminal penalty for criminal loitering within certain distances of minor victims of sexually violent offenses or offenses; classifying penalties for disclosing or making photographs of accident or emergent situations public; classifying penalties for therapeutic deception; classifying penalties for therapeutic deception; expanding definition of computer applied to obscene matter and minors; classifying criminal penalties for distribution and display to minor of obscene matter; classifying criminal penalties for use of obscene matter with intent to seduce minor; classifying criminal penalties for use of minor to produce obscene matter or assist in doing sexually explicit conduct; classifying criminal penalties for sexual assault in the first degree; classifying criminal penalties for sexual assault in the second degree; providing definitions of terms related to the criminal offense of sexual extortion; establishing the elements of the crime of sexual extortion; classifying criminal penalties for sexual assault in the third degree; classifying criminal penalties for sexual abuse in the first degree; classifying criminal penalties for sexual abuse in the second degree; classifying criminal penalties for sexual abuse in the third degree; classifying criminal penalties for imposition of sexual acts on persons incarcerated or under supervision; providing a definitions of “coerce” and “visually portray” in the context of the crime of filming sexually explicit conduct of minors; classifying criminal penalty for producing a visual portrayal of a minor in sexually explicit conduct; providing for enhanced penalty when parent distributes material displaying a child under their care in sexually explicit conduct; classifying penalties when any person distributes or exhibits material displaying a minor in sexually explicit conduct; classifying penalties for production, display or distribution of visual portrayals of partially clothed minors; defining “visual portrayal” in context of prohibited possession, manufacture or distribution of inappropriate sexual portrayals by a minor; clarifying the definition of “parent” in context of child abuse to include step or foster parent; classifying criminal penalties for murder of custodial child for failure or refusal to supply necessities; clarifying definition of “recognized method of religious healing” in context of murder of custodial child for failure or refusal to supply necessities; classifying criminal penalties for death of a child by child abuse; classifying criminal penalties for child abuse causing or creating a risk of injury; classifying the criminal penalty for female genital mutilation; classifying the criminal penalty for child neglect resulting in death; in context of the crime of child neglect resulting in death, clarifying that care through recognized method of religious healing in lieu of medical treatment may not constitute neglect; defining recognized method of religious healing; classifying the criminal penalty for sexual abuse by a parent, guardian, custodian or person in a position of trust to a child; classifying the criminal penalty for procuring, authorizing or inducing another to engage in sexual acts with a child under their care or custody; sexual abuse by a parent, guardian, custodian or person in a position of trust to a child; parent, guardian, custodian, or person in a position of trust procuring, authorizing, inducing a to a child sixteen or older; definition of terms related to nuisances; designated elements for maintaining a nuisance; providing standing to bring an action to abate a nuisance; venue for a nuisance action; evidence and proof related to an action to abate nuisance; provisions and procedures related to an action to enjoin a nuisance; prima facie evidence of a nuisance; prosecution of a nuisance complaint; provisions for dismissal of a nuisance action; award of costs related to a nuisance action; when existence of nuisance established permanent injunction required; order of abatement for a nuisance; elements of a nuisance abatement order; removal and sale of movable property from a nuisance; liability of officers disposing of property from a nuisance proceeding; criminal offense of contempt related to nuisance proceedings; definitions related to gaming and gambling; criminal offense for possessing or dealing in unlicensed gaming devices; seizure of unlicensed gaming or gambling devices; criminal offense for permitting a gambling device on premises under unauthorized ownership, leasehold, occupation or possession; criminal offense of acting as a guard or interfering with lawful intervention for gambling premises; criminal offense of unauthorized

wagering on outcomes of uncertain events or prohibited games; criminal offense for a unauthorized commercial gambling at a hotel or tavern; criminal offense for cheating at gambling; criminal offense of unauthorized dealing in gambling device; criminal offense of unauthorized installation of a gaming device; criminal offense for unauthorized sale of a voucher or certificate for gambling on outcome of sporting events, games of skill or other sport or contest; declaring premises for unauthorized commercial gambling a nuisance; defining lottery and raffle; criminal offense for unauthorized operation of a lottery or raffle; criminal offense of keeping policy or numbers slips; seizure of designated gambling devices and equipment; provides seizure authority for gambling articles or apparatuses; classifying criminal penalties for crime of certain public officials with pecuniary interest in certain public contracts; classifying the criminal offense of unlawful showing of pictures, advertisement or theatrical productions calculated to arouse prejudicial ire or feelings; classifying the criminal offense of lobbying on the floor of the legislature; classifying the crime of employers who fail or refuse to pay contracted employment benefits or contributions; classifying the crime of unlawful use of the prefix of Doctor; classifying the criminal penalty for bribery; clarifying the elements of the crime of bribery; classifying the criminal penalty for debt pooling; clarifying the elements of the crime of debt pooling; classifying the criminal penalty for failure to maintain and affix a cover for a water well; classify the penalty for the crime of conspiracy; classify the penalty for the crime of unlawful contact with a corrections employee or a member of the parole board; classify the penalty for prohibited sale of certain caffeine products; classify the criminal penalties in the Critical Infrastructure Protection Act; classify the criminal penalties for punishment of principals in the second degree and designated accessories; classify the criminal penalties for attempted crimes; classify the criminal penalties for solicitation to commit certain crimes; classify the criminal penalties for crimes related to post mortem examinations; classify the criminal penalties for failing to secure a cremation permit; clarify evidentiary admissibility of autopsy reports an investigations; classify the penalties for organized criminal enterprise offenses; classify the criminal penalties for the offense of human trafficking; classify the criminal penalties for the offense of forced labor; classify the criminal penalties for the offense of using adults or minors in debt bondage; classify the criminal penalties for the offense of coercing or compelling an individual to engage in commercial sexual; classify the criminal penalties for the offense of patronizing a victim of sexual servitude; establishing that an individual convicted of a human trafficking offense who is sentenced to life without mercy is not eligible for parole; classify the criminal penalty for money laundering; classify the criminal penalty for prohibited use of unmanned aircraft systems; classify criminal offenses and respective sentencing dispositions; establishing that felonies are classified into six categories and misdemeanors are classified into three categories; providing that petty offenses are not classified; establishing that criminal classification is derived from the defining criminal section or chapter; establishing that petty offenses are specifically designated to include any crime without specified designation or classification; providing that offenses noted outside Chapter 61 which are not designated as a felony, misdemeanor or petty offense, are punished under the prescribed statutory penalty; unless provided otherwise felony imprisonment sentence is a term of definite years; establishes respective range of felony terms of imprisonment into six classifications; establishes respective range of misdemeanor terms of imprisonment within three classifications; providing discretion to the sentencing court to treat a class 6 felony as a class 1 misdemeanor with noted exceptions; providing the trial court impose its sentence within designated range of maximum and minimum terms; requiring the court to consider aggravating and mitigating circumstances aa well as the pre-sentence report; providing potential increased sentence for crimes near a school which may exceed maximum sentencing limits; provides that a felony sentence must be a definite term of years served in the state department of corrections; establishes requirements for transfer of custody; provides a range of imprisonment term for all six felony classes; providing that misdemeanor sentences are for a definite term to be served at somewhere other than the state department of corrections; establishes respective limitations of imprisonment for the three classes

of misdemeanors; provides discretion to the court in certain circumstances, to treat a class 6 felony as a class 1 misdemeanor; provides for reimbursement of incarceration costs for misdemeanor offenses; provides court with discretion to increase sentence by one year for offenses near a school; establishes that school vicinity sentence enhancement may exceed statutory limit; further providing that if the victim offense is a child but is not within the designated range of a school the court may consider relevant circumstances and increase the sentence two years; establishing fines for felony offenses; establishing fines for misdemeanor offenses; for purposes of sentencing, defines an "enterprise" as any entity other than a person; provides graduated penalty of fines imposed upon enterprise for criminal offenses; establishes that a judgment of fine against an enterprise constitutes a lien; establishes relevant factors for the court to consider when sentencing an enterprise for criminal conduct; requires the court to order a person incarcerated for a criminal offense to pay incarceration costs; and, establishes factors for the court to consider when assessing payment of incarceration costs.

Referred to the Committee on the Judiciary.

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

**Eng. Com. Sub. for House Bill 2095**—A Bill to amend and reenact §7-1-14 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto two new sections, designated §7-10-1a and §7-10-6; to amend and reenact §7-10-2 and §7-10-4 of said code; to amend said code by adding thereto two new sections, designated §19-20-12a and §19-20-27; to amend and reenact §19-20-22 and §19-20-26; to amend and reenact §61-8-19 of said code; and to amend said code by adding thereto two new sections, designated §61-8-19d and §61-8-19e, all relating generally to providing increased protections for the welfare of domestic animals; requiring facilities for the care of stray, abandoned, and surrendered animals and providing for access by the public; defining terms; updating the duties of humane officers; specifying standards for the operation of animal shelters; requiring inspections; establishing sanctions for violation of the standards of operation; defining an owner's duty of care for companion animals; requiring an owner to confine unspayed female dogs in estrus; requiring dog breeders to provide written disclosures to purchasers; specifying minimum levels of care to be provided by dog breeders; defining when a dog is unfit for sale by a dog breeder and providing remedies therefor; increasing the penalty for a second offence of cruelty to animals; defining the criminal offenses of unlawful confinement of domestic animals and hoarding of animals; establishing criminal penalties; and providing for mental health treatment in certain circumstances involving hoarding of animals.

Referred to the Committee on Government Organization; and then to the Committee on the Judiciary.

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

**Eng. Com. Sub. for House Bill 2260**, Relating to procurement of child placing services.

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

**Eng. Com. Sub. for House Bill 2370**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-13A-9b, relating to exempting sewer charges for swimming pools; requiring the owner of the pool to provide the dimensions of a pool

that is being filled with water; requiring the waste water utility to calculate the volume of the pool and allow an individual to use that amount of water for filling the pool without being charged for the corresponding sewer charges, as the water does not go to the sewer; and allowing the waste water utility to inspect the pool in order to verify the dimensions.

