

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

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

Charleston, West Virginia, Wednesday, April 7, 2021

The Senate met at 10:05 a.m.

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

Prayer was offered by Grover Miller, Senate Assistant Doorkeeper, Charleston, West Virginia.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Robert H. Plymale, a senator from the fifth district.

Pending the reading of the Journal of Tuesday, April 6, 2021,

At the request of Senator Sypolt, 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, to take effect from passage, and requested the concurrence of the Senate in the House of Delegates amendments, as to

Eng. Com. Sub. for Com. Sub. for Senate Bill 294, Relating generally to savings and investment programs offered by state.

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

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

On page nine, section six, line ninety-five, by striking out the word "units" and inserting in lieu thereof the word "checks";

And,

On page nine, section six, line one hundred four, after the words "arising after the", by striking out the word "fund's" and inserting in lieu thereof the word "plan's".

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

Engrossed Committee Substitute for Senate Bill 294, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Beach—1.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 294) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Beach—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 294) takes effect from passage.

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

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

Eng. Com. Sub. for Senate Bill 297, Relating generally to modernizing Board of Treasury Investments.

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

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

Eng. Com. Sub. for Senate Bill 297—A Bill to amend and reenact §12-6C-4 and §12-6C-9 of the Code of West Virginia, 1931, as amended, all relating generally to the Board of Treasury Investments; authorizing the board to provide compensation to appointed directors for each meeting attended and establishing the rate thereof; authorizing the board to invest in commercial

paper with certain nationally recognized ratings and weighted maturity; authorizing the board to invest in corporate debt with certain nationally recognized ratings and weighted maturity; authorizing the board to invest in state and local government securities with certain nationally recognized ratings and weighted maturity; authorizing the board to invest in certain asset-backed securities with certain nationally recognized ratings; removing the limitation on the percentage of the Consolidated Fund that the board may invest in evidence of indebtedness of any private corporation or association; and eliminating the requirement that the board invest a certain percentage of the Consolidated Fund in obligations guaranteed by the United States.

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

Engrossed Committee Substitute for Senate Bill 297, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 297) passed with its House of Delegates amended title.

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

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

Eng. Senate Bill 307, Relating generally to in-state tuition rates for certain persons.

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

Eng. Com. Sub. for Senate Bill 343, Authorizing DMV to process online driver's license or identification card change of address.

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

Eng. Com. Sub. for Senate Bill 361, Extending supervision for conviction of soliciting minor and using obscene matter with intent to seduce minor.

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

Eng. Senate Bill 376, Removing obsolete provisions regarding DOH standards for studded tires and chains.

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

Eng. Senate Bill 397, Relating to health care provider tax.

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

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

Eng. Senate Bill 397—A Bill to amend and reenact §11-27-39 of the Code of West Virginia, 1931, as amended, relating to certain health care provider taxes; modifying definition of “eligible acute care hospital” for purposes of certain tax; modifying effective date; and removing expiration date for the tax.

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

Engrossed Senate Bill 397, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 397) passed with its House of Delegates amended title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 397) takes effect from passage.

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

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

Eng. Com. Sub. for Senate Bill 401, Relating to WV Consumer Credit and Protection Act.

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

Eng. Com. Sub. for Senate Bill 434, Requiring training for law-enforcement officers responsible for investigating crimes of sexual assault.

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

Eng. Com. Sub. for Senate Bill 460, Relating to Deputy Sheriff Retirement System Act.

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

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

On page one, section two, line eight, by striking out “§7-14D-9(a)” and inserting in lieu thereof “§7-14D-9a”;

On page five, section two, line one hundred twelve, after the word “subdivision” by striking out “(t)” and inserting in lieu thereof “(u)”;

On page thirteen, after line thirty-one, by inserting a new section, designated section twenty-four, to read as follows:

§7-14D-24. Service as sheriff.

(a) Any member who after the effective date of this article is elected sheriff of a county in West Virginia may elect to continue as a member in this plan by paying the amounts required by §7-14D-7 of this code. Upon the election, service as a sheriff shall be treated as covered employment and the sheriff is not entitled to any credit for that service under any other retirement system of the state.

(b) Any member retired as a deputy sheriff under this plan who, after the effective date of this article, is elected or appointed sheriff of a county in West Virginia, may elect to suspend the payment of his or her annuity from this system and again become a contributing member of this plan by paying the amounts required by §7-14D-7 of this code. Upon such election, service as a sheriff shall be treated as covered employment, and the sheriff is not entitled to any credit for that period of elected service under any other retirement system of the state. At the end of his or her term as sheriff, the member making such election shall have his or her annuity recalculated and shall be granted an adjustment to his or her previous annuity to include the period of elected service.

(c) Any person, who before the effective date of this article was elected sheriff of a county in West Virginia, and who, immediately prior to being so elected sheriff, was a deputy sheriff with at least 20 years of credited service under the Public Employees Retirement System, with at least

16 of those 20 years having been earned as a deputy sheriff, may elect to become a member of this plan by paying the amounts required by §7-14D-7 of this code. Upon such election, service shall be transferred from the Public Employees Retirement System pursuant to §7-14D-8 of this code: *Provided*, That any service as a sheriff shall be treated as covered employment under this article and the sheriff is not entitled to any credit for that service as a sheriff or the prior service as a deputy sheriff under any other retirement system of the state. Persons making the election provided for in this subsection shall do so within 10 days of taking office as sheriff or within 10 days of the effective date of this provision.

(d) Any person who, before the effective date of this article, was elected sheriff of a county of West Virginia, and who, prior to being elected sheriff, was a deputy sheriff and also a previously elected sheriff, with credited service under the Public Employees Retirement System, with at least 16 of those years having been earned as combined service as a deputy sheriff and a previously elected sheriff, may elect to become a member of this plan by paying the amounts required by §7-14D-7 of this code. Upon such election, service shall be transferred from the Public Employees Retirement System pursuant to §7-14D-8 of this code: *Provided*, That a person's service as a sheriff shall be treated as covered employment under this article, and that person is not entitled to any credit for that service as a sheriff or deputy sheriff under any other retirement system of this state. A person making the election provided in this subsection shall do so within 30 days of taking office as a sheriff or within 30 days of the effective date of this provision.

(e) Notwithstanding any other provision of the code to the contrary, any member who was elected sheriff of a county of West Virginia to serve on or after January 1, 2013, and who has not commenced retirement in the Deputy Sheriff Retirement System or the Public Employees Retirement System, must notify the board in writing by July 31, 2020, of his or her intent to pay the difference in the employee contribution between the Public Employees Retirement System and the Deputy Sheriff Retirement System in order to transfer all service credit earned as a sheriff or purchased in accordance with Section 414(u) of the Internal Revenue Code and the federal Uniformed Services Employment and Reemployment Rights Act from the Public Employees Retirement System to the Deputy Sheriff Retirement System. The board shall compute the difference in employee contributions owed up through September 30, 2020, on the total compensation for which assets are being transferred and notify the sheriff of the amount owed in writing by letter mailed no later than August 21, 2020. This difference in employee contributions must be paid in full by the sheriff to the Deputy Sheriff Retirement System no later than September 30, 2020. If timely paid, employee and employer contributions to the Deputy Sheriff Retirement System shall commence October 1, 2020.

(1) The board shall transfer assets from the Public Employees Retirement System into the Deputy Sheriff Retirement System no later than November 30, 2020.

(2) The amount of assets to be transferred for each transferring sheriff shall be computed as of July 1, 2019, using the actuarial valuation assumptions in effect for the July 1, 2019, actuarial valuation of the Public Employees Retirement System, and updated with seven and one-half percent annual interest to the date of the actual asset transfer. The market value of the assets of the transferring sheriff in the Public Employees Retirement System shall be determined as of the end of the month preceding the actual transfer. To determine the computation of the asset share to be transferred the board shall:

(A) Compute the market value of the Public Employees Retirement System assets;

(B) Compute the accrued liability for all Public Employees Retirement System retirees, beneficiaries, disabled retirees, and terminated inactive members;

(C) Reduce the market value of Public Employees Retirement System assets by the accrued liability determined in paragraph (B) of this subdivision;

(D) Compute the entry age method accrued liability for all active Public Employees Retirement System members;

(E) Compute the share of accrued liability as determined pursuant to paragraph (D) of this subdivision, that is attributable to those sheriffs in the Public Employees Retirement System who have elected to transfer to the plan;

(F) Compute the percentage of active member's accrued liability computed to the sheriffs by dividing paragraph (E) by paragraph (D) of this subdivision; and

(G) Determine the asset share to be transferred from Public Employees Retirement System to the plan by multiplying paragraph (C) times paragraph (F) of this subdivision.

(f) Any member who was appointed sheriff of a county in West Virginia in which retirement contributions were not made to the Deputy Sheriff Retirement System or the Public Employees Retirement System may purchase service credit for the period he or she served as appointed sheriff by the member remitting the required employee contribution and any interest thereon, and the participating public employer remitting the required employer contribution and any interest thereon. Interest shall accumulate at a rate of 7.5% per annum. Payments for the purchase of service credit authorized by this section must be made in full on or before September 30, 2021.;

And,

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

Eng. Com. Sub. for Senate Bill 460—A Bill to amend and reenact §7-14D-2, §7-14D-11, §7-14D-13, §7-14D-19, §7-14D-20 and §7-14D-24 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §7-14D-32, all relating to the Deputy Sheriff Retirement System Act; defining terms; amending and removing conflicting statutory provisions; removing obsolete restriction on type of annuity required of married members; clarifying preretirement death benefits; clarifying survivor death benefit; authorizing the purchase of service credit for time served as an appointed sheriff in certain circumstances; and adding a severability clause.

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

Engrossed Committee Substitute for Senate Bill 460, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 460) passed with its House of Delegates amended title.

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

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

Eng. Com. Sub. for Senate Bill 466, Relating generally to appraisal management companies.

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

Eng. Com. Sub. for Senate Bill 479, Relating to WV veterans service decoration and WV Service Cross.

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

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

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

ARTICLE 1. DEPARTMENT OF VETERANS' ASSISTANCE.

§9A-1-16. West Virginia veterans service decoration; West Virginia Service Cross.

(a) A West Virginia veterans service decoration may be awarded to any resident of West Virginia who served in any of the federally recognized military services for a period at a time during which there was armed conflict.

(b) A West Virginia Service Cross and ribbon bar, along with a certificate signed by the Governor, may be awarded to any veteran who meets the criteria set forth in subsection (a) of this section, and who also was awarded a federal achievement medal, commendation medal, meritorious service medal, or a medal for valor by one of the federally recognized military services.

(c) West Virginia National Guard members may also be authorized to receive and wear the medals and ribbons authorized under the provisions of this section in an order of precedence determined by the Adjutant General.

(d) The secretary may propose rules pursuant to §29A-3-1 et seq. of this code to implement the provisions of this section.

ARTICLE 1G. SERVICE MEDALS.

§15-1G-10. West Virginia veterans service decoration; West Virginia Service Cross.

[Repealed.]

Senator Takubo moved that the Senate concur in the House of Delegates amendment 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 Senate Bill 479, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 479) passed with its title.

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

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

Eng. Senate Bill 494, Authorizing transfer of moneys from Insurance Commission Fund to Workers' Compensation Old Fund.

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

Eng. Senate Bill 577, Exempting certain fire departments from licensure requirements for providing rapid response services.

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

Eng. Senate Bill 651, Allowing county boards of education to publish financial statements on website.

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

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

On page one, section three-a, line one, by striking out the words "90 days" and inserting in lieu thereof the words "120 days";

On page one, section three-a, line two, by striking out the words “State Tax Commissioner” and inserting in lieu thereof the words “State Auditor”;

On page two, section three-a, line thirty-three, after the word “shall” by inserting the words “in addition to the information required in subsection (a) of this section”;

On page two, section three-a, line forty-three, after the word “year,” by inserting the words “but no later than 90 days after the end of the fiscal year,”;

On page two, section three-a, line forty-four, by striking out the words “State Tax Commissioner” and inserting in lieu thereof the words “State Auditor”;

And,

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

Eng. Senate Bill 651—A Bill to amend and reenact §18-9-3a of the Code of West Virginia, 1931, as amended, relating to giving county boards of education the option of publishing their financial statements on their websites rather than publishing as a Class I-0 legal advertisement; increasing the number of days for preparation for publication; requiring county boards to hold a public hearing before publishing on their websites; requiring county boards to provide public notice of the availability of such website posting; requiring county boards to include certain additional information if they publish their financial statements on their websites; providing maximum time period for filing statement with state auditor and superintendent; providing that the changes made by amendments to this section become effective for the fiscal year commencing on July 1, 2023; and making technical updates.

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

Engrossed Senate Bill 651, 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, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—22.

The nays were: Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, Stollings, Stover, Unger, and Woelfel—12.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 651) passed with its House of Delegates amended title.