Referred to the Committee on the Judiciary.

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

**Eng. Com. Sub. for House Bill 2488**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17B-2-10a, relating to an occupational limited license.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on the Judiciary.

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

**Eng. Com. Sub. for House Bill 2592**—A Bill to amend and reenact §3-1-31 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-8-16 and §11-8-17 of said Code; and, to amend and reenact §18-9-1, §18-9-2, and §18-9-2a of said code, all relating to bringing uniformity to local elections by ensuring that all counties and municipalities have their local elections held on a date that a statewide election is already taking place, on a primary or general election date; requiring that local elections and any elections to increase levies coincide with a primary or a general election; removing references to special elections for levies; providing a saving clause for the terms of existing local elected officials by providing for a vote of local bodies to schedule their elections in a manner which brings them into conformity with the new structure; providing a saving clause for the renewal of existing levies by providing for levying bodies and boards of education to vote in order to schedule such elections to renew or extend these levies in a manner which brings them into conformity with the new structure.

Referred to the Committee on the Judiciary.

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

**Eng. House Bill 2730**—A Bill to amend and reenact §38-10-4 of the Code of West Virginia, 1931, as amended, relating to allowing a debtor in bankruptcy to use the federal law exemptions under 11 U.S.C. §522(d).

Referred to the Committee on the Judiciary.

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

**Eng. Com. Sub. for House Bill 2751**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §6-9C-1, §6-9C-2, §6-9C-2A, §6-9C-3, §6-9C-4, §6-9C-5, §6-9C-6, §6-9C-7, §6-9C-8, §6-9C-9, §6-9C-10, and §6-9C-11; to amend and reenact §8-35-1 and §8-35-2 of said code; and to amend said code by adding thereto new

sections, designated §8-35-3, §8-35-4, §8-35-5 and §8-35-6; all relating generally to fiscal emergencies of local governments and dissolution of municipalities; establishing a system to remediate those fiscal emergencies; providing legislative findings; defining terms; allowing State Auditor or his or her designee to determine whether local governments are keeping accounts, records, files, or reports in compliance with §6-9-2 of this code; providing conditions constituting grounds for fiscal watch; providing for rulemaking; allowing for State Auditor or his or her designee to declare a local government is under fiscal watch; allowing the State Auditor or his or her designee to visit, inspect, and provide technical assistance to a local government under fiscal watch; allowing State Auditor or his or her designee to declare a local government to be in a state of fiscal emergency; providing process for initiating a fiscal watch review; providing a process for declaring and lifting a fiscal watch or elevating a fiscal watch to a fiscal emergency; establishing conditions that constitute a fiscal emergency; providing for rulemaking; establishing a process for determining whether fiscal emergency conditions exist and appeal process of such determination; providing that a local government for which a fiscal emergency is declared establish a financial planning and supervision committee; providing for rulemaking; mandating compliance by local government officials with recommendations of State Auditor or his or her designee and certain provisions of the article and providing appropriate State Auditor or his or her designee with recourse for failure to comply; providing for severability; providing a process for forfeiture of charter or certificate of incorporation, notice, and dissolution of municipality; providing that the State Auditor or his or her designee shall promptly conduct an exam under §6-9-1, *et seq.* of this code; providing a process for voluntary dissolution of a municipality; providing that the State Auditor or his or her designee shall promptly conduct an exam under §6-9-1, *et seq.* of this code; providing a process for involuntary dissolution of a municipality; requiring that the State Auditor become special receiver of a dissolved municipality and establishing powers and authority of State Auditor as special receiver; establishing the "Municipal Dissolution Account"; providing for disposition of property belonging to a dissolved municipal corporation; and providing for sale and liquidation of dissolved municipal assets.

Referred to the Committee on the Judiciary; and then to the Committee on Finance.

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

**Eng. Com. Sub. for House Bill 2876**—A Bill to amend and reenact §33-16-1a and §33-16-2 of the Code of West Virginia, 1931, as amended; and to further amend said code by adding thereto a new section, designated §33-16-2a, all relating to modify group accident and sickness insurance requirements.

Referred to the Committee on Banking and Insurance.

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

**Eng. Com. Sub. for House Bill 2884**—A Bill to amend and reenact §29B-1-2 and §29B-1-4 of the Code of West Virginia, 1931, as amended, all relating to exempting customer records of publicly-administered utility enterprises from production under the Freedom of Information Act; defining "publicly-administered utility enterprise"; establishing exemption from production; and allowing certain uses and disclosures of information under certain circumstances.

Referred to the Committee on Government Organization.

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

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

Referred to the Committee on the Judiciary.

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

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

Referred to the Committee on the Judiciary.

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

**Eng. Com. Sub. for House Bill 2927**—A Bill to amend and reenact §3-8-1a and §3-8-9 of the Code of West Virginia, 1931, as amended, relating to campaign finance expenses; adding caregiving services as a defined term; and adding caregiving services as a lawful campaign expense.

Referred to the Committee on the Judiciary.

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

**Eng. House Bill 2997**—A Bill to amend and reenact §11-14C-34 of the Code of West Virginia, as amended, relating to adding a defense to the civil penalty imposed for a result of delivery of fuel to a state other than the destination state printed on the shipping document for fuel.

Referred to the Committee on the Judiciary.

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

**Eng. House Bill 3030**—A Bill to authorize the Commissioner of the Division of Highways to allow an increase of gross weight limitations and dimensional restrictions on certain roads in Greenbrier and Pocahontas Counties; specifying roadway location; and providing for permit application, restrictions, requirements, fees, and limitations.

Referred to the Committee on Transportation and Infrastructure; and then to the Committee on the Judiciary.

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

**Eng. Com. Sub. for House Bill 3036**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-17-20, relating to sunseting the Board of Sanitarians by June 30, 2022.

Referred to the Committee on Health and Human Resources.

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

**Eng. Com. Sub. for House Bill 3072**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-1A-7, and to amend said code by adding thereto a new section designated §30-19-18, both relating to permitting the Director of the Division of Forestry to maintain a list of foresters in the state of West Virginia; defining the educational criteria for a person to be considered a forester or forestry technician; allowing for rulemaking; and establishing a sunset provision.

Referred to the Committee on Government Organization.

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

**Eng. Com. Sub. for House Bill 3074**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-19-24, relating to information on organ and tissue donations; requiring the state's Department of Education to develop information to be made available to students in grades nine through 12; allowing parents of children to opt out of receiving instruction or materials relating to anatomical donation; and authorizing public and private institutions of higher education to provide information to its students.

Referred to the Committee on Education.

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

**Eng. House Bill 3089**—A Bill to amend and reenact §15-5-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §15-5-30, all relating to defining, as "essential workers", employees or contractors who work for companies that fall under the definition of essential business activities during a state of emergency or state of preparedness to ensure that utility services can continue to operate or be restored.

Referred to the Committee on the Judiciary.

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

**Eng. House Bill 3286**—A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2021, to the Division of Human Services – Child Care and Development, fund 8817, fiscal year 2021, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2021.

Referred to the Committee on Finance.

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

**Eng. House Bill 3287**—A Bill making a supplementary appropriation of public monies out of the Treasury from the balance of monies remaining unappropriated for the fiscal year ending June 30, 2021, to the Department of Homeland Security, Department of Homeland Security – Office of the Secretary – Law-Enforcement, Safety and Emergency Worker Funeral Expense Payment Fund, fund 6003, fiscal year 2021, organization 0601, by supplementing and amending the appropriations for the fiscal year ending June 30, 2021.

Referred to the Committee on Finance.

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

**Eng. House Bill 3288**—A Bill supplementing and amending appropriations of public moneys out of the Treasury in the State Fund, General Revenue, by decreasing existing items of appropriation from the Department of Health and Human Resources, Division of Human Services, fund 0403, fiscal year 2021, organization 0511 and from the Department of Health and Human Resources, Division of Health – Central Office, fund 0407, fiscal year 2021, organization 0506 and increasing an existing item of appropriation to the Department of Health and Human Resources, Division of Human Services, fund 0403, fiscal year 2021, organization 0511, by supplementing and amending appropriations for the fiscal year ending June 30, 2021.

Referred to the Committee on Finance.

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

**Eng. House Bill 3289**—A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal monies remaining unappropriated for the fiscal year ending June 30, 2021, to the Department of Commerce, Geological and Economic Survey, fund 8704, fiscal year 2021, organization 0306, by supplementing and amending the appropriations for the fiscal year ending June 30, 2021.

Referred to the Committee on Finance.

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

**Eng. House Bill 3291**—A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal monies remaining unappropriated for the fiscal year ending June 30, 2021, to the Department of Homeland Security, Division of Administrative



Services, fund 8803, fiscal year 2021, organization 0623, by supplementing and amending the appropriations for the fiscal year ending June 30, 2021.

Referred to the Committee on Finance.

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

**Eng. House Bill 3292**—A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal monies remaining unappropriated for the fiscal year ending June 30, 2021, to the Department of Health and Human Resources, Division of Health – Central Office, fund 8802, fiscal year 2021, organization 0506, by supplementing and amending the appropriations for the fiscal year ending June 30, 2021.

Referred to the Committee on Finance.

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

**Eng. Com. Sub. for House Bill 3295**—A Bill supplementing and amending appropriations of public moneys out of the Treasury in the State Fund, General Revenue, by decreasing and increasing existing items of appropriation to the Department of Health and Human Resources, Division of Human Services, fund 0403, fiscal year 2021, organization 0511 and increasing existing items of appropriation to the Department of Health and Human Resources, Division of Health – Central Office, fund 0407, fiscal year 2021, organization 0506, by supplementing and amending appropriations for the fiscal year ending June 30, 2021.

Referred to the Committee on Finance.

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

**Eng. Com. Sub. for House Bill 3297**—A Bill expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2021 in the amount of \$550,000 from the Department of Veterans' Assistance, Department of Veterans' Assistance, fund 0456, fiscal year 2012, organization 0613, appropriation 34400 and making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Veterans' Assistance – Department of Veterans' Assistance - Veterans' Home, fund 0460, fiscal year 2021, organization 0618, by supplementing and amending the appropriations for the fiscal year ending June 30, 2021.

Referred to the Committee on Finance.

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

**Eng. Com. Sub. for House Bill 3307**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §3-8-12a; and, to amend said Code by adding thereto a new section designated as §55-7-32; all relating to limiting abuses by social media corporations; creating the Social Media Integrity and Anti-Corruption in Elections Act;

defining terms; providing requirements for social media companies to prevent corruption and provide transparency of election-related content made available on social media websites; providing equal opportunities for all candidates and political parties to speak without policy or partisan-based censorship; propounding legislative findings; setting forth definitions; providing for the protection of the integrity of election; setting forth limitations on what social media platform can publish concerning elections without approval; ensuring election-related content hosted, posted, and made available on social media websites is not monetized or otherwise used or manipulated for nefarious purposes; requiring social media platform disseminate election content uniformly, report and retain certain information; requiring social media platform timely approve service requests by political entities; requiring social media platform equitably charge for election advertising; prohibiting certain actions by social media platform; including prohibiting the modifying visibility of election information based on type of content; listing due process requirements for restriction of access to social media platforms; setting forth certain instances in which service can be terminated by social media platform; providing limitations on information collected by social media platform; providing certain enumerated rights to candidates in their dealings with a social media platform; providing civil penalties for violations of these provisions, including asset seizure; establishing rulemaking authority; creating the Stop Social Media Censorship Act; defining terms; setting forth criminal and civil penalties for a social media provider who, without good cause, deletes or censor a user's religious or political speech; or uses an algorithm to disfavor or censure the user's religious or political speech; providing for right of enforcement by the Attorney General; and providing exceptions and limitations.

Referred to the Committee on the Judiciary.

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

**Eng. House Bill 3308**—A Bill to amend and reenact §29-22B-1101 of the Code of West Virginia, 1931, as amended; relating to increasing number of limited video lottery terminals allowed at certain licensed limited video lottery retailer locations; providing a bidding process for permits for additional terminals; and establishing an effective date.

Referred to the Committee on Finance.

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

**Eng. House Bill 3310**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-1-1c; to amend and reenact §24-1-2 of said code; and to amend and reenact §24-2-1 of said code; all generally relating to jurisdiction of the Public Service Commission; making legislative findings; modifying definition of public utility; providing limits to the jurisdiction of the Public Service Commission; and providing for rulemaking.

Referred to the Committee on the Judiciary.

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

**Eng. House Bill 3311**—A Bill to amend and reenact §16-29-2 of the Code of West Virginia, 1931, as amended, relating to the cost of medical records; requiring that the cost of obtaining a medical record may not exceed a fee consistent with HIPAA; and providing clarifying technical changes.

Referred to the Committee on Health and Human Resources.

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

**Eng. House Bill 3312**—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §10-3A-1, §10-3A-2, §10-3A-3, §10-3A-4, §10-3A-5, §10-3A-6, and §10-3A-7, all relating to the establishment of a mom to child labor; providing for legislative findings; establishing a short title; creating a commission to oversee the siting, design, construction, and dedication of the monument; establishing membership of the commission; outlining the goals of the commission regarding location of the monument; providing for a funding mechanism from existing revenue sources for construction and maintenance of the monument; creating an inscription or plaque to be used in the dedication of the monument; disbanding the commission upon meeting certain conditions; granting the City of Fairmont the ownership of the monument; providing funds for the City of Fairmont to maintain the monument; and establishing a mechanism for maintenance and ownership of the monument under certain conditions.

Referred to the Committee on the Workforce; and then to the Committee on Finance.

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

**Eng. Com. Sub. for House Joint Resolution 3**—Proposing an amendment to the Constitution of the State of West Virginia amending section one, article X thereof, relating to authorizing the Legislature to exempt tangible machinery and equipment personal property directly used in business activity and personal property tax on motor vehicles and tangible inventory personal property directly used in business activity from ad valorem property taxation by general law; providing that the question of ratification or rejection of the amendment be submitted to the voters of the state at the next general election to be held in the year 2022; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

Referred to the Committee on the Judiciary; and then to the Committee on Finance.

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

**House Concurrent Resolution 21**—Requesting the Division of Highways name bridge number 24-005/02-004.51 (24A031), (37.41379, -81.78366), locally known as Avondale Bridge, carrying CR 5/2 over Dry Fork in McDowell County, the 'U. S. Army SP4 Dennis Harvey Roberts Memorial Bridge'.

Referred to the Committee on Transportation and Infrastructure.

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

**Com. Sub. for House Concurrent Resolution 55**—Requesting that a Special Interim Committee on Higher Education be established to study the viability of creating an accredited school of veterinary medicine in West Virginia.

Referred to the Committee on Health and Human Resources; and then to the Committee on Rules.

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

**House Concurrent Resolution 78**—Requesting the West Virginia Department of Health and Human Resources, the West Virginia Department of Education and the West Virginia Supreme Court of Appeals to examine, jointly, the multidisciplinary treatment team process for advising the court on the types of services and placement, if any, it determines will best serve the needs of a child subject to juvenile proceedings under the law and to report the results of their examination to the Joint Committee on Government and Finance prior to the 2022 legislative session.

Referred to the Committee on Health and Human Resources; and then to the Committee on Rules.

### **Executive Communications**

The Clerk then presented the following communication from His Excellency, the Governor, regarding bills approved by him:



*Jim Justice*  
*Governor of West Virginia*

March 31, 2021

The Honorable Lee Cassis, Clerk  
West Virginia Senate  
State Capitol  
Charleston, West Virginia 25305

Dear Mr. Clerk:

Enclosed for filing in your office, pursuant to the provisions of law, are the following bills:

Committee Substitute for Senate Bill No. One Hundred Fifty-Six (156), which was presented to me on March 25, 2021.

Committee Substitute for Senate Bill No. One Hundred Sixty (160), which was presented to me on March 25, 2021.

Committee Substitute for Senate Bill No. One Hundred Eighty-Two (182), which was presented to me on March 25, 2021.

You will note that I have approved these bills on March 31, 2021.

Sincerely,

A handwritten signature in blue ink that reads "Jim Justice".

Jim Justice  
Governor

JJ/mh

cc: The Honorable Stephen J. Harrison, Clerk

The Senate proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 1st 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. 356)**, Allowing for written part of drivers' exam given in high school drivers' education course.

**(Com. Sub. for S. B. 431)**, Relating to school attendance notification requirements to DMV.

And,

**(Com. Sub. for S. B. 435)**, Requiring county superintendents to authorize certain school principals or administrators at nonpublic schools to issue work permits for enrolled students.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*

Dean Jeffries,  
*Chair, House Committee.*

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill 125**, Budget Bill.

And reports back a committee substitute for same with the following title:

**Com. Sub. for Senate Bill 125** (originating in the Committee on Finance)—A Bill making appropriations of public money out of the Treasury in accordance with section 51, article VI of the Constitution.

With the recommendation that the committee substitute do pass.

Respectfully submitted,

Eric J. Tarr,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Eng. House Bill 2379**, Make criminal invasion of privacy a felony.

And has amended same.

And,

**Eng. House Bill 3175**, Relating to removing certain felonies than can prohibit vehicle salespersons from receiving a license.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Sypolt, from the Committee on Agriculture and Rural Development, submitted the following report, which was received:

Your Committee on Agriculture and Rural Development has had under consideration

**Eng. Com. Sub. for House Bill 2823**, Exempting buildings or structures utilized exclusively for agricultural purposes from the provisions of the State Building Code.

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

Respectfully submitted,

Dave Sypolt,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Eng. House Bill 3130**, Relating to elimination of sunset provisions concerning towing rates.

And has amended same.

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

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Eng. House Bill 3300**, Relating to reducing personal income tax rates generally.

And has amended same.

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

Respectfully submitted,

Eric J. Tarr,  
*Chair.*

The Senate proceeded to the sixth order of business.

Senator Rucker offered the following resolution:

**Senate Concurrent Resolution 58**—Requesting the Joint Committee on Government and Finance study the possible incentives and rewards to be given to county boards of education who show academic growth and success on a consistent basis.

Whereas, Success in academic performance across the state can be varied and inconsistent; and

Whereas, Flexibilities and incentives could incentivize county boards of education to perform at a higher and more consistent rate and give them a clear goal for improving their performance overall; and

Whereas, A study by the Michigan State University found that incentives are an effective means of improving student achievement, specifically those that are linked to student performances in the classroom; and

Whereas, A study from the University of Chicago found that non-financial rewards for student achievement were more effective in improving performance than financial rewards overall; and

Whereas, There are many ways to possibly incentivize a county board of education to improve performances beyond giving financial incentives, such as recognitions, rewards, or extended privileges; therefore, be it

*Resolved by the Legislature of West Virginia:*

Requesting the Joint Committee on Government and Finance study the possible incentives and rewards to be given to county boards of education who show academic growth and success on a consistent basis; and, be it

*Further Resolved*, That the study survey the county boards of education to gain an insight into what kinds of flexibilities, streamlining, or other means which may incentivize and reward positive academic outcomes; and, be it

*Further Resolved*, That the Joint Committee on Government and Finance consider all possible incentives for county boards of education beyond financial incentives, such as rewards, recognitions, or expanded privileges; 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 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.

Which, under the rules, lies over one day.

Senators Plymale and Woelfel offered the following resolution:

**Senate Resolution 36**—Recognizing the Cabell County Public Library for being named as a finalist for the 2021 National Medal for Museum and Library Service.