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

A message from the Clerk of the House of Delegates announced the concurrence by that body in the passage, to take effect July 1, 2021, of

Eng. Com. Sub. for Senate Bill 673, Relating to venue for bringing civil action or arbitration proceedings under construction contracts.

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

Eng. Senate Bill 680, Allowing State Superintendent of Schools define classroom teachers certified in special education.

A message from the Clerk of the House of Delegates announced the passage by that body, without amendment, to take effect April 30, 2021, and requested the concurrence of the Senate in the changed effective date, as to

Eng. Senate Bill 713, Relating generally to inmate good time.

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

On further motion of Senator Takubo, the Senate concurred in the changed effective date of the bill, that being to take effect April 30, 2021, instead of ninety days from passage.

Senator Takubo moved that the bill take effect April 30, 2021.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. S. B. 713) takes effect April 30, 2021.

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

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

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

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

Eng. Com. Sub. for House Bill 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.

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

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

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

Eng. Com. Sub. for House Bill 2529—A Bill to amend and reenact §18-8-12 and §18B-1-1e of the Code of West Virginia, 1931, as amended; all relating to nondiscrimination in the higher education admissions process; allowing an institution, once a student has been fully admitted, to administer placement tests or other assessments for certain purposes; prohibiting state institutions of higher education from discriminating against graduates of private, nonpublic, or home schools by requiring them to submit to alternative testing as a precondition for acceptance into the institution of higher education; and prohibiting institutions of higher education from rejecting a person with appropriate diploma or credentialing for admission to an institution of higher education solely because their secondary education was not accredited by the state Board of Education or agency the board approves.

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

Engrossed Committee Substitute for House Bill 2529, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2529) passed with its House of Delegates amended title.

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

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

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

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 amendment title, of

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

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

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

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

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

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

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

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

(e) ~~(d)~~ This section does not prevent A student from another state, or who is eligible to enroll in a public school in this state, from enrolling in the shall be enrolled in the same grade in a public school in West Virginia as the student was enrolled at the school or program from which the student transferred. A transcript or other credential provided by a public school program, private school program, homeschool program or HOPE scholarship program shall be accepted by a public school in this state as a record of a student's previous academic performance for the purposes of placement and credit assignment.

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

Engrossed Committee Substitute for House Bill 2785, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: Baldwin—1.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2785) passed with its title.

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

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

Eng. House Bill 2895—A Bill supplementing and amending the appropriations 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 fund 0456, fiscal year 2021, organization 0613, by supplementing and amending the appropriations for the fiscal year ending June 30, 2021.

At the request of Senator Takubo, and by unanimous consent, the bill was taken up for immediate consideration and reference to a committee dispensed with.

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 2900—A Bill expiring funds to the balance of the Department of Education – State Board of Education – School Building Authority – School Construction Fund, fund 3952, fiscal year 2021, organization 0404, in the amount of \$2,766,137, from the State Department of Education – School Building Authority – Debt Service Fund, fund 3963, organization 0404, 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 concurrence by that body in the Senate amended title, passage as amended, of

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

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

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

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

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

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

ARTICLE 13A. WEST VIRGINIA SEMIQUINCENTENNIAL COMMISSION AND FUND.

§4-13A-1. Findings; West Virginia Semiquincentennial Commission established; purpose.

(a) The Legislature finds that the 250th anniversary of our nation's founding is of such historical significance as to warrant its commemoration.

(b) There is hereby created the West Virginia Semiquincentennial Commission.

(c) The purpose of the commission is to prepare for and commemorate the semiquincentennial of our nation's founding.

§4-13A-2. Membership; terms; filling vacancies; election of chair and vice chair.

(a) The Governor shall appoint 10 members as follows:

(1) Three academic historians;

(2) Five citizens members, no more than one of whom may be from any one state senatorial district;

(3) A member of the National Society of the Sons of the American Revolution;

(4) A member of the National Society of the Daughters of the American Revolution;

(b) The following shall serve as ex-officio voting members:

(1) The State Superintendent of Schools, or a designee;

(2) The Cabinet Secretary of Commerce, or a designee;

(3) The Curator of the Department of Arts, Culture, and History, or a designee;

(4) The Secretary of the Department of Tourism, or a designee;

(5) The Executive Director of the Herbert Henderson Minority Affairs Office, or a designee;

(6) The West Virginia State Archivist;

(7) The Director of the West Virginia State Museums;

(8) One member of the House of Delegates, to be appointed by the Speaker of the House of Delegates, who shall serve as an ex officio nonvoting member of the commission; and

(9) One member of the State Senate, to be appointed by the President of the Senate, who shall serve as an ex officio nonvoting member of the commission;

(10) Members of the United States Senate from the State of West Virginia, or their designees shall serve as ex officio nonvoting members of the commission;

(11) Members of the United States House of Representatives from the State of West Virginia, or their designees shall serve as ex officio nonvoting members of the commission;

(c) All appointed members shall serve at the will and pleasure of the Governor;

(d) Appointments to fill vacancies shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

(e) The curator of the West Virginia Department of Arts, Culture and History shall serve as the chair of the commission. The commission shall elect a vice chair and secretary from among its members.

§4-13A-3. Expense reimbursement.

(a) Members shall serve without compensation.

(b) The commission may reimburse members for all reasonable and necessary expenses actually incurred in the performance of his or her duties as a commission member, in a manner consistent with the guidelines of the travel management office of the Department of Administration, subject to availability of funds received pursuant to §4-13A-6(a)(1). No provision of this section may be construed to require any appropriation of funds by the Legislature.

§4-13A-4. Quorum; meetings.

(a) A simple majority of the members serving on the board at a given time constitutes a quorum for the transaction of business.

(b) Meetings shall be held in accordance with the provisions of §6-9A-1 et seq., of this code.

§4-13A-5. Advisory council.

The commission may establish an advisory council composed of citizens at large who have knowledge of American history and interest in its semiquincentennial celebration to assist the commission in its work.

§4-13A-6. Powers; duties; limitation on duration of contracts.

The commission may:

(1) Solicit, accept, use, and dispose of gifts, grants, donations, bequests, or other funds or real or personal property for the purpose of aiding or facilitating the work of the commission, upon compliance with the provisions of §12-2-2 of this code;

(2) Procure supplies, services, and property and make or enter into contracts, leases, or other legal agreement as necessary to carry out its duties: *Provided*, That no contract, lease or other legal agreement may be entered into by the commission with terms which would extend beyond the termination date of the commission;

(3) Plan, develop and carry out programs and activities appropriate to commemorate the semiquincentennial of the founding of our nation;

(4) Encourage civic, historical, educational, economic, and other organizations throughout West Virginia to organize and participate in activities to expand the understanding and appreciation of the United States of America;

(5) Provide technical assistance to localities and nonprofit organizations to further the commemoration of the semiquincentennial of the founding of our nation;

(6) Develop programs and facilities to ensure that the semiquincentennial commemoration of the founding of our nation results in a positive legacy and long-term public benefit; and

(7) Encourage the development and conduct of programs designed to involve all citizens in activities that commemorate the semiquincentennial of the founding of our nation.

§4-13A-7. Termination of the commission.

The commission shall terminate on June 30, 2027.

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

Engrossed Committee Substitute for House Bill 2916, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2916) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2916) takes effect from passage.

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

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

Eng. House Bill 3313—A Bill supplementing, amending and increasing items of existing appropriation from the State Road Fund to the Department of Transportation, Division of Motor Vehicles, fund 9007, fiscal year 2021, organization 0802, 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 3314—A Bill supplementing and amending Chapter eleven, Acts of the Legislature, Regular Session, 2020, known as the budget bill, in Title II from the appropriations of

public moneys out of the Treasury in the State Fund, General Revenue, to the Department of Homeland Security, West Virginia State Police, fund 0453, fiscal year 2021, organization 0612, by supplementing and amending the appropriations for the fiscal year ending June 30, 2021 by adding new language.

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 3315—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 Environmental Protection, Division of Environmental Protection - Oil and Gas Reclamation Fund, fund 3322, fiscal year 2021, organization 0313, 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 3316—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 Department of Education, State Board of Education – State Department of Education, Fund 8712, fiscal year 2021, organization 0402, 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 adoption by that body and requested the concurrence of the Senate in the adoption of

Com. Sub. for House Concurrent Resolution 84—Requesting That the Joint Committee on Government and Finance study the declining population of military service veterans in West Virginia, and the policies, programs and other factors present in states with increasing populations of military service members and veterans that could potentially be emulated in West Virginia.

Referred to the Committee on Rules.

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 7th day of April, 2021, presented to His Excellency, the Governor, for his action, the following bills, signed by the President of the Senate and the Speaker of the House of Delegates:

(Com. Sub. for S. B. 80), Allowing for administration of certain small estates by affidavit and without appointment of personal representative.

(Com. Sub. for S. B. 81), Relating generally to WV Uniform Trust Code.

(S. B. 374), Increasing threshold for bid requirement to \$10,000 to be consistent with other state agencies.

(Com. Sub. for S. B. 389), Relating to State Resiliency Office responsibility to plan for emergency and disaster response, recovery, and resiliency.

(Com. Sub. for S. B. 421), Authorizing Workforce West Virginia to hire at-will employees.

(S. B. 463), Consolidating position of Inspector General of former Workers' Compensation Fraud and Abuse Unit and position of Director of Insurance Fraud Unit.

(Com. Sub. for S. B. 472), Updating criteria for regulating certain occupations and professions.

(Com. Sub. for H. B. 2094), Relating to the juvenile restorative justice programs.

(Com. Sub. for H. B. 2400), Authorizing the Department of Transportation to promulgate legislative rules.

(Com. Sub. for H. B. 2495), Relating to the filing of asbestos and silica claims.

(H. B. 2808), Remove salt from list and definition of "mineral" for severance tax purposes.

(H. B. 2852), Relating to distribution of the allowance for increased enrollment.

(H. B. 2898), Making a supplementary appropriation to WorkForce West Virginia – Workforce Investment Act.

(H. B. 2941), Supplementary appropriation decreasing an existing item and adding a new item of appropriation to the Department of Revenue, Insurance Commissioner.

And,

(H. B. 3010), To extend the special valuation method for cellular towers to towers owned by persons not subject to regulation by the Board of Public Works.

Respectfully submitted,

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

Senator Maynard, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Senate Concurrent Resolution 71 (originating in the Committee on Government Organization)—Requesting the Joint Committee on Government and Finance study the

importance of legislation prohibiting the state or its instrumentalities from contracting with, investing in, or otherwise doing business with entities involved in the Boycott, Divestment, and Sanctions Movement against Israel.

Whereas, The State of Israel is one of the United States' closest allies and international trading partners; and

Whereas, In recent years, the State of Israel and Israeli-owned businesses have been the target of economic, cultural, and academic boycotts; and

Whereas, These attempts to isolate Israel within the international arena have served as a vehicle for spreading anti-Semitism and advocating for the elimination of the Jewish state; and

Whereas, The Boycott, Divestment, and Sanctions Movement is deeply damaging to the causes of peace, justice, equality, democracy, and human rights for all people in the Middle East; and

Whereas, The State of West Virginia has an economic and a humanitarian obligation to denounce and reject the Boycott, Divestment, and Sanctions Movement, and to prevent the state or any of its instrumentalities from entering into contracts with, investing in, or otherwise doing business with entities that engage in the movement; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the importance of legislation prohibiting the state or its instrumentalities from contracting with, investing in, or otherwise doing business with entities involved in the Boycott, Divestment, and Sanctions Movement against Israel; 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; but with the further recommendation that it first be referred to the Committee on Rules.

Respectfully submitted,

Mark R. Maynard,
Chair.

At the request of Senator Maynard, unanimous consent being granted, the resolution (S. C. R. 71) contained in the foregoing report from the Committee on Government Organization was then referred to the Committee on Rules.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2195, Relating to motor vehicle crash reports.

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 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 2671, Relating to financial exploitation of elderly persons, protected persons or incapacitated adults.

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 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 2688, Allow county political parties to have building funds in a similar manner that state parties are allowed.

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

Respectfully submitted,

Charles S. Trump IV,
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 2891, Creating minimum statutory standards for 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 Maynard, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 2933, Anti-Discrimination Against Israel Act.

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,

Mark R. Maynard,
Chair.

Senator Tarr, as chair of the Committee on Finance, requested unanimous consent to dispense with the second committee reference of the bill contained in the foregoing report from the Committee on Government Organization.

Which consent was not granted, Senator Woelfel objecting.

Following discussion,

At the request of Senator Woelfel, unanimous consent being granted, his foregoing objection was withdrawn.

Thereafter, on motion of Senator Tarr, as chair of the Committee on Finance, the second committee reference of the bill contained in the foregoing report from the Committee on Government Organization was dispensed with.