Whereas, The National Medal for Museum and Library Service is the nation's highest honor for institutions that make significant and exceptional contributions to their communities; and

Whereas, The Cabell County Public Library is one of only 30 finalists, and one of only 15 libraries, announced for the 2021 National Medal for Museum and Library Service; and

Whereas, The Cabell County Public Library was the only library in West Virginia to be named as a finalist for the national honor; and

Whereas, The Cabell County Public Library staff goes above and beyond to serve their community; and

Whereas, The Cabell County Public Library has served and enriched its community diligently since its humble beginnings as a single-room library in 1902; and

Whereas, The Cabell County Public Library was the first to offer an automated circulation system and online catalog in West Virginia; and

Whereas, The Cabell County Public Library has become a beacon of hope and excellence to the communities it serves and with this recognition, the country; therefore, be it

*Resolved by the Senate:*

That the Senate hereby recognizes the Cabell County Public Library for being named as a finalist for the 2021 National Medal for Museum and Library Service; and, be it

*Further Resolved*, That the Senate commends the Cabell County Public Library and extends it congratulations for its outstanding achievement and contributions to the county and the State of West Virginia; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the Cabell County Public Library.

Which, under the rules, lies over one day.

Senator Blair (Mr. President) offered the following resolution:

**Senate Resolution 37**—Memorializing the life of Gilbert Benton “Gib” Miller, Sr., outstanding athlete, teacher, award-winning coach, athletic director, radio commentator, mentor, dedicated husband, father, and grandfather.

Whereas, Gilbert Benton Miller, Sr., was born in 1926, the third son of Kathleen and Paul Miller of Kearneysville, West Virginia; and

Whereas, Gilbert Benton Miller, Sr., was the product of a family that ran a small farm and orchard during and after the great depression, which instilled in him an incredible work ethic; and

Whereas, Gilbert Benton Miller, Sr., was an outstanding athlete and signed a professional baseball contract with the legendary Connie Mack of the Philadelphia Athletics while a junior at Shepherd College. However, he did not begin his professional baseball career until after graduation per his mother’s orders. Unfortunately, Gib’s professional baseball career ended after three years of Triple A baseball when he suffered a career-ending knee injury. This did not end Gib’s love for the game, and he returned home and played for an additional 15 years for the Charles Town American Legion baseball team where his 15-year batting average was .400; and

Whereas, Gilbert Benton Miller, Sr., began his teaching and coaching career at his beloved Hedgesville High School in 1956. Gib taught the principles of democratic government in the classroom, and after class, he coached. Frustrated that the kids did not have a decent ball field of their own, he worked with his friends to build and equip Hedgesville’s first baseball diamond. Gib never had a losing season in baseball and was named West Virginia Baseball Coach of the Year in 1975 and District Baseball Coach of the Year in 1977 by the National High School Athletic Coaches Association; and

Whereas, Gilbert Benton Miller, Sr., loved baseball, but he may have loved coaching basketball even more. In 11 years as the freshmen coach, the boys won eight championships. Gib then coached varsity basketball for 15 years, and his teams posted an astounding cumulative record of 243 wins to just 79 losses and won 10 bi-state titles and seven sectional championships. In 1970, Gib and the Hedgesville boys beat Bramwell High School, winning the state championship game. Following that win, Gib was named the West Virginia Basketball Coach of the Year; and

Whereas, Although winning games was great, it was not the most important thing to Gilbert Benton Miller, Sr. Gib was focused on building qualities in young men that would serve them for life. He wanted to instill in his players that hard work had its rewards and that playing as a team was more powerful than playing as individuals. Gib was loyal to his players and encouraged every one of them. He taught his teams that mediocrity could be had for cheap, but excellence in life came with a cost. To Gib, his greatest accomplishment was being able to touch a kid’s life and get them headed in the right direction; and

Whereas, Gilbert Benton Miller, Sr., eventually stepped away from coaching, but remained involved with Hedgesville sports by becoming the athletic director, and was recognized as the West Virginia Athletic Director of the Year in 1988; and

Whereas, Gilbert Benton Miller, Sr., retired from teaching and coaching only to begin a 15-year career working for local radio stations, providing commentary on area games during his Coaches Corner show. Gib also became active in the Berkeley County community by joining the Martinsburg Rotary, becoming its president in 1998 and 1999, and serving on its board of directors for six years. In addition, Gib was a director for the Berkeley 2000 Foundation and helped raise

the funds needed to build the Berkeley 2000 Recreation Center, which opened in March 2002; and

Whereas, In 2013, Gilbert Benton Miller, Sr., was named the Honored West Virginian for the Mountain State Apple Harvest Festival. That same year, Gib received one of his most treasured honors when the health and physical education addition to his beloved Hedgesville High School was opened and dedicated to him. Later that same year, Gilbert Benton Miller, Sr., was inducted into the Hedgesville High School Hall of Fame; and

Whereas, Gilbert Benton Miller, Sr., was a dedicated, one-of-a-kind husband to his wife of over 40 years, Carolyn, and provided a sterling example for his children, Gilbert, Jr., Gary, Allen, Kim, Sally, and Harley, and grandchildren, Chris, Josh, Hope, Grant, Kathleen, Sarah, Taylor, Sarah, Carly, Miller, William, and Wesley, on the meaning of integrity, hard work, and faithfulness as a dad and grandfather; and

Whereas, Gilbert Benton Miller, Sr., finally retired for good and received what he would say was one of the greatest honors of his life when some former students started a Saturday morning breakfast group and saw to it that Gib got to that meeting each week; and

Whereas, Sadly, Gilbert Benton "Gib" Miller, Sr., passed away on March 24, 2021, ending a distinguished life of dedicated service to his school, players, community, and family; and

Whereas, It is fitting that the Senate pay tribute to the life and legacy of Gilbert Benton "Gib" Miller, Sr., for his many accomplishments and contributions to his community and state; therefore, be it

*Resolved by the Senate:*

That the Senate hereby memorializes the life of Gilbert Benton "Gib" Miller, Sr., outstanding athlete, teacher, award-winning coach, athletic director, radio commentator, mentor, dedicated husband, father, and grandfather; and, be it

*Further Resolved*, That the Senate extends its most sincere condolences to the family of Gilbert Benton "Gib" Miller, Sr., on his passing; and, be it

*Further Resolved*, That the Clerk is hereby directed to forward a copy of this resolution to the family of Gilbert Benton Miller, Sr.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

**Senate Resolution 33**, Recognizing senior center personnel for their dedication throughout COVID-19 pandemic.

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

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

**Senate Resolution 34**, Recognizing Coalfield Health Center's contributions to rural health care.

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

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

**Senate Resolution 35**, Recognizing clean energy's importance to WV's energy future.

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

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

**House Concurrent Resolution 15**, Rare Disease Day.

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

The question being on the adoption of the resolution, the same was put and prevailed.

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

**House Concurrent Resolution 35**, Requesting the Department of Health and Human Resources to continuously evaluate the child welfare system.

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

The following amendments to the resolution, from the Committee on Health and Human Resources, were reported by the Clerk, considered simultaneously, and adopted:

On page one, in the first Whereas clause, line five, by striking out the word "identity" and inserting in lieu thereof the word "identify";

On page one, in the fourth Whereas clause, line fourteen, by striking out the word "for" and inserting in lieu thereof the word "from";

On page two, in the fourth Whereas clause, line sixteen, by striking out the word "and";

And,

On page two, in the fourth Whereas clause, line seventeen, after the word "care" by inserting the words "and other workforce issues".

The question now being on the adoption of the resolution (H. C. R. 35), as amended, the same was put and prevailed.

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

The Senate proceeded to the ninth order of business.

**Eng. House Bill 2253**, Relating to forgery and other crimes concerning lottery tickets.

On second reading, coming up in regular order, was read a second time.

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

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

**ARTICLE 22. STATE LOTTERY ACT.**

**§29-22-12. Crimes; forgery, counterfeiting, etc. of lottery tickets; penalties.**

Any person who, with intent to defraud, falsely makes, alters, forges, utters, passes, or counterfeits a lottery ticket is guilty of a ~~felony~~ misdemeanor, and, upon conviction thereof, shall be fined not more than \$1,000, or be ~~imprisoned~~ confined in the penitentiary a state correctional facility for ~~not less~~ not more than one year, or both fined and ~~imprisoned~~ confined.

The bill (Eng. H. B. 2253), as amended, was then ordered to third reading.

**Eng. House Bill 2888**, Relating to when contentions can be revived based on forensic scientific evidence that was not available at time of conviction.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

**Eng. House Bill 3081**, Updating the West Virginia Business Corporations Act.

On second reading, coming up in regular order, was read a second time and ordered to third reading.

The Senate proceeded to the tenth order of business.

At the request of Senator Takubo, unanimous consent being granted, the following bills on first reading were considered read a first time and ordered to second reading:

**Eng. House Bill 2028**, Exempting veterinarians from the requirements of controlled substance monitoring.

**Eng. House Bill 2366**, Requiring agencies who have approved a proposed rule that affects fees or other special revenues to provide to the committee a fiscal note.

**Eng. Com. Sub. for House Bill 2427**, Authorizing the Department of Health and Human Resources to promulgate legislative rules.

**Eng. Com. Sub. for House Bill 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.

**Eng. Com. Sub. for House Bill 2633**, Creating the 2021 Farm Bill.

**Eng. Com. Sub. for House Bill 2763**, Creating WV Cyber Incident Reporting.

**Eng. Com. Sub. for House Bill 2765**, Relating to allowing emergency management and operations' vehicles operated by airports to use red flashing warning lights.

**Eng. Com. Sub. for House Bill 2785**, Relating to public school enrollment for students from out of state.

**Eng. House Bill 2791**, Relating to enrollment and costs of homeschooled or private school students at vocational schools .