Senator Maynard, from the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration

Eng. Com. Sub. for House Bill 3072, Sunset the Board of Forestry.

And has amended same.

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

Respectfully submitted,

Mark R. Maynard,
Chair.

The Senate proceeded to the seventh order of business.

Com. Sub. for Senate Concurrent Resolution 3, Urging Congress reopen public lands in WV.

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 and request concurrence therein.

Senate Concurrent Resolution 55, Supporting Atlantic Coast Pipeline.

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 and request concurrence therein.

Senate Resolution 41, Congratulating George Washington High School History Bowl team.

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

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

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

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 41) adopted.

Senate Resolution 42, Congratulating Walker Combs for winning 2020 National History Bee Championship.

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

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

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

The roll being taken, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 42) adopted.

Senate Resolution 43, Requesting construction of off-highway vehicle trail to parallel Appalachian Hiking Trail.

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

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

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

The roll being taken, the yeas were: Azinger, Boley, Clements, Grady, Karnes, Maroney, Martin, Maynard, Nelson, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—20.

The nays were: Baldwin, Beach, Caputo, Hamilton, Ihlenfeld, Jeffries, Lindsay, Phillips, Plymale, Romano, Stollings, Stover, Unger, and Woelfel—14.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared the resolution (S. R. 43) adopted.

The Senate proceeded to the eighth order of business.

Com. Sub. for Senate Bill 125, Budget Bill.

On third reading, coming up in regular order, with the right having been granted on Monday, April 5, 2021, for amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's first reading calendar.

Eng. Com. Sub. for House Bill 2005, Relating to health care costs.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

Eng. Com. Sub. for House Bill 2022, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution.

On third reading, coming up in regular order, with the right having been granted on yesterday, Tuesday, April 6, 2021, for amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's first reading calendar, following consideration of Committee Substitute for Senate Bill 125 already placed in that position.

Eng. Com. Sub. for House Bill 2722, Prohibiting the use of class B fire-fighting foam for testing purposes if the foam contains a certain class of fluorinated organic chemicals.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2722) passed with its title.

Senator Takubo moved that the bill take effect July 1, 2021.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2722) takes effect July 1, 2021.

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

Eng. Com. Sub. for House Bill 2758, Requiring the Insurance Commissioner to regulate professional bondsmen.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Karnes and Martin—2.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2758) passed.

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

Eng. Com. Sub. for House Bill 2758—A Bill to amend and reenact §51-10-1 and §51-10-8 of the Code of West Virginia, 1931, as amended, all relating to requiring the Insurance Commissioner to regulate professional bondsmen; providing definitions; requiring the Insurance Commissioner to promulgate and propose rules to carry out the intent, administration, and enforcement of the article; authorizing the promulgation of emergency rules; requiring the Insurance Commissioner to promulgate and propose rules regarding qualifications of bondsman; setting forth requirements for bondsman applicants; setting forth filing requirements for bondsmen with the Insurance Commissioner; setting forth renewal requirements for bondsman license; providing criminal penalty for false affidavit; requiring Insurance Commissioner to keep a list of licensed bondsmen and furnish to a jail upon request; and, after July 1, 2022, requiring all bondsmen to be licensed by the Insurance Commissioner.

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

Eng. Com. Sub. for House Bill 2760, Relating to economic development incentive tax credits.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

Eng. Com. Sub. for House Bill 2793, Permit out of state residents to obtain West Virginia concealed carry permits.

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

Pending discussion,

The question being “Shall Engrossed Committee Substitute for House Bill 2793 pass?”

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips,

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

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2793) passed.

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

Eng. Com. Sub. for House Bill 2793—A Bill to amend and reenact §61-7-4 of the Code of West Virginia, 1931, as amended, relating to permitting nonresidents to obtain state licenses to carry a concealed deadly weapon; requiring application to a county sheriff; establishing a \$100 fee and providing how that fee is to be used; providing that concealed weapons licenses may only be issued for pistols and revolvers; requiring non-residents to meet the same standards as West Virginia residents for licensure; and providing for the issuance of a new license if the resident or nonresident relocates.

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

Eng. Com. Sub. for House Bill 2834, Adding the Curator of the West Virginia Division of Arts, Culture and History as an ex officio voting member of the commission.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2834) passed with its title.

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

Eng. House Bill 2874, Extend the current veteran's business fee waivers to active duty military members and spouses.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2874) passed with its title.

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

Eng. Com. Sub. for House Bill 2890, To clarify the regulatory authority of the Public Service Commission of West Virginia over luxury limousine services.

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

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Grady, Hamilton, Ihlenfeld, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—26.

The nays were: Baldwin, Beach, Caputo, Jeffries, Lindsay, Romano, Stollings, and Unger—8.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2890) passed.

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

Eng. Com. Sub for House Bill 2890—A Bill to amend and reenact §24A-1-2 and §24A-1-3 of the Code of West Virginia, 1931, as amended, all relating to clarifying the authority of the Public Service Commission of West Virginia over luxury limousine services; defining terms; and creating exemption from certain contract and common carrier laws for luxury limousine services.

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

Eng. House Bill 2914, To remove certain ex officio, voting members from the Archives and History Commission and update formatting.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2914) passed with its title.

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

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

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

Eng. House Bill 2969, To clarify the procedures for the sale and operation of a municipally owned toll bridge by a private toll transportation facility.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

The nays were: Karnes, Martin, and Romano—3.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 2969) passed.

At the request of Senator Maynard, as chair of the Committee on Government Organization, and by unanimous consent, the unreported Government Organization committee amendment to the title of the bill was withdrawn.

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

Eng. House Bill 2969—A Bill to amend and reenact §17-16D-6 and §17-16D-10 of the Code of West Virginia, 1931, as amended; to amend and reenact §17-17-10, §17-17-11, §17-17-12, §17-17-21, and §17-17-22; to amend said code by adding thereto a new section, designated §17-17-38; to amend and reenact §17A-2A-7 and §17A-2A-9; and to amend and reenact §24-2-1 of said code, all relating to privately owned toll bridges; providing for the sale of a municipally owned toll bridge to a private toll transportation facility under certain circumstances; defining the term “private toll transportation facility”; authorizing disclosure of certain information in anticipation of litigation; authorizing the retention and collection of tolls on a privately owned toll bridge; clarifying procedures for the electronic collection of tolls by a private toll transportation facility; clarifying the tax treatment of toll bridges sold by a municipality to a private toll transportation facility; providing for the imposition of liability and nonrenewal of vehicle registration for failure to pay tolls on a privately owned toll bridge; clarifying the application of provisions of code to state owned and privately owned toll bridges; clarifying the jurisdiction of the Public Service Commission over toll bridges; and providing that commission does not have jurisdiction over certain telephone companies or municipal power systems.

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

Eng. Com. Sub. for House Bill 3293, Relating to single-sex participation in interscholastic athletic events.

On third reading, coming up in regular order, was reported by the Clerk.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

At the request of Senator Takubo, unanimous consent being granted, the Senate returned to the consideration of

Eng. House Bill 2969, To clarify the procedures for the sale and operation of a municipally owned toll bridge by a private toll transportation facility.

Passed by the Senate in earlier proceedings today,

The bill still being in the possession of the Senate,

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Martin—1.

Absent: Hamilton—1.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 2969) takes effect from passage.

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

Eng. House Bill 3294, Relating to unemployment insurance.

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

On the passage of the bill, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3294) passed.

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

Eng. House Bill 3294—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21A-2D-1, §21A-2D-2, §21A-2D-3, §21A-2D-4, §21A-2D-5, §21A-2D-6, §21A-2D-7, §21A-2D-8, and §21A-2D-9; amending said code by adding thereto a new article designated §21A-6B-1, §21A-6B-2, §21A-6B-3, §21A-6B-4, §21A-6B-5, §21A-6B-6, and §21A-6B-7; all generally relating to unemployment insurance; creating the Unemployment Insurance Program Integrity Act; providing short title; providing definitions; requiring the commissioner, on a weekly basis, to check unemployment insurance rolls against Division of Corrections and Rehabilitation's list of imprisoned individuals, check new hire records against the National Directory of New Hires, and check unemployment insurance rolls against a commercially available database that provides cross-matching functions to verify eligibility for unemployment benefits; providing for data sharing between Workforce West Virginia and other departments, agencies, or divisions; providing for action by bureau to make new eligibility determinations; requiring commissioner to implement internal administrative policies regarding the recovery of fraudulent unemployment overpayments, cooperative agreements with the U.S. Department of Labor to investigate unemployment fraud, and recover overpayments of unemployment benefits; providing a mechanism for an employer to contact Workforce when an employee is offered their job back but refuses to be rehired; reporting of relevant data, to the extent permitted by federal law, by commissioner to the Legislature; providing for rulemaking; providing an effective date; establishing the Short Time Compensation Program within Workforce West Virginia; defining terms; requiring the commissioner to establish and implement a short-time compensation program by July 1, 2023; requiring program to meet applicable federal and state law; providing that an employer that wishes to participate submit an application; requiring the commissioner to develop an employer application form to request approval of a plan and an approval process to participate in the program; establishing requirements for an application; providing procedure for commissioner approval or disapproval of a plan; providing for the effective date of a plan, expiration of a plan, revocation of a plan, and modification of a plan; establishing employee eligibility requirements to receive short-time compensation under a plan; prescribing employee benefits and limitations on benefits; and providing for rulemaking.

Senator Takubo moved that the bill take effect July 1, 2022.

On this question, the yeas were: Azinger, Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—34.

The nays were: None.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. H. B. 3294) takes effect July 1, 2022.

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

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

On third reading, coming up in regular order, with the unreported Finance committee amendment pending, and with the right having been granted on Monday, April 5, 2021, for further amendments to be received on third reading, was reported by the Clerk.

At the request of Senator Takubo, and by unanimous consent, further consideration of the bill was deferred until the conclusion of bills on today's first reading calendar, following consideration of Engrossed Committee Substitute for House Bill 2022 already placed in that position.

The Senate proceeded to the ninth order of business.

Eng. Com. Sub. for House Bill 2002, Relating to Broadband.

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

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

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

CHAPTER 17. ROADS AND HIGHWAY.

ARTICLE 2E. DIG ONCE POLICY.

§17-2E-3. Use of rights-of-way; broadband conduit installation in rights-of-way; permits; agreements; compensation; valuation of compensation; telecommunications facilities construction and installation in rights of way.

~~(a) Before obtaining a permit for the construction or installation of a telecommunications facility in a right-of-way, a telecommunications carrier, must enter into an agreement with the division consistent with the requirements of this article.~~

~~(b) Before granting a permit for longitudinal access or wireless access to a right of way, the division shall:~~

~~(1) First enter into an agreement with a telecommunications carrier, that is competitively neutral and nondiscriminatory as to other telecommunications carriers, and~~

~~(2) Upon receipt of any required approval or concurrence by the Federal Highway Administration the division may issue a permit granting access under this section: *Provided*, That the division shall comply with all applicable federal regulations with respect to approval of an agreement, including, but not limited to, 23 C.F.R. §710.403 and 23 C.F.R. §710.405. The agreement shall be approved by the Commissioner of Highways in order to be effective and, without limitation:~~

~~(A) Specify the terms and conditions for renegotiation of the agreement;~~

~~(B) Set forth the maintenance requirements for each telecommunications facility;~~

~~(C) Be nonexclusive; and~~

~~(D) Be for a term of not more than 30 years;~~

~~(c) Unless specifically provided for in an agreement entered into pursuant to subsection (a) of this section, the division may not grant a property interest in a right-of-way pursuant to this article.~~

~~(d) A telecommunications carrier shall compensate the division for the use of spare conduit or related facilities owned or controlled by the division as part of any longitudinal access or wireless access granted to a right-of-way pursuant to this section. The compensation must be, without limitation:~~

~~(1) At fair market value: *Provided*, That because the social, environmental, and economic benefits from such use of state highway rights-of-way is of overwhelming value to the citizens of this state and is in the overall public interest, the division shall establish the fair market value for purposes of this article at \$0 in monetary compensation;~~

~~(2) Competitively neutral;~~

~~(3) Nondiscriminatory;~~

~~(4) Open to public inspection;~~

~~(5) Determined based on the geographic region of this state, taking into account the population and the impact on private right-of-way users in the region; and once determined, set at an amount that encourages the deployment of digital infrastructure within this state; and~~

~~(6) Paid with in-kind compensation.~~

~~(e) The division may consider adjustments for areas the division, in conjunction with the council, determines are underserved or unserved areas of the state and may consider the value to such areas for economic development, enhancing the transportation system, expanding opportunities for digital learning, and telemedicine.~~

~~(f) For the purpose of determining the amount of in-kind compensation a telecommunications carrier must pay the division for the use of spare conduit or excess conduit or related facilities of the division as part of any longitudinal access or wireless access granted to a right-of-way pursuant to this section, the division may:~~

~~(1) Conduct an analysis once every five years, in accordance with the rules, policies, or guidelines of the division, to determine the fair market value of a right-of-way to which access has been granted pursuant to this section; and~~

~~(2) Determine the fair market value of the in-kind compensation based on the incremental costs for the installation of conduit and related facilities~~

(a) If in-ground construction or installation of a telecommunications facility in rights-of-way owned or controlled by the division serves a public purpose and shall be accommodated as a utility pursuant to federal and state law, the division will receive applications and issue a permit consistent with this section with respect to requirements and conditions for performing work in division rights-of-way.