**Eng. Com. Sub. for House Bill 2877**, Expand direct health care agreements beyond primary care to include more medical care services.

**Eng. House Bill 2906**, Relating to the School Building Authority's allocation of money.

**Eng. House Bill 2915**, Relating to public records management and preservation.

**Eng. Com. Sub. for House Bill 2916**, Creating the Semiquincentennial Commission for the celebration of the 250th anniversary of the founding of the United States of America.

**Eng. House Bill 2957**, Relating to the repeal of outdated code sections.

**Eng. House Bill 2958**, Relating to repealing outdated sections of state code.

And,

**Eng. House Bill 3045**, Relating to firefighter disability claims.

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

The Senate then proceeded to the twelfth order of business.

Remarks were made by Senators Maroney and Weld.

At the request of Senator Weld, and by unanimous consent, the Senate stood in observance of a moment of silence in recognition of the passing of Sue Simonetti, mayor of the City of Wellsburg.

Thereafter, at the request of Senator Takubo, and by unanimous consent, the remarks by Senators Maroney and Weld were ordered printed in the Appendix to the Journal.

At the request of Senator Takubo, and by unanimous consent, a leave of absence for the day was granted Senator Beach.

Pending announcement of meetings of standing committees of the Senate, including a majority party caucus,

On motion of Senator Takubo, at 11:41 a.m., the Senate recessed until 5 p.m. today.

The Senate reconvened at 6:39 p.m. today and, without objection, returned to the third order of business.

### **Executive Communications**

Senator Blair (Mr. President) laid before the Senate the following communication from His Excellency, the Governor, which was read by the Clerk:



*Jim Justice*  
*Governor of West Virginia*

March 26, 2021

VIA HAND DELIVERY

The Honorable Craig Blair  
President, West Virginia Senate  
Room 229M, Building 1  
State Capitol  
Charleston, West Virginia 25305

Re: **Enrolled Committee Substitute for Senate Bill 89**

Dear President Blair:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for Senate Bill 89, but welcome a bill correcting the deficiencies identified below. This bill exempts from licensure requirements certain education programs, including, among others, certain school programs operated under 42 USC § 9801 et seq., the federal Head Start Program.

Although under the current form of the bill the Head Start programs are required to perform initial background checks on employees, the exemption will make access and use of a criminal background check with a rap back system impracticable. A rap back system is a system that continuously checks employees' existing records against incoming arrest or conviction information. Without being regulated, the State is unable to provide Head Start programs access to the rap back system. Without that system, an employee may pass an initial background check but later commit a crime, and the employer would not be made aware. This is a vital part of background checks for programs such as Head Start, which serves thousands of children for long periods of time on an ongoing basis.

For this reason, I disapprove and return Enrolled Committee Substitute for Senate Bill 89, but welcome a bill that would not exempt the Head Start program, thereby retaining the ability to utilize the rap back system for employees of the Head Start program.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jim Justice".

Jim Justice  
Governor

cc: The Hon. Roger Hanshaw  
Speaker of the House of Delegates  
The Hon. Mac Warner  
Secretary of State

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Senator Takubo moved that in accordance with Section 14, Article VII of the Constitution of the State of West Virginia, the Senate proceed to reconsider

**Enr. Senate Bill 89**, Exempting certain kindergarten and preschool programs offered by private schools from registration requirements.

Heretofore disapproved and returned by His Excellency, the Governor, with his objections.

The question being on the adoption of Senator Takubo's motion that the Senate reconsider Enrolled Senate Bill 89, the same was put and prevailed.

On motion of Senator Takubo, the following amendments to the bill were reported by the Clerk, considered simultaneously, and adopted:

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

## **ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.**

### **§49-2-113. Residential child-care centers; licensure, certification, approval and registration; requirements.**

(a) Any person, corporation, or child welfare agency, other than a state agency, which operates a residential child-care center shall obtain a license from the department.

(b) Any residential child-care facility, day-care center, or any child-placing agency operated by the state shall obtain approval of its operations from the secretary.

(c) Any family day-care facility which operates in this state, including family day-care facilities approved by the department for receipt of funding, shall obtain a statement of certification from the department.

(d) Every family day-care home which operates in this state, including family day-care homes approved by the department for receipt of funding, shall obtain a certificate of registration from the department. The facilities and placing agencies shall maintain the same standards of care applicable to licensed facilities, centers, or placing agencies of the same category.

(e) This section does not apply to:

(1) A kindergarten, preschool, or school education program which is operated by a public school or which is accredited by the West Virginia Department of Education or any other kindergarten, preschool, or school programs which operate with sessions not exceeding four hours per day for any child;

(2) An individual or facility which offers occasional care of children for brief periods while parents are shopping, engaging in recreational activities, attending religious services, or engaging in other business or personal affairs;

(3) Summer recreation camps operated for children attending sessions for periods not exceeding 30 days;

(4) Hospitals or other medical facilities which are primarily used for temporary residential care of children for treatment, convalescence, or testing;



(5) Persons providing family day care solely for children related to them;

(6) Any juvenile detention facility or juvenile correctional facility operated by or under contract with the Division of Corrections and Rehabilitation for the secure housing or holding of juveniles committed to its custody;

(7) Any out-of-school time program that has been awarded a grant by the West Virginia Department of Education to provide out-of-school time programs to kindergarten through 12th grade students when the program is monitored by the West Virginia Department of Education;

(8) Any out-of-school time program serving children six years of age or older and meets all of the following requirements, or is an out-of-school time program that is affiliated and in good standing with a national congressionally chartered organization or is an out-of-school time, summer recreation camp, or day camp program operated by a county parks and recreation commission, boards, and municipalities and meets all of the following requirements:

(A) The program is located in a facility that meets all fire and health codes;

(B) The program performs state and federal background checks on all volunteers and staff;

(C) The program's primary source of funding is not from fees for service except for programs operated by county parks and recreation commissions, boards, and municipalities; and

(D) The program has a formalized monitoring system in place; or

(9) Any kindergarten, preschool, or school education program which is operated by a private, parochial, or church school that is recognized by the West Virginia Department of Education under Policy 2330.

(f) The secretary is authorized to issue an emergency rule relating to conducting a survey of existing facilities in this state in which children reside on a temporary basis in order to ascertain whether they should be subject to licensing under this article or applicable licensing provisions relating to behavioral health treatment providers.

(g) Any informal family child-care home or relative family child-care home may voluntarily register and obtain a certificate of registration from the department.

(h) All facilities or programs that provide out-of-school time care shall register with the department upon commencement of operations and on an annual basis thereafter. The department shall obtain information such as the name of the facility or program, the description of the services provided, and any other information relevant to the determination by the department as to whether the facility or program meets the criteria for exemption under this section.

(i) Any child-care service that is licensed or receives a certificate of registration shall have a written plan for evacuation in the event of fire, natural disaster, or other threatening situation that may pose a health or safety hazard to the children in the child-care service.

(1) The plan shall include, but not be limited to:

(A) A designated relocation site and evacuation;

(B) Procedures for notifying parents of the relocation and ensuring family reunification;

(C) Procedures to address the needs of individual children including children with special needs;

(D) Instructions relating to the training of staff or the reassignment of staff duties, as appropriate;

(E) Coordination with local emergency management officials; and

(F) A program to ensure that appropriate staff are familiar with the components of the plan.

(2) A child-care service shall update the evacuation plan by December 31 of each year. If a child-care service fails to update the plan, no action shall be taken against the child-care services license or registration until notice is provided and the child-care service is given 30 days after the receipt of notice to provide an updated plan.

(3) A child-care service shall retain an updated copy of the plan for evacuation and shall provide notice of the plan and notification that a copy of the plan will be provided upon request to any parent, custodian, or guardian of each child at the time of the child's enrollment in the child-care service and when the plan is updated.

(4) All child-care centers and family child-care facilities shall provide the plan and each updated copy of the plan to the Director of the Office of Emergency Services in the county where the center or facility is located.

(j) A residential child care center which has entered into a contract with the department to provide services to a certain number of foster children, shall accept any foster child who meets the residential child care center's program criteria, if the residential child care center has not met its maximum capacity as provided for in the contract. Any residential child-care center who has entered into a contract with the department may not discharge any child in its program, except as provided in the contract, including that if the youth does not meet the residential treatment level and target population, the provider shall request a MDT and work toward an alternative placement.;

And,

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

**Enr. Senate Bill 89**—An Act to amend and reenact §49-2-113 of the Code of West Virginia, 1931, as amended, relating to clarifying what programs operated by a county parks and recreation commission, boards, and municipalities can be exempt from licensure requirements; and exempting from licensure requirements certain education programs operated by nonpublic schools recognized as accredited by the West Virginia Department of Education.

The question now being on the passage of the bill, disapproved by the Governor and amended by the Senate.

On the passage of the bill, the yeas were: Azinger, Baldwin, Caputo, Clements, Grady, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Romano, Rucker,

Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—27.

The nays were: None.

Absent: Beach, Boley, Hamilton, Ihlenfeld, Plymale, Unger, and Woelfel—7.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Enr. S. B. 89) passed with its title, as amended, as a result of the objections of the Governor.

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

The Senate again proceeded to the fourth order of business.

Senator Maynard, from the Joint Committee on Enrolled Bills, submitted the following report, which was received:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled, and on the 1st 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:

**(S. B. 67)**, Relating to authority of Emergency Medical Services Advisory Council.

**(S. B. 390)**, Reorganizing Health Care Authority under DHHR and clarifying responsibilities for all-payer claims database.

**(Com. Sub. for H. B. 2014)**, Relating to role of the Legislature in appropriating federal funds.

**(Com. Sub. for H. B. 2290)**, Initiating a State Employment First Policy to facilitate integrated employment of disabled persons.

**(Com. Sub. for H. B. 2382)**, Authorizing the Department of Environmental Protection to promulgate a legislative rule relating to ambient air quality standards.

**(Com. Sub. for H. B. 2896)**, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services.

**(H. B. 2897)**, Expiring funds to the balance of the Department of Commerce.

**(H. B. 2899)**, Making a supplementary appropriation to the Department of Commerce.

**(H. B. 2901)**, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services.

**(H. B. 2903)**, Making a supplementary appropriation to the Department of Homeland Security, West Virginia State Police.

**(H. B. 2920)**, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – Laboratory Services Fund.

And,

**(H. B. 2940)**, Making a supplementary appropriation to the Department of Education, State Board of Education – State Department of Education.

Respectfully submitted,

Mark R. Maynard,  
*Chair, Senate Committee.*  
Dean Jeffries,  
*Chair, House Committee.*

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Senate Bill 490**, Supplemental appropriation from General Revenue to Department of Veterans' Assistance.

**Eng. House Bill 2768**, Supplementing, amending and increasing an existing item of appropriation from the State Road Fund, to the Department of Transportation, Division of Highways.

**Eng. Com. Sub. for House Bill 2769**, Supplementing, amending and increasing items of existing appropriation from the State Road Fund to the Department of Transportation, Division of Motor Vehicles.

**Eng. House Bill 2790**, Supplementing, amending, decreasing, and increasing items of existing appropriation to Division of Highways.

And,

**Eng. House Bill 3298**, Making a supplemental appropriation to Dept. of Commerce, Dept. of Education, Senior Services and Civil Contingent Fund.

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

Respectfully submitted,

Eric J. Tarr,  
*Chair.*

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Concurrent Resolution 17**, USMC Captain Dempsey Stowers Memorial Bridge.

**Senate Concurrent Resolution 18**, Curtis "Pap" and Millie "Mammie" Asbury Memorial Bridge.

**Senate Concurrent Resolution 19**, US Army SSG Elson M. Kuhn Memorial Bridge.

**Senate Concurrent Resolution 21**, US Army SGT Charles L. Toppings Memorial Road.

**Senate Concurrent Resolution 27**, Walker Brothers Veterans Memorial Bridge.

**Senate Concurrent Resolution 31**, Frye Brothers Veteran Memorial Bridge.

**Senate Concurrent Resolution 32**, Cox Brothers Veteran Memorial Bridge.

**Senate Concurrent Resolution 44**, Harrison County Veterans Memorial Bridge.

And,

**Senate Concurrent Resolution 48**, US Army PFC Billy Keith Ford Memorial Bridge.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Charles H. Clements,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the resolutions (S. C. R. 17, 18, 19, 21, 27, 31, 32, 44, and 48) contained in the preceding report from the Committee on Transportation and Infrastructure were taken up for immediate consideration and considered simultaneously.

The question being on the adoption of the resolutions, the same was put and prevailed.

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

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**Senate Concurrent Resolution 34**, US Air Force TSGT Franklin A. Bradford Bridge.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 34** (originating in the Committee on Transportation and Infrastructure)—Requesting the Division of Highways name bridge number 55-010/00-031.60 (55A035), locally known as Jesse Bridge, carrying WV 10 over Laurel Fork in Wyoming County, the “U.S. Air Force TSGT Franklin A. Bradford Memorial Bridge”.

Whereas, Franklin Abb Bradford was born at the Stevens Hospital in Welch, West Virginia, on March 21, 1950. He was the son of a coal miner and grew up in a coal camp house where he graduated from Pineville High School in 1969. With the Vietnam War underway, Franklin A. Bradford voluntarily enlisted in the United States Air Force in the fall of 1969; and

Whereas, TSGT Franklin A. Bradford spent his basic training at Lackland Air Force Base in San Antonio, Texas. He served a first tour of duty in the Southeast Asian theater of conflict. TSGT Franklin A. Bradford served with the civil engineering unit called Prime Base Engineer Emergency Force (BEEF), where he served as a machine gunner. Prime BEEF was a rapidly deployable squadron of specialized civil engineering unit members who provided a full range of engineering support for command operations; and

Whereas, TSGT Franklin A. Bradford was stationed at Beale Air Force Base in California where he helped assemble the SR-71 Blackbird, an Air Force reconnaissance aircraft intended to operate at extreme velocities, altitudes, and temperatures that played a key role in gathering intelligence during the Cold War; and

Whereas, TSGT Franklin A. Bradford was stationed at the Ramstein Air Force Base in Germany and flew on international missions. After Shah Mohammad Reza Pahlavi was ousted from Iran on February 11, 1979, at the start of the Iranian Revolution, the Shah was welcomed into the United States for cancer treatments. In protest, Iranian students took over the U.S. Embassy in Tehran, holding Americans hostage for more than 440 days. TSGT Franklin A. Bradford took part in one of the airlift rescue missions for embassy members during what would become known as the Iranian hostage crisis; and

Whereas, TSGT Franklin A. Bradford transferred to Charleston Air Force Base in South Carolina where he served as a quality control specialist for the mechanical air command, and then he transferred to the strategic air command at Randolph Air Force Base in San Antonio, Texas. Following his service in Texas, TSGT Franklin A. Bradford was sent to Kunsan Air Force Base in South Korea to a combat readiness unit, the 8th Fighter Wing, known as The Wolf Pack. This was a strategic unit trained and prepared to execute immediate air combat against any aggressors threatening the United States or South Korea. His final duty station was at Maxwell Air Force Base in Alabama where he worked as a manpower management technician; and

Whereas, TSGT Franklin A. Bradford always made time to volunteer with local schools, the Special Olympics, and the Red Cross wherever he was stationed. While stationed in San Antonio, Pope John Paul II visited the city in September 1987 and conducted an outdoor mass with several thousand attendees, some of whom suffered the effects of the hot Texas sun. He served with the Red Cross during the event, brought water and refreshments to attendees, and helped many who succumbed to the heat to shelter for assistance. The heart of a West Virginian is one of servitude and TSGT Franklin A. Bradford displayed this quality whenever presented with the opportunity; and

Whereas, Upon retirement from the Air Force in 1991, TSGT Franklin A. Bradford went back to school at Bluefield State College and earned a bachelor's degree, which allowed him to begin a career with the United States Department of Defense as a contract specialist with the Naval Sea Command and NASA. His duty station was at the Wright Patterson Air Force Base in Ohio. When a transfer opportunity opened for the Department of Defense in Blacksburg, Virginia, TSGT Franklin A. Bradford seized the chance to return home and moved to Princeton, West Virginia. He eventually worked with the Veterans Administration Hospital in Beckley, West Virginia, as a contract specialist, and enjoyed his time serving the needs of fellow veterans; and

Whereas, TSGT Franklin A. Bradford passed away on October 18, 2020; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S. Air force TSGT Franklin A. Bradford for his honorable service to our state and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name bridge number 55-010/00-031.60 (55A035), locally known as Jesse Bridge, carrying WV 10 over Laurel Fork in Wyoming County, the “U.S. Air Force TSGT Franklin A. Bradford Memorial Bridge”; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U.S. Air Force TSGT Franklin A. Bradford Memorial Bridge”; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

**Senate Concurrent Resolution 37, Nitro WW I Living Memorial Bridge.**

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 37** (originating in the Committee on Transportation and Infrastructure)—Requesting the Division of Highways name, upon construction of the new bridges that will replace the Donald M. Legg Memorial Bridge, carrying WV 64 over the Kanawha River, locally known as the Nitro/St. Albans Bridge in Kanawha County, the new Westbound Lane/Bridge, the “Nitro WW I Memorial Bridge”.

Whereas, On August 29, 1916, the United States Congress authorized the building of the Naval Ordnance Plant between U.S. 60 and the railroad in South Charleston, West Virginia. The plant took two years to build, spanned 900,000 square feet, and began operating in May of 1918. According to the Secretary of the Navy, Josephus Daniels, this naval base was the first in U.S. history to be placed away from seawaters. The U.S. Navy was drawn to the location by West Virginia’s natural resources, as well as its “moral environment and splendid citizenship”. The plant manufactured military equipment such as armor plates, gun forgings, and projectiles for battleships and cruisers which were used by the U.S. Navy in World War I; and

Whereas, Nitro was a World War I boom town believed to be named after nitrocellulose, which was used to manufacture smokeless gunpowder and other explosive devices. The plant was one of three selected by the U.S. government under the Deficiency Appropriations Act to relieve a severe shortage of gunpowder. Nitro’s location, 14 miles from Charleston, was chosen because it was secure from coastal attacks and climatic conditions while having access to railroads, waterways, and raw materials. The ordnance plant complex was known as Explosive Plant C. It was built in just 11 months and thousands of workers, supplies, and materials arrived practically overnight; and

Whereas, During the 11 months that the Explosive Plant C was in operation, the town was 90 percent complete and housed 23,951 people associated with the plant. There was a high turnover of people coming and going from the plant, with workers from each state and representing 41 different nationalities. Some who arrived for work in 1918 suffered from Spanish influenza and army barracks and other buildings had to be converted into hospitals to care for the sick; and

Whereas, By the end of the war on November 11, 1918, Explosive Plant C had produced 350 tons of smokeless gun powder per day. On Armistice Day, Nitro celebrated with a parade of cars, military tanks, and a band. Within two weeks after the Armistice, 12,000 people left Nitro and there were not enough workers to sustain plant production. The director of the plant turned its operation

over to the Ordnance Department on January 15, 1919, and the plant was declared surplus as the U.S. government prepared to liquidate the property. Workers were laid off in October of 1919 and, a month later, the facilities were sold at auction to the Charleston Industrial Corporation; and

Whereas, In November of 1919, a state charter was granted to the Charleston Industrial Corporation which was organized for the specific purpose of purchasing and redeveloping the surplus government property at Nitro. The Charleston Industrial Corporation launched a sales promotion campaign to attract new industries and businesses to the area, focusing on manufacturing and chemical industries. By 1921, the future of Nitro was beginning to take shape with many wartime holdovers calling it home and relying on their friends and neighbors for fellowship, common interests, and help in time of need. This early community spirit remains strong; and

Whereas, Remnants of Nitro's gunpowder production history can be seen throughout the town and many special events associated with both World War I and World War II are held each year. The town proudly celebrates its wartime history and being known as a "living memorial to World War I"; and

Whereas, It is fitting that an enduring memorial be established to commemorate Nitro's rich past and significance to our country during World War I; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name the new Westbound Lane/Bridge, upon construction of the new bridges that will replace the Donald M. Legg Memorial Bridge, carrying WV 64 over the Kanawha River, locally known as the Nitro/St. Albans Bridge in Kanawha County, the "Nitro WW I Memorial Bridge"; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and placed signs identifying the Westbound lane or bridge as the "Nitro WW I Memorial Bridge"; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

And,

**Senate Concurrent Resolution 39**, Birthplace of Alabama Coach Nick Saban.

And reports back a committee substitute for same as follows:

**Com. Sub. for Senate Concurrent Resolution 39** (originating in the Committee on Transportation and Infrastructure)—Requesting the Division of Highways erect signs on U.S. Route 19 at both ends of Monongah, Marion County, West Virginia, stating "Home of Nick Saban".