(b) Upon receipt of a complete application as specified in the Accommodation of Utilities on Highway Right-of-Way and Adjustment and Relocation of Utility Facilities on Highway Projects Policy, or equivalent policy, as may be currently enforced by the division, that specifies the requirements and conditions for performing work in a right-of-way, the division shall, within 60 business days, advise applicant in writing of any deficiencies with the planned project that:

(1) Adversely affect the safety, design, construction, operation, maintenance, or stability of the state road system;

(2) Interfere with or impair the present use or planned future expansion of any affected highway or bridge;

(3) Conflict with applicable division policy with respect to requirements and conditions for performing work in division rights-of-way; or

(4) Violates applicable federal or state law.

(c) An applicant may correct any deficiencies and resubmit the application, which shall be reviewed by the division and either approved or denied within 30 days of the resubmittal. Any denial of a resubmittal shall be in writing and explain any deficiencies as provided in subsection (b) of this section. After the division approves a permit application, notwithstanding any other provision of this code to the contrary, the division shall issue a specific district level construction authorization for the approved project within 10 business days unless specific logistical issues reasonably prevent commencement.

(d) Compliance with applicable environmental laws shall at all times be the responsibility of the applicant. If any environmental clearance must be performed by the division before an application is approved, the division will notify the applicant in writing of all necessary requirements for such clearance within 15 business days of receiving a complete application. The division will also provide a list of all known federal and state entities with whom an applicant may also need to consult and coordinate for environmental clearance purposes.

(e) The division will create and make available for potential applicants an informational notice specific to in-ground telecommunications facility construction and installation that explains routine issues for such projects, including a consolidated checklist or flow chart of all state or federal regulatory requirements, including but not limited to applicable permits, required reviews, required approvals, and required forms. The division shall annually update such informational notice for accuracy and completeness by coordination with each state or federal agency having required regulatory action in the permitting process legal, regulatory, and division requirements and may request the assistance of the Office of Broadband in preparing this informational notice.

~~(g)~~ (f) The provisions of this article shall not apply to the relocation or modification of existing telecommunications facilities in a right-of-way, nor shall these provisions apply to aerial telecommunications facilities or associated apparatus or equipment in a right-of-way. Relocation of telecommunications facilities within rights-of-way for state highways shall be in accordance with the provisions of §17-4-17b of this code.

§17-2E-5. Telecommunications carrier initiated construction and joint use.

(a) Upon application for a permit, ~~the applying telecommunications carrier~~ applicant shall notify, by email, the ~~senate~~ Office of Broadband and all other telecommunications carriers on

record with the ~~council~~ office of the application. Other telecommunications carriers have 15 calendar days to notify the applicant of their interest to share the applicant's trench. This requirement extends to all underground construction technologies.

(b) If no competing telecommunications carrier provides notice of interest to share the applicant's trench within 15 calendar days of notice of the project, the ~~carrier applying for the permit~~ applicant shall ~~affirm that fact to the division prior to being issued a permit~~ provide written certification in accordance with subsection (g) of this section.

(c) If a competing telecommunications carrier provides notice of interest to share the applicant's trench, an agreement between the two (or more) telecommunications carriers shall be executed by those entities within 30 days of the notice of interest, outlining the responsibilities and financial obligations of each, with respect to the installation within the right-of-way. The financial obligations of each carrier shall be based on the proportionate sharing of costs between each carrier for joint trenching or trench sharing based on the amount of conduit or innerduct space or excess conduit that is authorized in the agreements entered into pursuant to this article. If the division uses a trench, it shall also pay its proportional share unless it is utilizing the trench as in-kind payment for use of the right-of-way, or the division has otherwise determined, in its sole discretion, that including the division in the apportionment of costs is not warranted. A copy of the executed agreement shall be provided to the division.

(d) Should a dispute arise between the initial applying telecommunications carrier and a competing telecommunications carrier, including a failure to execute an agreement required by subsection (c) of this section, the dispute shall be adjudicated by the Public Service Commission. All disputes brought to the Public Service Commission under this article shall be adjudicated within 45 days.

(e) If two or more telecommunications carriers are required or authorized to share a single trench, each carrier in the trench must share the cost and benefits of the trench in a fair, reasonable, competitively neutral, and nondiscriminatory manner. This requirement extends to all underground construction technologies.

~~(f) The commissioner of the division shall promulgate rules governing the relationship between the telecommunications carriers, as hereinafter provided in this article~~

~~(g)~~ The provisions of this section do not apply to the following projects:

(1) Projects where the total continuous length of the trench is less than 1,000 feet;

(2) Projects that use the direct bury of cable or wire facilities;

(3) Projects that are solely for the service of entities involved in national security matters or where the disclosure or sharing of a trench location would be against federal policy; or

(4) Projects made available for lease to competing telecommunications carriers on a nondiscriminatory basis at rates established by the rules of the Federal Communications Commission Projects where the telecommunications carrier installs an amount of spare conduit or innerduct equal to what is being installed for its own use and which is given to the Office of Broadband. Such spare conduit or innerduct shall be made available for sale or lease to competing telecommunications carriers on a nondiscriminatory basis at rates apportioned on the basis of the cost of the installation thereof, to other telecommunications providers, and the

revenues derived from such sale, less any costs associated therewith, shall be remitted to the telecommunications carrier that installed such spare conduit or innerduct established by the rules of the Federal Communications Commission in a manner consistent with all applicable state and federal law and regulations. All carriers installing spare conduit or innerduct shall notify the council and the Office of Broadband of the location and capacity of such spare conduit and innerduct upon completion of the project, and the council shall make such information publicly available for competing telecommunications carriers.

(g) The Office of Broadband is responsible for ensuring compliance with this section and will provide the division and the applicant with certification of compliance at such time as the applicant has met all of the requirements of this section.

§17-2E-6. In-kind compensation.

[Repealed].

§17-2E-7. ~~Multiple carriers in a single trench.~~ Use of telecommunications facilities owned or controlled by Division of Highways.

~~(a) If the Division of Highways enters into an agreement with two or more telecommunications carriers, a consortium or other entity whose members, partners or other participants are two or more telecommunications carriers, or, if the Division requires or allows two or more telecommunications carriers to share a single trench, the agreements entered into pursuant to this article shall require that the telecommunications carriers share the obligation of compensating the Division of Highways on a fair, reasonable and equitable basis, taking into consideration the proportionate uses and benefits to be derived by each telecommunications carrier from the trench, conduits, and other telecommunications facilities installed under the agreements.~~

~~(b) The provisions of §17-2E-7(a) of this code do not prevent the Division of Highways from requiring every participating telecommunications carrier to bear joint and several liability for the obligations owed to the Division of Highways under the agreements.~~

~~(c) Any agreement requiring two or more telecommunications carriers to share the obligation of compensating the Division of Highways shall provide the Division the right to review and audit the records and contracts of and among the participating carriers to ensure compliance with §17-2E-7(a) of this code~~

The division may enter into an agreement and issue a permit consistent with the requirements of §17-2E-3 of this code to allow any carrier to use excess telecommunications facilities owned or controlled by the division: *Provided*, That this section shall be subject to the provisions of the Vertical Real Estate Management and Availability Act, as provided for in §31G-5-1 *et seq.* of this code, and no excess telecommunications facilities owned or controlled by the division subject to §31G-5-1 *et seq.* of this code shall be governed by the provisions of this section.

§17-2E-8. Existing policies. Disposal of in-kind compensation; excess telecommunications facilities.

~~(a) The requirements set forth in this article do not alter existing rules, policies, and procedures relating to other utility facilities within a right-of-way or for accommodating utility facilities or other facilities under the control of the Division of Highways.~~

~~(b) The Division of Highways may consider the financial and technical qualifications of a telecommunications carrier when determining specific insurance requirements for contractors authorized to enter a right of way to construct, install, inspect, test, maintain, or repair telecommunications facilities with longitudinal access or wireless access to the right of way.~~

~~(c) If the Division of Highways authorizes longitudinal access, wireless access, or the use of, and access to, conduit or related facilities of the Division for construction and installation of a telecommunications facility, the Division may require an approved telecommunications carrier to install the telecommunications facility in the same general location as similar facilities already in place, coordinate their planning and work with other contractors performing work in the same geographic area, install in a joint trench when two or more telecommunications carriers are performing installations at the same time and equitably share costs between such carriers.~~

~~(d) The placement, installation, maintenance, repair, use, operation, replacement, and removal of telecommunications facilities with longitudinal access or wireless access to a right of way or that use or access conduit or related facilities of the Division shall be accommodated only when in compliance with this code and Division of Highways rules, policies and guidelines.~~

~~(e) Access to a right of way must be administered in compliance with the Telecommunications Act of 1996, 47 U.S.C. §151, et seq., as amended~~

Upon written approval of the Governor, the division may transfer or assign the ownership, control, or any rights related to any excess telecommunications facilities owned or controlled by the division to any other state agency.

§17-2E-9. Rule-making authority.

~~The Commissioner of the Division of Highways may promulgate rules pursuant to the provisions of §29A-3-15 of this code as may be necessary to carry out the purpose of this article, and as may have been specifically delineated within this article~~

The commissioner of the division may promulgate rules pursuant to the provisions of §29A-3-1 et seq. of this code as may be necessary to carry out the purpose of this article.

CHAPTER 31G. BROADBAND ENHANCEMENT AND EXPANSION POLICIES.

ARTICLE 1. BROADBAND ENHANCEMENT COUNCIL.

§31G-1-4. Powers and duties of the council generally.

(a) The council shall

(1) Explore any and all ways to expand access to broadband services, including, but not limited to, middle mile, last mile and wireless applications;

(2) Gather data regarding the various speeds provided to consumers in comparison to what is advertised. The council may request the assistance of the Legislative Auditor in gathering this data;

(3) Explore the potential for increased use of broadband service for the purposes of education, career readiness, workforce preparation and alternative career training;

(4) Explore ways for encouraging state and municipal agencies to expand the development and use of broadband services for the purpose of better serving the public, including audio and video streaming, voice-over Internet protocol, teleconferencing and wireless networking; ~~and~~

(5) Cooperate and assist in the expansion of electronic instruction and distance education services; and

(6) Explore ways to achieve digital equality of opportunity throughout the state, which is a condition where all individuals and communities have the information technology capacity needed for full participation in our society, democracy and economy.

(b) In addition to the powers set forth elsewhere in this article, the council is hereby granted ~~has and may exercise the powers~~ authority ~~necessary or appropriate to carry out and effectuate the purpose and intent of this article, as to:~~ The council shall have the power and capacity to

~~(1) Provide consultation services to project sponsors in connection with the planning, acquisition, improvement, construction or development of any broadband deployment project~~

~~(2)~~ (1) Promote awareness of public facilities that have community broadband access that can be used for distance education and workforce development;

~~(3)~~ (2) Advise on deployment of e-government portals such that all public bodies and political subdivisions have homepages, encourage one-stop government access and that all public entities stream audio and video of all public meetings;

~~(4)~~ (3) Make and execute contracts, commitments and other agreements necessary or convenient for the exercise of its powers, including, but not limited to, the hiring of consultants to perform the duties of the council ~~assist in the mapping of the state and categorization of areas within the state;~~

~~(5)~~ (4) Acquire by gift or purchase, hold, or dispose of real property and personal property in the exercise of its powers and performance of its duties as set forth in this article; and

~~(4)~~ (5) Receive and dispense funds appropriated for its use by the Legislature ~~or other funding sources or solicit, apply for and receive any funds, property or services from any person, governmental agency or organization~~ to carry out its statutory duties.

~~(7) to oversee the use of conduit installed pursuant to section two of article three of this chapter; and to~~

~~(8) Perform any and all other activities in furtherance of its purpose~~

(c) The council shall ~~exercise its powers and authority to~~ advise and make recommendations to the Legislature Office of Broadband, and shall coordinate with the office on bringing broadband service to unserved and underserved areas, as well as to propose statutory changes that may enhance and expand broadband in the state.

(d) The council shall report to the Secretary of Economic Development ~~Joint Committee on Government and Finance~~ on or before January ~~December~~ 1 of each year. The report shall include the action that was taken by the council during the previous year in carrying out the provisions of

this article. The council shall also make any other reports as may be required by the Legislature or the Governor.