Whereas, Nicholas Lou Saban Jr., was born on October 31, 1951, in Fairmont, West Virginia, to Nicholas and Mary Saban; and

Whereas, Nicholas Lou Saban Jr., known throughout his life as "Nick", attended Monongah High School where he won the 1967 2A State Championship in football as a quarterback alongside United States Senator Joe Manchin; and



Whereas, Upon graduation from Monongah High School, Nick Saban attended Kent State University on a football scholarship as a starting defensive back for the Golden Flashes from 1970 to 1973; and

Whereas, After completing his bachelor's degree in business, Nick Saban went on to complete his master's degree in sports administration from Kent State, while working as an assistant coach for the Golden Flashes; and

Whereas, Upon graduation, Nick Saban was hired as a graduate assistant for Kent State, later serving as an assistant coach at Syracuse in 1977, West Virginia from 1978 to 1979, Ohio State from 1980 to 1981, Navy in 1982, Michigan State from 1983 to 1987, and the Houston Oilers of the National Football League (NFL) in 1988; and

Whereas, Nick Saban was head coach at Toledo in 1988 where he found quick success that would lead to an offer from the Cleveland Browns of the NFL to become a defensive coordinator for the 1990 season; and

Whereas, After four years in Cleveland, Michigan State chose Nick Saban as their head coach from 1990 to 1999; starting the 1999 season, Nick Saban became the head coach of Louisiana State University where he would win his first National Championship in the 2003 season and two South Eastern Conference Championships; and

Whereas, in 2004, Nick Saban left Louisiana State University to become the head coach of the Miami Dolphins for the 2005 season, and after a 15-17 record, Nick Saban was released from Miami; and

Whereas, Nick Saban was hired by the Alabama Crimson Tide on January 3, 2007, which would lead to six National Championships (2009, 2011, 2012, 2015, 2017, 2020) and seven Eastern Conference Championships (2009, 2012, 2014, 2015, 2016, 2018, 2020); and

Whereas, Nick Saban has a wife, Kristen Saban of 49 years who first saw Nick at a Pop Warner game in Fairmont, and two adopted children, Nicholas and Kristen Saban; and

Whereas, Nick Saban called on Alabama high schools to help West Virginia schools affected by the 2016 West Virginia floods that took place on June 23-24; and

Whereas, Nick Saban's representation of West Virginia on a national stage should be commemorated by signage near his home; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to erect signs on U.S. Route 19 at both ends of Monongah, Marion County, West Virginia, stating "Home of Nick Saban"; and, be it

*Further Resolved,* That the Division of Highways is hereby requested to have made and be placed signs on U.S. Route 19 at both ends of Monongah, Marion County, West Virginia, stating "Home of Nick Saban"; and, be it

*Further Resolved,* That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Commissioner of the Division of Highways.

With the recommendation that the three committee substitutes be adopted.

Respectfully submitted,

Charles H. Clements,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the resolutions (Com. Sub. for S. C. R. 34, 37, and 39) contained in the preceding report from the Committee on Transportation and Infrastructure were taken up for immediate consideration and considered simultaneously.

The question being on the adoption of the resolutions, the same was put and prevailed.

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

Senator Nelson, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

**Senate Concurrent Resolution 59** (originating in the Committee on Pensions)—Requesting the Joint Committee on Government and Finance study the benefits of creating a third tier within the PERS retirement program for public safety employees, including 911 operators; determine the most appropriate and fair method of implementing this new tier; consider any potential unintended consequences of this creation of the tier; determine how the new tier should be used to provide enhanced benefits to public safety employees within PERS; determine whether return to work provisions should be modified for any or all retirement systems administered by the West Virginia Consolidated Public Retirement Board (CPRB); and determine whether employer contribution caps for certain retirement plans administered by the CPRB should be modified or eliminated.

Whereas, Public safety employees within PERS are at greater risk due to the inherent danger of the duty obligations required by their occupations; and

Whereas, The open positions for correctional officers, police officers, firefighters, and 911 operators may be more easily filled if such occupations were entitled to participate in a separate tier of the PERS system with enhanced benefits; and

Whereas, The CPRB would have a greater administrative burden if a new tier is created within PERS, and this resolution will aid in quantifying that burden; and

Whereas, Certain retirement systems administered by the CPRB have employer contributions that are capped at certain levels and could have a detrimental impact on the actuarial funding of the system; and

Whereas, Certain return to work provisions for retirants of the retirement systems administered by the CPRB may be outdated and no longer sustainable for retirants who return to work on a part-time or temporary basis; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Joint Committee on Government and Finance study the benefits of creating a third tier within the PERS retirement program for public safety employees, including 911 operators; determine the most appropriate and fair method of implementing this new tier; consider any potential unintended consequences of this creation of the tier; determine how the new tier should be used to provide enhanced benefits to public safety employees within PERS; determine whether return to work provisions should be modified for any or all retirement systems administered by the West Virginia Consolidated Public Retirement Board (CPRB); and determine whether employer contribution caps for certain retirement plans administered by the CPRB should be modified or eliminated; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance study the potential necessity of altering or amending certain outdated return to work provisions for retirants of the retirement systems administered by the CPRB; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance study the potential benefits and detriments that would be involved in eliminating the employer contribution cap in certain retirement systems administered by the CPRB; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance enlist the assistance of all ranks, organizations, groups, and departments of the CPRB as is necessary to conduct the study; and, be it

*Further Resolved,* That the Joint Committee on Government and Finance conclude its study and final report on its findings, conclusions, and recommendations on or before December 1, 2021; 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 necessary to effectuate its recommendations; and, be it

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

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

Respectfully submitted,

Eric Nelson, Jr.,  
*Chair.*

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

Your Committee on Health and Human Resources has had under consideration

**Eng. Com. Sub. for House Bill 2005**, Relating to health care costs.

And has amended same.

And,

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

And has amended same.

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

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

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

Your Committee on Health and Human Resources has had under consideration

**Eng. Com. Sub. for House Bill 2266**, Relating to expanding certain insurance coverages for pregnant women.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Michael J. Maroney,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on Finance, with an amendment from the Committee on Health and Human Resources pending.

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

Your Committee on the Judiciary has had under consideration

**Eng. House Bill 2496**, Relating to assessments of real property.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original double committee reference first be referred to the Committee on Finance.

Respectfully submitted,

Charles S. Trump IV,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on Finance, with amendments from the Committee on the Judiciary pending.

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Eng. Com. Sub. for House Bill 2760**, Relating to economic development incentive tax credits.

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

Respectfully submitted,

Eric J. Tarr,  
*Chair.*

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

Your Committee on the Judiciary has had under consideration

**Eng. Com. Sub. for House Bill 2770**, Including home confinement officers in definition of law-enforcement officers.

And has amended same.

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

Respectfully submitted,

Charles S, Trump IV,  
*Chair.*

Senator Nelson, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

**Eng. House Bill 2829**, Providing for the amortization of annual funding deficiencies for municipal police or firefighter pension and relief funds.

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

Respectfully submitted,

Eric Nelson, Jr.,  
*Chair.*

Senator Smith, from the Committee on Energy, Industry, and Mining, submitted the following report, which was received:

Your Committee on Energy, Industry, and Mining has had under consideration

**Eng. Com. Sub. for House Bill 2842**, Preventing cities from banning utility companies in city limits.

And has amended same.

And reports the same back with the recommendation that it do pass, as amended; but under the original double committee reference first be referred to the Committee on the Judiciary.

Respectfully submitted,

Randy E. Smith,  
*Chair.*

The bill, under the original double committee reference, was then referred to the Committee on the Judiciary, with amendments from the Committee on Energy, Industry, and Mining pending.

Senator Nelson, from the Committee on Pensions, submitted the following report, which was received:

Your Committee on Pensions has had under consideration

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

And has amended same.

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

Respectfully submitted,

Eric Nelson, Jr.,  
*Chair.*

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Eng. Com. Sub. for House Joint Resolution 1**, Education Accountability Amendment.

With amendments from the Committee on the Judiciary pending;

And reports the same back with the recommendation that it be adopted, as amended by the Committee on the Judiciary to which the bill was first referred.

Respectfully submitted,

Eric J. Tarr,  
*Chair.*

Senator Tarr, from the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration

**Eng. House Joint Resolution 2**, Providing that courts have no authority or jurisdiction to intercede or intervene in, or interfere with, any impeachment proceedings of the House of Delegates or the Senate.

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

Respectfully submitted,

Eric J. Tarr,  
*Chair.*

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**House Concurrent Resolution 8**, U.S. Army SFC Guy Hively Memorial Bridge.