§31G-1-6. Mapping of areas within state.

[Repealed]

§31G-1-9. Collection of data.

[Repealed]

§31G-1-12. Grants.

[Repealed]

ARTICLE 1A. OFFICE OF BROADBAND.

§31G-1A-1. Office of Broadband; Director of Office.

There is hereby established an Office of Broadband, which shall be organized within the Department of Economic Development under the authority of the Secretary of Economic Development. The Office of Broadband shall be managed by a director, who shall report to the Secretary of Economic Development. The Office of Broadband shall also report to the Joint Committee on Government and Finance of the West Virginia Legislature on or before December 30 of each year.

§31G-1A-2. Powers and duties of the Office of Broadband generally.

(a) The Office of Broadband shall have the following duties:

(1) Explore any and all ways to expand access to broadband services, including, but not limited to, middle mile, last mile, and wireless applications;

(2) Gather data regarding the various speeds provided to consumers in comparison to what is advertised. The office may request the assistance of the Legislative Auditor in gathering this data;

(3) Cooperate and assist in the expansion of electronic instruction and distance education services;

(4) Gather and report data regarding the adoption by broadband services, by speed, and by community, separately for residential and non-residential consumers;

(5) Gather and report data regarding prices charged for broadband services to residential and non-residential consumers, including, but not limited to one-time fees, monthly fees, termination fees, equipment fees, and other fees;

(6) Incorporate the goal of digital equality in its fulfillment of responsibilities, which is a condition where all individuals and communities have the information technology capacity needed for full participation in our society, democracy, and economy; and

(7) Provide for the increased public awareness of issues concerning broadband services.

(b) In addition to the powers set forth elsewhere in this article, the Office of Broadband is hereby granted the authority necessary and appropriate to carry out and effectuate the purpose and intent of this article, including, but not limited to, the authority to:

(1) Make and execute contracts, commitments, and other agreements necessary or convenient for the exercise of its powers, including, but not limited to, the hiring of consultants to assist in the mapping of the state and categorization of areas within the state;

(2) Acquire by gift or purchase, hold, or dispose of real or personal property in the exercise of its powers and performance of its duties as set forth in this article;

(3) Receive and dispense funds appropriated for its use by the Legislature or other funding sources or solicit, apply for, and receive any funds, property, or services from any person, governmental agency, or organization to carry out its statutory duties;

(4) To oversee the use of conduit installed pursuant to §31G-3-2 of this code;

(5) Make recommendations to the Legislature on bringing broadband service to areas of the state;

(6) Contract with and retain outside expert consultants to assist in the purposes of this article;

(7) Create guidelines for, and recommend to the Legislature, a means of implementing a voluntary donation program to allow for pipeline, railroad, and other similar structures and rights-of-way in the state to be donated to the state for use by public or private entities to facilitate broadband service and availability through placement of fiber;

(8) Create guidelines for, and recommend to the Legislature, a means of implementing a program to allow for an easement program to be established to allow public or private entities to facilitate broadband service and availability through placement of fiber;

(9) Coordinate with the Consumer Protection Division of the Office of the Attorney General to provide for the following consumer protections:

(A) If a broadband service to a subscriber is interrupted for more than 24 continuous hours, such subscriber shall, upon request, receive a credit or refund from the broadband operator in an amount that represents the proportionate share of such service not received in a billing period, provided such interruption is not caused by the subscriber;

(B) A broadband operator may not deny service, deny access, or otherwise discriminate against subscribers, channel users, or any other citizens on the basis of age, race, religion, sex, physical handicap, political affiliation, political views, or exercise of other speech protected by the 1st Amendment to the United States Constitution, or country of natural origin;

(C) A broadband operator shall provide subscribers 30 days advance written notice of any changes to rates or charges, including the expiration of any promotion or special pricing that would result in an increase in the subscribers billing or cost of service; and

(D) A broadband operator shall inform subscribers and provide written notice to subscribers that disputes regarding interrupted or substandard service or billing issues, which are unresolved to satisfaction of the subscriber; and

(10) Perform any and all other activities in furtherance of the purposes of this article.

(c) In furtherance of the purposes of this article, the Office of Broadband is permitted to seek non-state funding and grants. The Office of Broadband may utilize funding and grants to support the responsibilities, initiatives, and projects set forth in this article. The Office of Broadband may additionally disburse such moneys to fund projects and initiatives in furtherance of the enhancement and expansion of broadband services in this state, and the other purposes of this article.

§31G-1A-3. Mapping of areas within state.

(a) Based on its analysis of data, broadband demand, and other relevant information, the Office of Broadband shall establish a mapping of broadband services in the state. The council shall publish an annual assessment and map of the status of broadband, including specific designations of unserved areas of the state. With respect to unserved areas of the state, the Office of Broadband shall, to the extent it is able, map project areas with funding provided by public entities. For the purposes of this section, the term "unserved area" means an area lacking broadband internet service from at least one terrestrial broadband internet service provider offering all of the following in at least one service plan to residential consumers: (1) an actual downstream data rate of at least 25 megabits per second; and (2) an actual upstream data rate of at least three megabits per second; and (3) unlimited data usage without overage charges; and (4) unlimited data usage without "throttling" or reduction of downstream or upstream data rate due, in whole or in part, to the amount of data transferred in any period.

(b) To the extent possible, and subject to limitations contained in subsection (g) of this section, the Office of Broadband shall additionally establish an interactive public map reflecting estimated or actual downstream data rate and upstream data rate in a particular region, area, community, street or location. Any such mapping may only specify data rates at a particular street address or physical location, and shall not make public the IP address or the name of the specific individual at such location. This map shall be known as the West Virginia Broadband Availability Map.

(c) To the extent possible, and subject to limitations contained in subsection (g) of this section, the Office of Broadband shall additionally establish an interactive public map reflecting the adoption of broadband services, separately by estimated or actual downstream data rate and upstream data rates, in a particular region, area, community, street or location. Any such mapping shall provide data separately for residential connections and non-residential connections. This map shall be known as the West Virginia Broadband Adoption Map.

(d) The mapping provided for in this section may be based on information collected or received by the Broadband Council and Office of Broadband, including, but not limited to, data collected from:

(1) State and federal agencies or entities that collect data on broadband services;

(2) Industry provided information;

(3) Consumer data provided to the Broadband Council or Office of Broadband pursuant to §31G-1A-6 and §31G-1A-9 of this code; and

(4) Other data sources procured by or provided to the Office of Broadband or the Broadband Council.

(e) Any entity that has received or hereinafter receives state or federal moneys, and which has used those moneys to install infrastructure used for broadband services, shall furnish detailed information concerning the location, type, and extent of such infrastructure to the Office of Broadband for use in mapping and shall furnish the location, type, and prices of any broadband services subscribed to by residential (and separately non-residential) consumers as a result of the installed infrastructure.

(f) The mapping and designations provided for under this section may be revised on a continuing basis by the office as warranted by the data and information provided.

(g) In addition to the provisions of §31G-1A-13 of this code, the mapping of broadband services may exclude from public accessibility and availability:

(1) The location or identity of any critical infrastructure used by public or private entities in furtherance of their internet services;

(2) Personal name and personal IP addresses connected with particular data rates; and

(3) Information designated as confidential for public security reasons by either state or federal homeland security agencies: *Provided*, That it shall be duty of the public and private entities to make the Office of Broadband aware of such confidential designation: *Provided, however*, That unless the Office of Broadband determines good cause exists, the actual or estimated upstream and downstream data rates of an area or region of the state shall not be excluded from public or private availability.

(h) All executive agencies which have permitting and/or regulatory approval authority over any project permitted or reviewed and approved pursuant to §17-2E-3 of this code shall cooperate with and provide all necessary information to the Office of Broadband to determine the feasibility and federal allowability of creating Advanced Regulatory Environment Analysis (AREA) maps. AREA maps will pre-survey likely routes for middle-mile infrastructure so all relevant information can be included in a centralized GIS mapping system to be maintained by the Office of Broadband for utilization by the private sector when extending new fiber infrastructure pursuant to §17-2E-1 *et seq.* of this code. AREA mapping shall also include, but is not limited to, any areas already granted Finding of No Significant Impact ("FONSI"), categorical exclusions ("CATEX"), areas prior approved by the West Virginia State Historic Preservation Office ("SHPO"), and all West Virginia Division of Highways mapping for permits that include installation of infrastructure.

(i) If in analyzing the consumer-supplied speed data for an area of two square miles or more, the Office of Broadband finds that speeds supplied by a provider are less than 80% of the lowest speed tier advertised by the provider in more than 40% of the tests in that area in a calendar year, then the Office of Broadband shall notify the Consumer Protection Division of the Attorney General's Office, and shall transmit such records of any relevant speed tests in their custody to the Consumer Protection Division of the Attorney General's Office.

§31G-1A-4. Collection of data.

(a) In order to ascertain, categorize, analyze, map, and update the status of broadband in the state, as well as to enable the Office of Broadband to make informed policy and legislative recommendations, the Office of Broadband may establish a voluntary data collection program. The program may include voluntarily submitted data from internet service providers, including any home or region data rate meters utilized by the provider. The program may also utilize and collect voluntarily submitted data rate information submitted by any person reflecting the person's

personal data rate at a particular IP address. This personal data rate may be based upon a web-based test or analysis program.

(b) Any and all data collected by the Office of Broadband shall not be deemed public information and is not subject to public release or availability pursuant to §29B-1-1 *et seq.* of this code.

(c) Any data collection program established by the Office of Broadband shall:

(1) Make clear to those providers or persons submitting information that the data rate speed may become public, including specific reference to the person's physical address;

(2) Make clear this is a voluntary data collection program and that submission of information shall be deemed consent to use and make public such data rate information; and

(3) Not include any person's personal web history or search information, or otherwise publicly identify the person's name in connection with an IP address or physical address.

(d) The Office of Broadband may establish guidelines and additional rules governing a data collection program through the legislative rulemaking pursuant to the provisions of §29A-3-1 *et seq.* of this code.

§31G-1A-5. Protection of proprietary business information.

(a) Broadband deployment information provided to the Office of Broadband or its consultants and other agents, including, but not limited to, physical plant locations, subscriber levels, and market penetration data, constitutes proprietary business information and, along with any other information that constitutes trade secrets, shall be exempt from disclosure under the provisions of §29B-1-1 *et seq.* of this code: *Provided*, That the information is identified as or would reasonably be contemplated to be confidential information when submitted to the Office of Broadband.

(b) Trade secrets or proprietary business information obtained by the council or the Office of Broadband from broadband providers and other persons or entities shall be secured and safeguarded by the state. Such information or data shall not be disclosed to the public or to any firm, individual, or agency other than officials or authorized persons of the state.

(c) The official charged with securing and safeguarding trade secrets and proprietary data for the Office of Broadband is the Secretary of Economic Development, who is authorized to establish and administer appropriate security measures.

§31G-1A-6. Legislative rule-making authority.

In order to implement and carry out the intent of this article, the Secretary of the Department of Economic Development may propose rules for legislative approval pursuant to the provisions of §29A-3-1 *et seq.* of this code.

ARTICLE 3. CONDUIT INSTALLATION; MICROTRENCHING.

§31G-3-3. Conduit installation or fiber installation by counites, municipalities, and other political subdivisions.

(a) Notwithstanding any other provision of this code to the contrary, any county, municipality, or other political subdivision of the State of West Virginia may:

(1) Install or contract with any entity for the installation of conduit, fiber, or broadband facilities throughout that political subdivision;

(2) Partner with any of the following entities, or any combination thereof, to install such conduit or communications facilities throughout that political subdivision:

(A) Nonprofit organization;

(B) Cooperative association;

(C) Another county, municipality, or political subdivision;

(D) Private corporations, company, or person; or

(E) Public-private partnership; and

(4) Partner with any of the following entities, or any combination thereof, which operate a network operations center, to operate a fiber network: *Provided*, That a political subdivision may operate a network for their own use:

(A) Nonprofit organization;

(B) Cooperative association;

(C) Another county, municipality, or political subdivision;

(D) Private corporations, company, or person; or

(E) Public-private partnership.

§31G-3-4. Compatible use.

(a) A broadband operator shall be authorized to construct or operate a broadband system:

(1) Over public rights-of-way; and

(2) Through easements, which are within the area to be served by the broadband system and which have been dedicated for compatible uses.

(b) In installing, operating, and maintaining facilities, the broadband operator shall avoid all unnecessary damage and injury to any trees, structures, and improvements in and along the routes utilized for the system.

(c) The broadband operator shall indemnify and hold the state, county and municipality harmless at all times from any and all claims for injury and damage to persons or property, both real and personal, caused by the installation, operation, or maintenance of its broadband system, notwithstanding any negligence on the part of the state, county, and/or municipality, their employees, or agents. Upon receipt of notice in writing from the state, county, and/or municipality, the broadband operator shall, at its own expense, defend any action or proceeding against the

state, county and/or municipality in which it is claimed that personal injury or property damage was caused by activities of the broadband operator in the installation, operation or maintenance of its broadband system.

(d) The use of public highways and other public places shall be subject to:

(1) All applicable state statutes, municipal ordinances and all applicable rules governing the construction, maintenance, and removal of overhead and underground facilities of public utilities;

(2) For county highways, all applicable rules adopted by the governing body of the county in which the county highways are situated;

(3) For state or federal-aid highways, all public welfare rules adopted by the secretary of the Department of Transportation; and

(4) With respect to the use of any public highway that crosses the trackway of any railroad, nothing in this article shall be construed to provide for any greater or any lesser compliance with any safety policy or procedure established by the railroad with respect to the construction of utility crossings across the railroad's trackway that is applicable to any other similarly situated utility, whether utilizing aerial or buried lines.

(e) In the use of easements dedicated for compatible uses, the broadband operator shall ensure:

(1) That the safety, functioning, and appearance of the property and the convenience and safety of other persons is not adversely affected by the installation or construction of facilities necessary for a broadband system; and

(2) That the owner of the property is justly compensated by the broadband operator for any damages caused by the installation, construction, operation, or removal of facilities by the broadband operator.

(f) An "easement dedicated for compatible uses" is a public or private easement for electric, gas, telephone, or other utility transmission

ARTICLE 4. MAKE-READY POLE ACCESS.

§31G-4-1. Definitions.

As used in this article, the following terms are defined as follows:

(1) "Applicable codes" means uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization, including, but not limited to, the National Electrical Safety Code, or any local amendments to those codes: *Provided*, That notwithstanding any other provisions of said applicable codes, the Code of West Virginia, or the West Virginia Code of State Rules, variances for the installation and maintenance of broadband service infrastructure on utility poles shall be permitted if these are agreed upon between infrastructure owners.

~~(1)~~ (2) “Attacher” means any person, corporation, or other entity, or the agents or contractors of such seeking to permanently or temporarily fasten or affix any type of equipment, antenna, line, or facility of any kind to a utility pole in the right of way or its adjacent ground space.

~~(2)~~ (3) “Attachment Application” means the application made by an Attacher to a Pole Owner for attachment of equipment, antenna, line or facility of any kind to a utility pole. It shall include:

(A) Proof of insurance; or

(B) An indemnification agreement prepared by the Pole Owner.

~~(3)~~ (4) “Make Ready Costs” means the costs incurred by an Attacher associated with the transfer of the facilities, antenna, lines, or equipment of a Pre-Existing Third Party User, undertaken by an Attacher to enable attachment to the utility pole or similar structure. Make-Ready Costs that are to be paid by an Attacher include, without limitation, all costs and expenses to relocate or alter the attachments or facilities of any Pre-Existing Third Party User as may be necessary to accommodate an Attacher’s attachment.

~~(4)~~ (5) “Pole Owner” means a person, corporation or entity having ownership of a pole or similar structure in the right of way to which utilities, including without limitation, electric and communications facilities, are located or may be located whether such ownership is in fee simple or by franchise.

~~(5)~~ (6) “Pre-Existing Third Party User” means the owner of any currently operating facilities, antenna, lines or equipment on a pole or its adjacent ground space in the right of way.

§31G-4-2. Attachment to third party facilities.

(a) Upon approval of an Attachment Application, an Attacher may relocate or alter the attachments or facilities of any Pre-Existing Third Party User as may be necessary to accommodate an Attacher’s attachment using Pole Owner approved contractors; provided, however, that an Attacher will not effectuate a relocation or alteration of a Pre-Existing Third Party User’s facilities that causes or would reasonably be expected to cause a customer outage without first providing 45 days prior written notice to the Pre-Existing Third Party User, in order to permit the Pre-Existing Third Party User to relocate its facilities on its own.

(b) In the event the Pre-Existing Third Party Users of such other facilities fail to transfer or rearrange their facilities within ~~forty-five~~ 45 days from receipt of notice of relocation or alteration of a Pre-Existing Third Party User’s facilities that causes or would reasonably be expected to cause a customer outage, an Attacher may undertake such work.

(c) Within 30 days of the completion of any relocation or alteration, an Attacher shall send notice of the move and as-built reports to the Pre-Existing Third Party User and the owner of all poles or other structures on which such relocations or alterations were made. The as-built reports shall include a unique field label identifier, and an address or coordinates.

(d) Upon receipt of the as-built reports, the Pre-Existing Third Party User and pole or structure owner(s) may conduct an inspection within 14 days at an Attacher’s expense. An Attacher shall pay the actual, reasonable, and documented expenses incurred by the Pre-Existing Third Party User and pole or structure owner for the inspection. If any such relocation or alteration results in the facilities of the Pre-Existing Third Party User on the pole or other structure failing to conform

with the applicable safety Pole Owner's standards, the Pre-Existing Third Party User shall, within seven days of the inspection, notify an Attacher of such failure to conform.

(e) In a notice, the Pre-Existing Third Party User may elect to either:

(1) Perform the correction itself and bill the Attacher for the actual, reasonable and documented costs of the correction, or

(2) Instruct the Attacher to correct such conditions at Attacher's expense. Any post-inspection corrections performed by the Attacher must be completed within 30 days of such notification.

(f) As a condition of exercising the ability to relocate, rearrange, or alter a Pre-Existing Third Party User's facilities pursuant to this section, an Attacher shall indemnify, defend and hold harmless the owner or owners of all poles or other structures on which such relocation, rearrangement or alteration takes place, the affiliates of such owner or owners, and the officers, directors and employees of such owner or owners and their affiliates, each being deemed an Indemnitee, from and against all third party damage, loss, claim, demand, suit, liability, penalty or forfeiture of every kind and nature, including, but not limited to, costs and expenses of defending against the same, payment of any settlement or judgment therefor and reasonable attorney's fees, that are actually and reasonably incurred by an Indemnitee, by reason of any claim by an affected Pre-Existing Third Party User or any person or entity claiming through such Pre-Existing Third Party User arising from such relocation, rearrangement or alteration.

(g) All work performed must be in accordance with applicable codes, as defined in section one of this article, including, but not limited to, the National Electrical Safety Code ~~and other generally accepted safety codes~~; Provided, That the variances to applicable codes and to private agreements as set forth in §31G-6-1 of this code shall apply to this section.

(h) In the event an ILEC accepts payment for make-ready work, and fails to perform that work within 45 days, the ILEC which has been paid and which has failed to perform the work, shall immediately return and refund the moneys paid for that work which was not completed. Failure to return those funds within 14 calendar days shall be cause for a fine, payable to the Public Service Commission, equal to the amount of the payment and a cause of action in circuit court for return of the payment and is subject to treble damages, reasonable attorney's fees, and any applicable court costs. Good-cause and good-faith efforts to have performed the work shall be a defense against the imposition of any fine: Provided, That the provisions of this subsection shall not apply to any make-ready work where a pole replacement is necessary.

§31G-4-4. Public Service Commission jurisdiction; rulemaking; enforcement.

(a) The Public Service Commission shall possess and exercise regulatory jurisdiction over the provisions of this article. The commission shall administer and adjudicate disputes relating to the issues and procedures provided for under this article.

(b) The commission shall adopt the rates, terms, and conditions of access to and use of poles, ducts, conduits, and rights-of-way as provided in 47 U.S.C. § 224 and 47 C.F.R. § 1.1401 – 1.1415, inclusive, of the dispute resolution process incorporated by reference in those regulations and any subsequent modifications or additions to the provisions of the United States Code or Code of Federal Regulations provisions referenced herein.

(c) The commission shall certify to the Federal Communications Commission that this state, as evidenced by the enactment of this article, hereby exercises jurisdiction over the regulation of pole attachments. The certification shall include notice that the State of West Virginia hereby:

(1) Regulates the rates, terms, and conditions related to pole attachments; and

(2) In so regulating such rates, terms, and conditions, the state has the authority to consider and does consider the interests of the subscribers of the services offered via such attachments, as well as the interests of the consumers of the services.

(d) (1) Notwithstanding subsection (b), the commission shall promulgate rules to address abandoned cable, conductor, and related facilities attached to utility poles. The rules shall include provisions that:

(A) Provide for the pole owner to fully recover from the owner of the attachment the costs incurred by the pole owner for the removal and disposal of abandoned cable, conductors, and related facilities;

(B) Address situations where the pole owner is unable to receive full recovery of its removal and disposal costs from the owner of the attachment by instead receiving recovery of its net unrecovered costs from its jurisdictional customers, including other Attachers, in such manner as the commission determines is just and reasonable; and

(C) Allow the pole owner to book or defer these net costs on its accounting books and request recovery to the commission outside of a base rate case proceeding through a surcharge or other rate recovery mechanism.

(2) Any pole owner, after making reasonable efforts to require the attachment owner to remove abandoned facilities, that proceeds to remove what the pole owner reasonably believes is abandoned cable, conductor, and related facilities, shall be released and held harmless from liability from claims or any related losses claimed by the Attacher or others for the pole owner's removal work, including any loss of property value, potential business value, salvage value, or any other value of such cable, conductor, and related facilities.

(e) Notwithstanding subsection (b), the commission shall promulgate rules to govern the timely transfer of facilities from an old pole to a new pole and the removal of utility poles that have had electric facilities moved to new poles but continue to have other facilities attached in the telecommunications space on the old existing poles. Should the attached facilities not be transferred in a timely manner from the old pole to the new pole by the owner of the attachments, as determined by the commission, the rules shall address this matter and include the right and mechanism of the pole owner itself to transfer the facilities to the new pole, to remove the old pole, and to recover its costs fully and timely from the owner of the facilities transferred. Any pole owner who transfers facilities from an old pole to a new pole, after reasonable due diligence, shall be released and held harmless from liability for its transfer work, except for acts of negligence or willful misconduct.

ARTICLE 6. PRE-EMPTION OF CONFLICTING LOCAL ORDINANCES AND PRIVATE RESTRICTIONS

§31G-6-1. Pre-emption in favor of broadband services; construction of language in agreements.

(a) Notwithstanding any other provision of the West Virginia Code or the West Virginia Code of State Rules to the contrary, any ordinance of any political subdivision relating to broadband service is hereby pre-empted to the extent necessary in favor of such broadband installation.

(b) No corporate policy, organizational policy, institutional policy, agreement, contract, or other like document, including the rules and regulations of any Home Owners Association, or any similar entity or organization, promulgated or made effective after the effective date of this section, may regulate or prevent the exterior installation of antennas and equipment necessary to or typically utilized for broadband deployment and the terms of any such document shall be strictly construed in favor of encouraging and assisting broadband installation and deployment.

§31G-6-2. Pre-emption in favor of broadband service in pole attachments; construction of language in pole attachment agreements.

(a) Notwithstanding any other provision of the West Virginia Code or the West Virginia Code of State Rules to the contrary, any ordinance of any political subdivision regarding pole attachment spacing, positioning, or order by or between any Investor Owned Utility ("IOU") and any Incumbent Local Exchange Carrier ("ILEC") and/or Competitive Local Exchange Carrier ("CLEC") which would seek to provide broadband service, is hereby pre-empted to the extent necessary in favor of such broadband installation or deployment.

(b) Any corporate policy, individual agreement, organizational policy, contract, or like document relating to pole attachment spacing, positioning, or order by or between any Investor Owned Utility ("IOU") and any Incumbent Local Exchange Carrier ("ILEC") and/or Competitive Local Exchange Carrier ("CLEC") shall be strictly construed in favor of encouraging and assisting broadband installation and deployment.

On motion of Senator Maynard, the following amendments to the Government Organization committee amendment to the bill (Eng. Com. Sub. for H. B. 2002) were reported by the Clerk, considered simultaneously, and adopted:

On page eleven, section one, lines four through six, by striking out the words "The Office of Broadband shall also report to the Joint Committee on Government and Finance of the West Virginia Legislature on or before December 30 of each year.";

On page twelve, section two, line sixteen, following the word "economy;", by striking out the word "and";

One page twelve, section two, line seventeen, by striking out the period and inserting in lieu thereof a semicolon and the word "and";

One page twelve, section two, after line seventeen, by inserting a new subdivision, designated subdivision (8), to read as follows:

(8) Report to the Joint Committee on Government and Finance of the West Virginia Legislature on or before December 30 of each year.;

And,

On page twenty, section four, lines twenty-three and twenty-four, by striking out the words "secretary of the Department of Transportation" and inserting in lieu thereof the words "Commissioner of the Division of Highways".