**House Concurrent Resolution 16**, PFC Franklin D. Frazier Memorial Road.

**Com. Sub. for House Concurrent Resolution 22**, Bill O'Dell Memorial Bridge.

**House Concurrent Resolution 25**, William Edward Friese Memorial Bridge.

**House Concurrent Resolution 27**, Harvey Lemasters Memorial Bridge.

**House Concurrent Resolution 32**, To name Gatewood Road in Fayette County as the "Senator Shirley Love Memorial Road."

**House Concurrent Resolution 33**, Norman A. and Carrie G. Silver Memorial Bridge.

And,

**Com. Sub. for House Concurrent Resolution 43**, U. S. Army CSM Hugh H. 'Smokey' Stover Memorial Road.

And reports the same back with the recommendation that they each be adopted.

Respectfully submitted,

Charles H. Clements,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the resolutions (H. C. R. 8, 16, 25, 27, 32, and 33 and Com. Sub. for H. C. R. 22 and 43) contained in the preceding report from the Committee on Transportation and Infrastructure were taken up for immediate consideration and considered simultaneously.

The question being on the adoption of the resolutions, the same was put and prevailed.

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

Senator Clements, from the Committee on Transportation and Infrastructure, submitted the following report, which was received:

Your Committee on Transportation and Infrastructure has had under consideration

**House Concurrent Resolution 12**, Charles E. Jarvis Memorial Bridge.

And has amended same.

**House Concurrent Resolution 20**, Bill Withers Memorial Road.

And has amended same.

**House Concurrent Resolution 26**, Victor Yoak Memorial Bridge.

And has amended same.

**House Concurrent Resolution 38**, "U.S. Marine Corps Sergeant David Andrew Green Memorial Bridge."

And has amended same.

And,

**House Concurrent Resolution 62**, Major Samuel Wilson Rogers Jr. Memorial Bridge.

And has amended same.

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

Respectfully submitted,

Charles H. Clements,  
*Chair.*

At the request of Senator Takubo, unanimous consent being granted, the resolutions (H. C. R. 12, 20, 26, 38, and 62) contained in the preceding report from the Committee on Transportation and Infrastructure were taken up for immediate consideration and considered simultaneously.

The following amendments to the resolutions, from the Committee on Transportation and Infrastructure, were reported by the Clerk, considered simultaneously, and adopted:

**House Concurrent Resolution 12**, Charles E. Jarvis Memorial Bridge.

On page one, in the third Whereas clause, line thirteen, by striking out "66" and inserting in lieu thereof "63".

**House Concurrent Resolution 20**, Bill Withers Memorial Road.



On page one, in the first Whereas clause, line fourteen, after the word “nominations” by striking out the comma and inserting in lieu thereof the word “and”;

On page two, in the first Whereas clause, line two, by striking out the words “on April 3” and inserting in lieu thereof the words “away on March 30”;

On page two, in the Resolved clause, line seven, by striking out the words “along County State Route 34”;

And,

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

Requesting the Division of Highways to name Slab Fork Road, beginning near the Lester Highway and proceeding to its end at the Coalfield Expressway in Raleigh County, the “Bill Withers Memorial Road”.

**House Concurrent Resolution 26**, Victor Yoak Memorial Bridge.

On page one, in the third Whereas clause, lines nineteen and twenty, after the word “there” by striking out the period and the words ““there’s a closeness and friendliness”“.

**House Concurrent Resolution 38**, “U.S. Marine Corps Sergeant David Andrew Green Memorial Bridge.”.

On page two, in the Resolved clause, line twenty-seven, by striking out the words “county, the “U. S. Marine” and inserting in lieu thereof the words “County, the “U.S. Marine Corps”;

On page two, in the first Further Resolved clause, line thirty, by striking out the words “U. S. Marine Corps Sgt. David A.” and inserting in lieu thereof the words ““U.S. Marine Corps Sergeant David Andrew”;

And,

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

Requesting the Division of Highways to name bridge number: 26-001/01-000.01 (26A080), (40.02115, -80.73147) locally known as 4th Street Overpass, carrying CR 1/1 over US 250 & WV 2 in Marshall County, the “U.S. Marine Corps Sergeant David Andrew Green Memorial Bridge”.

**House Concurrent Resolution 62**, Major Samuel Wilson Rogers Jr. Memorial Bridge.

On page one, in the sixth Whereas clause, line fifteen, by striking out “17” and inserting in lieu thereof “24”.

The question being on the adoption of the resolutions (H. C. R. 12, 20, 26, 38, and 62), as amended, the same was put and prevailed.

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

The Senate proceeded to the thirteenth order of business.

Under the provisions of Rule 15 of the Rules of the Senate, the following senators were added as co-sponsors to the following resolutions on March 31, 2021:

**Senate Resolution 33:** Senators Stollings, Baldwin, Phillips, and Nelson;

**Senate Resolution 34:** Senator Baldwin;

And,

**Senate Resolution 35:** Senators Baldwin and Woelfel.

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 6:58 p.m., the Senate adjourned until tomorrow, Friday, April 2, 2021, at 10 a.m.

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## **SENATE CALENDAR**

**Friday, April 02, 2021  
10:00 AM**

### **UNFINISHED BUSINESS**

- S. C. R. 58 - Requesting study on possible incentives to county boards of education showing consistent academic growth
- S. C. R. 59 - Requesting study on creating third tier within PERS for public safety employees
- S. R. 36 - Recognizing Cabell County Public Library on being named as finalist for 2021 National Medal for Museum and Library Service
- S. R. 37 - Memorializing life of Gilbert Benton "Gib" Miller, Sr

### **THIRD READING**

- Eng. H. B. 2253 - Relating to forgery and other crimes concerning lottery tickets
- Eng. H. B. 2888 - Relating to when contentions can be revived based on forensic scientific evidence that was not available at time of conviction
- Eng. H. B. 3081 - Updating the West Virginia Business Corporations Act

### **SECOND READING**

- Eng. H. B. 2028 - Exempting veterinarians from the requirements of controlled substance monitoring
- Eng. H. B. 2366 - Requiring agencies who have approved a proposed rule that affects fees or other special revenues to provide to the committee a fiscal note
- Eng. Com. Sub. for H. B. 2427 - Authorizing the Department of Health and Human Resources to promulgate legislative rules - (Com. amend. and title amend. pending)
- Eng. 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 - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 2633 - Creating the 2021 Farm Bill - (Com. amend. pending)
- Eng. Com. Sub. for H. B. 2763 - Creating WV Cyber Incident Reporting - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 2765 - Relating to allowing emergency management and operations' vehicles operated by airports to use red flashing warning lights - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 2785 - Relating to public school enrollment for students from out of state - (Com. amend. and title amend. pending)

- Eng. H. B. 2791 - Relating to enrollment and costs of homeschooled or private school students at vocational schools
- Eng. Com. Sub. for H. B. 2877 - Expand direct health care agreements beyond primary care to include more medical care services
- Eng. H. B. 2906 - Relating to the School Building Authority's allocation of money
- Eng. H. B. 2915 - Relating to public records management and preservation
- Eng. 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 - (Com. amend. pending)
- Eng. H. B. 2957 - Relating to the repeal of outdated code sections
- Eng. H. B. 2958 - Relating to repealing outdated sections of state code
- Eng. H. B. 3045 - Relating to firefighter disability claims

### **FIRST READING**

- Com. Sub. for S. B. 125 - Budget Bill
- S. B. 490 - Supplemental appropriation from General Revenue to Department of Veterans' Assistance (original similar to HB2895)
- Eng. Com. Sub. for H. B. 2005 - Relating to health care costs - (Com. amend. pending)
- Eng. Com. Sub. for H. B. 2093 - Relating to exemptions for the United States Department of Veterans Affairs Medical Foster Homes - (Com. amend. pending)
- Eng. H. B. 2379 - Make criminal invasion of privacy a felony - (Com. amend. pending)
- Eng. Com. Sub. for H. B. 2760 - Relating to economic development incentive tax credits (original similar to SB447)
- Eng. H. B. 2768 - Supplementing, amending and increasing an existing item of appropriation from the State Road Fund, to the Department of Transportation, Division of Highways
- Eng. Com. Sub. for H. B. 2769 - Supplementing, amending and increasing items of existing appropriation from the State Road Fund to the Department of Transportation, Division of Motor Vehicles
- Eng. Com. Sub. for H. B. 2770 - Including home confinement officers in definition of law-enforcement officers - (Com. amend. and title amend. pending)
- Eng. H. B. 2790 - Supplementing, amending, decreasing, and increasing items of existing appropriation to Division of Highways
- Eng. Com. Sub. for H. B. 2823 - Exempting buildings or structures utilized exclusively for agricultural purposes from the provisions of the State Building Code
- Eng. H. B. 2829 - Providing for the amortization of annual funding deficiencies for municipal police or firefighter pension and relief funds (original similar to SB625)

- Eng. H. B. 3130 - Relating to elimination of sunset provisions concerning towing rates - (Com. amend. pending)
- Eng. H. B. 3175 - Relating to removing certain felonies than can prohibit vehicle salespersons from receiving a license - (Com. amend. and title amend. pending)
- Eng. H. B. 3191 - Requiring employers to send certain notifications when retirants are hired as temporary, part-time employees - (Com. amend. pending)
- Eng. H. B. 3298 - Making a supplemental appropriation to Dept. of Commerce, Dept. of Education, Senior Services and Civil Contingent Fund
- Eng. H. B. 3300 - Relating to reducing personal income tax rates generally - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. J. R. 1 - Education Accountability Amendment - (Com. amend. and title amend. pending)
- Eng. H. J. R. 2 - Providing that courts have no authority or jurisdiction to intercede or intervene in, or interfere with, any impeachment proceedings of the House of Delegates or the Senate

**ANNOUNCED SENATE COMMITTEE MEETINGS**

**Regular Session 2021**

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**Friday, April 2, 2021**

9 a.m.

Military

(Room 208W)