On motion of Senator Plymale, the following amendment to the Government Organization committee amendment to the bill (Eng. Com. Sub. for H. B. 2002) was next reported by the Clerk:

On page eighteen, section six, after line three by inserting a new section, designated section seven, to read as follows:

§31G-1A-7. Creation and Administration of Broadband Funds.

(a) There is hereby created in the State Treasury a fund known as the Broadband Open Access Middle Mile Fund. The fund shall be administered by and under the control of the Office of Broadband. Expenditures from the fund shall be for the purposes set forth in this section and are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article two, chapter eleven-b of this code.

(1) The fund shall consist of moneys appropriated by the Legislature. The amount appropriated shall be transferred to the fund to be used solely for the purposes provided by this section.

(2) Expenditures from the fund shall be for the purposes of constructing open access middle mile fiber broadband to unserved and unfunded areas on the broadband availability map as so designated by the Office of Broadband and pursuant to this code.

(b) There is hereby created in the State Treasury a fund known as the Broadband Grant Matching Fund. The fund shall be administered by and under the control of the Office of Broadband. Expenditures from the fund shall be for the purposes set forth in this section and are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article two, chapter eleven-b of this code.

(1) The fund shall consist of moneys appropriated by the Legislature. The amount appropriated shall be transferred to the fund to be used solely for the purposes provided by this section.

(2) Expenditures from the fund shall be for the purposes of facilitating broadband projects which require up to a 50% match from sources other than the primary grantor and which extends or improves broadband access in this state. No expenditures shall be made from this fund until and unless satisfactory documentation of financial need is provided to the office and approved by the director: *Provided*, That but for this assistance, the grantee would be unable to be awarded or benefited by a grant.

(c) There is hereby created in the State Treasury a fund known as the Wired Wonderful West Virginia Fund. The fund shall be administered by and under the control of the Office of Broadband. Expenditures from the fund shall be for the purposes set forth in this section and are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article two, chapter eleven-b of this code.

(1) The fund shall consist of moneys appropriated by the Legislature. The amount appropriated shall be transferred to the fund to be used solely for the purposes provided by this section.

(2) Expenditures from the fund shall be for the purposes of establishing a pilot program for open-access last mile broadband internet service wherein internet service is provided on common infrastructure.

(3) Eligible recipients of disbursements from this fund must have an articulable nexus to healthcare, education, and a private sector network operator and must construct an open-access network which allows for multiple internet service providers to competitively offer their services upon this common middle and last mile infrastructure.

(d) There is hereby created in the State Treasury a fund known as the Broadband Provider Expansion Fund. The fund shall be administered by and under the control of the Office of Broadband. Expenditures from the fund shall be for the purposes set forth in this section and are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article two, chapter eleven-b of this code.

(1) The fund shall consist of moneys appropriated by the Legislature. The amount appropriated shall be transferred to the fund to be used solely for the purposes provided by this section.

(2) Expenditures from the fund shall be for the purposes of supporting existing broadband providers to extend their last mile networks within unserved and unfunded areas as indicated on the broadband availability map as so designated by Office of Broadband and pursuant to this code. The following amounts shall be made available to broadband providers, not receiving any other financial support in the eligible area, to provide service to unserved and unfunded areas after the provider demonstrates to the director that they have completed the necessary infrastructure build to serve a home or business premises including verifiable speed test data with GPS coordinates and a signed affidavit indicating under criminal penalties that to the best of the provider's knowledge no other terrestrial broadband service was available to the premises at the time of installation:

(A) A provider shall receive \$2,000 per premises for completing infrastructure installation to a residence or business with

(i) an actual downstream data rate of 1,000 megabits per second; and

(ii) an actual upstream data rate of 50 megabits per second; and

(iii) unlimited data usage without overage charges; and

(iv) unlimited data usage without "throttling" or reduction of downstream or upstream data rate due, in whole or in part, to the amount of data transferred in any period; or

(B) A provider shall receive \$500 per premises for completing infrastructure installation to a residence or business with a terrestrial wired or fixed wireless connection with

(i) an actual downstream data rate of 25 megabits per second; and

(ii) an actual upstream data rate of three megabits per second; and

(iii) unlimited data usage without overage charges; and

(iv) unlimited data usage without “throttling” or reduction of downstream or upstream data rate due, in whole or in part, to the amount of data transferred in any period.

(3) Disbursements from this fund shall be made available on a first-come, first-served basis and shall be expended and made available to providers until the fund is depleted. Upon additional legislative appropriation into this fund, disbursements shall be disbursed again in like fashion until the fund is depleted.

Following discussion,

The question being on the adoption of Senator Plymale’s amendment to the bill, and on this question, Senator Woelfel demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Caputo, Hamilton, Ihlenfeld, Jeffries, Lindsay, Maroney, Nelson, Plymale, Romano, Stollings, Stover, Unger, Woelfel, and Blair (Mr. President)—16.

The nays were: Azinger, Boley, Clements, Grady, Karnes, Martin, Maynard, Phillips, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, and Woodrum—18.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Plymale’s amendment to the bill rejected.

On motion of Senator Ihlenfeld, the following amendment to the Government Organization committee amendment to the bill (Eng. Com. Sub. for H. B. 2002) was next reported by the Clerk:

On pages thirteen and fourteen, section two, by striking out all of subdivision (9) and inserting in lieu thereof a new subdivision (9) to read as follows:

(9) Coordinate with the Consumer Protection Division of the Office of the Attorney General to provide for the following consumer protections:

(A) If a broadband service to a subscriber is interrupted for more than 24 continuous hours, such subscriber shall, upon request, receive a credit or refund from the broadband operator in an amount that represents the proportionate share of such service not received in a billing period, provided such interruption is not caused by the subscriber;

(B) A broadband operator may not deny service, deny access, or otherwise discriminate against subscribers, channel users, or any other citizens on the basis of age, race, religion, sex, physical handicap, political affiliation, political views, or exercise of other speech protected by the 1st Amendment to the United States Constitution, or country of natural origin;

(C) A broadband operator shall provide subscribers 30 days advance written notice of any changes to rates or charges, including the expiration of any promotion or special pricing that would result in an increase in the subscribers billing or cost of service;

(D) A broadband operator shall inform subscribers and provide written notice to subscribers that disputes regarding interrupted or substandard service or billing issues, which are unresolved to satisfaction of the subscriber;

(E) Repeated and consistent interrupted or substandard service issues by a broadband operator constitutes an unfair or deceptive act or practice and the subscriber can recover actual damages, or, not less than \$100 nor more than \$500; and

(F) A broadband operator may not advertise or include as a contractual term the downstream data rate or upstream data rate in terms of the maximum anticipated data rate or as an “up to” speed. Any advertisement or contractual term by a broadband operator relating to downstream data rate or upstream data rate shall specify the minimum data rate to be provided as part of the service. Violations of this paragraph or consistent and repeated substandard service constitute an unfair or deceptive act or practice which may be investigated by the Consumer Protection Division of the Office of the Attorney General.

Following discussion,

The question being on the adoption of Senator Ihlenfeld’s amendment to the bill, and on this question, Senator Romano demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Caputo, Hamilton, Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, Stollings, Stover, Trump, Unger, and Woelfel—14.

The nays were: Azinger, Boley, Clements, Grady, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Weld, Woodrum, and Blair (Mr. President)—20.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Ihlenfeld’s amendment to the bill rejected.

The question now being on the adoption of the Government Organization committee amendment to the bill, as amended, the same was put and prevailed.

The bill (Eng. Com. Sub. for H. B. 2002), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2017, Rewriting the Criminal Code.

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 9C. WEST VIRGINIA SENTENCING COMMISSION.

§15-9C-3. Powers and duties of the commission.

(a) The Sentencing Commission established pursuant to this article shall:

(1) ~~May request~~ Request information, data, and reports from any officer or agency of the state government, as required by the commission and as may be produced consistent with other laws;

(2) Issue invitations requesting the attendance and testimony of witnesses and the production of any evidence that relates directly to a matter with respect to which the commission or any member of the commission is empowered to make a determination under this article;

(3) ~~Shall establish~~ Establish a research and development program within the commission for the purpose of following purposes:

(A) ~~Serving~~ Serve as a clearinghouse and information center for the collection, preparation, and dissemination of information on sentencing practices; and

(B) ~~Assisting and serving~~ Assist and serve in a consulting capacity to state courts, departments, and agencies in the development, maintenance, and coordination of sound sentencing practices;

(4) ~~Shall collect~~ Collect data obtained from studies, research, and the empirical experience of public and private agencies concerning the sentencing processes;

(5) ~~Shall~~ Publish data concerning the sentencing process;

(6) ~~Shall collect~~ Collect and disseminate information concerning sentences actually imposed;

(7) ~~Shall collect~~ Collect and disseminate information regarding effectiveness of sentences imposed;

(8) ~~Shall make~~ Make recommendations to the Legislature concerning modification or enactment of sentencing and correctional statutes which the commission finds to be necessary and advisable to carry out an effective, humane, and rational sentencing policy;

(9) ~~Shall establish~~ Establish a plan and timetable to collect and disseminate information relating to incapacitation, recidivism, deterrence, and overall effectiveness of sentences imposed;

(10) ~~Shall provide~~ Provide recommendations to the Legislature for the creation of programs and establishment of facilities in the state that provide how the state can best shift its expenditures in a revenue-neutral fashion away from incarceration to treatment programs, facilities, and related services;

(11) ~~Shall conduct~~ Conduct a comprehensive review and study of national and local trends and programs that have proven successful in addressing and overcoming addiction and identifying the nature of the causes of addiction and criminal behavior related to drug addiction; and

(12) Consider, but not be bound to adopt, the provisions of the Second Engrossment of the Committee Substitute for HB2017, as passed by the West Virginia House of Delegates on March 31, 2021, including classifications of felonies and misdemeanors in the bill passed by the West Virginia House of Delegates set forth in the proposed §61-17-1 et seq. of the house bill.

The bill (Eng. Com. Sub. for H. B. 2017), as amended, was then ordered to third reading.

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

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

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

Eng. Com. Sub. for House Bill 2507, Remove the limitations on advertising and promotional activities by limited video lottery retailers.

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

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

Eng. House Bill 2730, Relating to persons filing federal bankruptcy petition to exempt certain property of the estate.

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

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

Eng. Com. Sub. for House Bill 2773, Permitting DNR to issue up to 100 permits for boats greater than 10 horsepower on Upper Mud River Lake.

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

Eng. House Bill 2830, Relating generally to sex trafficking.

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

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

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

CHAPTER 49. CHILD WELFARE.

ARTICLE 5. RECORD KEEPING AND DATABASE.

§49-5-104. Confidentiality of juvenile records for children who become of age while a ward of the state or who have been transferred to adult criminal jurisdiction; separate and secure location; penalties; damages; accessibility of records for child victims of sex trafficking.

(a) One year after the juvenile's 18th birthday, or one year after personal or juvenile jurisdiction has terminated, whichever is later, the records of a juvenile proceeding conducted under this

chapter, including, but not limited to, law-enforcement files and records, may be kept in a separate secure confidential place and the records may not be inspected except by order of the circuit court.

(b) The records of a juvenile proceeding in which a juvenile was transferred to criminal jurisdiction pursuant to ~~section seven hundred ten, article four of this chapter~~ §49-4-710 of this code shall be kept in a separate secure confidential place and the records may not be inspected except by order of the circuit court if the juvenile is subsequently acquitted or found guilty only of an offense other than an offense upon which the waiver or order of transfer was based, or if the offense upon which the waiver or order of transfer was based is subsequently dismissed.

(c) To keep the confidentiality of juvenile records, they shall be returned to the circuit court in which the case was pending and be kept in a separate confidential file. The records shall be physically marked to show that they are to remain confidential and shall be securely kept and filed in a manner so that no one can have access to determine the identity of the juvenile, except upon order of the circuit court.

(d) Marking the juvenile records to show they are to remain confidential has the legal effect of extinguishing the offense as if it never occurred.

(e) The records of a juvenile convicted under the criminal jurisdiction of the circuit court pursuant to ~~subdivision (1), subsection (d), section seven hundred ten, article four of this chapter~~ §49-4-710(d)(1) of this code may not be marked and kept as confidential.

(f) Any person who willfully violates this section is guilty of a misdemeanor and, upon conviction ~~thereof~~, shall be fined not more than \$1,000, or confined in jail for not more than six months, or both so fined and confined, and is liable for damages in the amount of \$300 or actual damages, whichever is greater.

(g) Notwithstanding any other provision of this code, the records of a juvenile victim of sex trafficking within the meaning of §61-14-1 et seq. of this code, may be immediately accessible to the juvenile victim upon written request to the circuit court in which a juvenile delinquency case was pending.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY, AND DECENCY.

§61-8-5. Houses of ill fame and assignation; immunity for minor victims of sex trafficking; penalties; jurisdiction of courts.

(a) Any person who shall keep, set up, maintain, or operate any house, place, building, hotel, tourist camp, other structure, or part thereof, or vehicle, trailer, or other conveyance for the purpose of prostitution, lewdness, or assignation; or who shall own any place, house, hotel, tourist camp, other structure, or part thereof, or trailer or other conveyance knowing the same to be used for the purpose of prostitution, lewdness, or assignation, or who shall let, sublet, or rent any such place, premises, or conveyance to another with knowledge or good reason to know of the intention of the lessee or rentee to use such place, premises, or conveyance for prostitution, lewdness, or assignation; or who shall offer, or offer to secure, another for the purpose of prostitution, or for any other lewd or indecent act; or who shall receive or offer or agree to receive any person into any house, place, building, hotel, tourist camp, or other structure, or vehicle, trailer, or other

conveyance for the purpose of prostitution, lewdness, or assignation, or to permit any person to remain there for such purpose; or who for another or others shall direct, take, or transport, or offer or agree to take or transport, or aid or assist in transporting, any person to any house, place, building, hotel, tourist camp, other structure, vehicle, trailer, or other conveyance, or to any other person with knowledge or having reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation; or who shall aid, abet, or participate in the doing of any acts herein prohibited, shall, upon conviction for the first offense under this section, be punished by imprisonment in the county jail for a period not less than six months nor more than one year, and by a fine of not less than \$100 and not to exceed \$250, and upon conviction for any subsequent offense under this section shall be punished by imprisonment in the penitentiary for a period of not less than one year nor more than five years.

(b) Any person who shall engage in prostitution, lewdness, or assignation, or who shall solicit, induce, entice, or procure another to commit an act of prostitution, lewdness, or assignation; or who shall reside in, enter, or remain in any house, place, building, hotel, tourist camp, or other structure, or enter or remain in any vehicle, trailer, or other conveyance for the purpose of prostitution, lewdness, or assignation; or who shall aid, abet, or participate in the doing of any of the acts herein prohibited, shall, upon conviction for the first offense under this section, be punished by imprisonment in the county jail for a period of not less than 60 days nor more than six months, and by a fine of not less than \$50 and not to exceed \$100; and upon conviction for the second offense under this section, be punished by imprisonment in the county jail for a period of not less than six months nor more than one year, and by a fine of not less than \$100 and not to exceed \$250, and upon conviction for any subsequent offense under this section shall be punished by ~~imprisonment~~ confinement in the penitentiary a state correctional facility for not less than one year nor more than three years: Provided, That no minor shall be prosecuted nor held criminally liable for an offense of prostitution in violation this subsection if the court determines that the minor is a victim of an offense under §61-14-1 et seq. of this code.

The subsequent offense provision shall apply only to the pimp, panderer, solicitor, operator, or any person benefiting financially or otherwise from the earnings of a prostitute.

(c) All leases and agreements, oral or written, for letting, subletting, or renting any house, place, building, hotel, tourist camp, or other structure which is used for the purpose of prostitution, lewdness, or assignation, shall be void from and after the date of any person who is a party to such an agreement shall be convicted of an offense hereunder. The term "tourist camp" shall include any temporary or permanent buildings, tents, cabins, or structures, or trailers, or other vehicles which are maintained, offered, or used for dwelling or sleeping quarters for pay.

(d) In the trial of any person, charged with a violation of any of the provisions of this section, testimony concerning the reputation or character of any house, place, building, hotel, tourist camp, or other structure, and of the person or persons who reside in or frequent same, and of the defendant or defendants, shall be admissible in evidence in support of the charge. Justices of the peace shall have concurrent jurisdiction with circuit, intermediate, and criminal courts to try and determine the misdemeanors set forth and described in this section.

ARTICLE 14. HUMAN TRAFFICKING.

§61-14-2. Human trafficking of an individual; aiding and abetting human trafficking; penalties.

(a) Any person who knowingly and willfully traffics an adult, or who knowingly and willfully aids, assists, or abets in any manner in the trafficking of an adult, is guilty of a felony and, upon conviction ~~thereof~~, shall be ~~imprisoned~~ confined in a state correctional facility for not less than three nor more than 15 years, fined not more than \$200,000, or both ~~imprisoned~~ confined and fined.

(b) Any person who knowingly and willfully traffics a minor, or who knowingly and willfully aids, assists, or abets in any manner in the trafficking of a minor, is guilty of a felony and, upon conviction ~~thereof~~, shall be ~~imprisoned~~ confined in a state correctional facility for not less than five nor more than 20 years, fined not more than \$300,000, or both ~~imprisoned~~ confined and fined.

§61-14-8. Immunity for minor victim of sex trafficking.

(a) In a prosecution or a juvenile prosecution for an offense of prostitution in violation of ~~subsection (b), section five, article eight of this chapter~~ §61-8-5(b) of this code, a minor shall not be held criminally liable if the court determines that the minor is a victim of an offense under this article: *Provided*, That subject to proof, a minor so charged shall be rebuttably presumed to be a victim under the provisions of this article.

(b) This section does not apply in a prosecution or a juvenile proceeding for any of the other offenses under ~~subsection (b), section five, article eight of this chapter~~ §61-8-5(b) of this code, including specifically soliciting, inducing, enticing, or procuring another to commit an act or offense of prostitution, unless it is determined by the court that the minor was coerced into the criminal behavior.

(c) A minor who, under subsection (a) or (b) of this section, is not subject to criminal liability or adjudication as a juvenile delinquent is presumed to be an abused child, as defined in ~~section two hundred one, article one, chapter forty nine~~ §49-1-201 of this code, and may be eligible for services under chapter 49 of this code including, but not limited to, appropriate child welfare services including, but not limited to, comprehensive trauma-informed services that are specialized to the needs of child victims of sexual abuse and exploitation or child sex trafficking victims.

§61-14-9. Petition to vacate and expunge conviction or juvenile delinquency adjudication of sex trafficking victim.

(a) Notwithstanding the age and criminal history limitations set forth in ~~section twenty-six, article eleven of this chapter~~ §61-11-26 of this code or the provisions in §49-4-103 of this code, an individual convicted of prostitution in violation of ~~subsection (b), section five, article eight of this chapter~~ §61-8-5(b) of this code as a direct result of being a victim of trafficking, may apply by petition to the circuit court in the county of conviction or juvenile adjudication to vacate the conviction or adjudication of juvenile delinquency and expunge the record of conviction or record of adjudication of juvenile delinquency. The court may grant the petition upon a finding that the individual's participation in the offense was a direct result of being a victim of trafficking.

(b) A victim of trafficking seeking relief under this section is not required to complete any type of rehabilitation in order to obtain expungement.

(c) A petition filed under subsection (a) of this section, any hearing conducted on the petition, and any relief granted are subject to the procedural requirements of ~~section twenty-six, article~~

~~eleven of this chapter~~ §61-11-26 of this code: *Provided*, That the age or criminal history limitations in that section and the provisions of §49-4-103 of this code are inapplicable to victims of human trafficking.

The bill (Eng. H. B. 2830), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 2842, Preventing cities from banning utility companies in city limits.

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

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Energy, Industry, and Mining committee amendment pending and the right for further amendments to be considered on that reading.

Eng. House Bill 2918, Relating to Family Drug Treatment Court.

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

Eng. Com. Sub. for House Bill 3254, Authorizing members of development authorities to accept federally authorized reimbursement for services which the members rendered on a voluntary basis.

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

At the request of Senator Takubo, and by unanimous consent, the bill was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

Eng. House Bill 3286, Making a supplementary appropriation to the Division of Human Services – Child Care and Development.

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

Eng. House Bill 3287, Making a supplementary appropriation to the Department of Homeland Security.

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

Eng. House Bill 3288, Supplementing and amending appropriations by decreasing and increasing existing items of appropriation in the DHHR.

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

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

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

That the total appropriation for the fiscal year ending June 30, 2021, to fund 0101, fiscal year 2021, organization 0100, be supplemented and amended by decreasing an existing item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Section 1. Appropriations from general revenue.

EXECUTIVE

5 – Governor’s Office

(WV Code Chapter 5)

Fund 0101 FY 2021 Org 0100

| | Appropriation | General Revenue Fund |
|------------------------------|----------------------|-----------------------------|
| 2 Current Expenses (R) | 13000 | 65,000 |

And, That the total appropriation for the fiscal year ending June 30, 2021, to fund 0101, fiscal year 2021, organization 0100, be supplemented and amended by adding a new item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Section 1. Appropriations from general revenue.

EXECUTIVE

5 – Governor’s Office

(WV Code Chapter 5)

Fund 0101 FY 2021 Org 0100

| | Appropriation | General Revenue Fund |
|-------------------|----------------------|-----------------------------|
| 3a Equipment..... | 07000 | 65,000 |

And, That the total appropriation for the fiscal year ending June 30, 2021, to fund 0403, fiscal year 2021, organization 0511, be supplemented and amended by decreasing an existing item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Section 1. Appropriations from general revenue.

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

61 – Division of Human Services

(WV Code Chapters 9, 48, and 49)

Fund 0403 FY 2021 Org 0511

| | Appropriation | | General Revenue Fund |
|-------------------------|----------------------|----|-----------------------------|
| 5 Medical Services..... | 18900 | \$ | 4,660,595 |

And, That the total appropriation for the fiscal year ending June 30, 2021, to fund 0407, fiscal year 2021, organization 0506, be supplemented and amended by decreasing an existing item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Section 1. Appropriations from general revenue.

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

57 – Division of Health –

Central Office

(WV Code Chapter 16)

Fund 0407 FY 2021 Org 0506

| | Appropriation | | General Revenue Fund |
|-------------------------------|----------------------|----|-----------------------------|
| 19 Primary Care Support | 62800 | \$ | 3,040,040 |

And, That the total appropriation for the fiscal year ending June 30, 2021, to fund 0403, fiscal year 2021, organization 0511, be supplemented and amended by increasing an existing item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Section 1. Appropriations from general revenue.

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

61 –Division of Human Services –

(WV Code Chapters 9, 48 and 49)

Fund 0403 FY 2021 Org 0511

| | Appro- piation | | General Revenue Fund |
|---|---------------------------|----|-------------------------------------|
| 25 Medical Services Administrative Costs..... | 78900 | \$ | 7,700,635 |

The bill (Eng. H. B. 3288), as amended, was then ordered to third reading.

Eng. House Bill 3289, Supplementary appropriation to the Department of Commerce, Geological and Economic Survey.

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

Eng. House Bill 3291, Making a supplementary appropriation to the Department of Homeland Security, Division of Administrative Services.

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

Eng. House Bill 3292, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health.

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

Eng. Com. Sub. for House Bill 3295, Making a supplemental appropriation to Division of Human Services and Division of Health Central Office.

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

Eng. Com. Sub. for House Bill 3297, Making a supplemental appropriation to the Department of Veterans' Assistance - Veterans Home.

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

Eng. House Bill 3310, Relating to the jurisdiction of the Public Service Commission.

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

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

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

ARTICLE 1. GENERAL PROVISIONS.**§24-1-1c. Legislative findings.**

The Legislature finds:

(1) Helping retail electric customers invest in and install solar photovoltaic energy facilities of their choice on their properties is in the public interest;

(2) Free-market financing may provide more customers with opportunities to install solar photovoltaic energy facilities;

(3) Installation of solar photovoltaic energy facilities will stabilize long-term energy costs making the state more attractive for industry and commercial investment;

(4) Financing arrangements, including those in which payments are based on the performance and output of the solar photovoltaic energy facility installed on the property of a retail electric customer, will help reduce or eliminate upfront costs involved in the investments and installation by the customers; and

(5) Individuals and entities which offer or receive these types of financing arrangements should not be considered or treated as public utilities.

§24-1-2. Definitions.

~~Except where a different meaning clearly appears from the context, the words "public utility", when used in this chapter, shall mean and include any person or persons, or association of persons, however associated, whether incorporated or not, including municipalities, engaged in any business, whether herein enumerated or not, which is, or shall hereafter be held to be, a public service: *Provided*, That "public utility" does not include individuals or entities owning a solar photovoltaic energy facility located on and designed to meet only the electrical needs of the premises of a retail electric customer, the output of which is subject to a power purchase agreement with the retail electric customer, subject to §24-2-1(a) of this code. Whenever in this chapter the words "commission" or "Public Service Commission" occur, such word or words shall, unless a different intent clearly appears from the context, be taken to mean the Public Service Commission of West Virginia. Whenever used in this chapter, "customer" shall mean and include any person, firm, corporation, municipality, public service district or any other entity who purchases a product or services of any utility and shall include any such person, firm, corporation, municipality, public service district or any other entity who purchases such services or product for resale. Whenever in this chapter the words "governing body" occur, such word or words shall, unless a different intent clearly appears from the context, be taken to mean the municipal body charged with the authority and responsibility of enacting ordinances of the municipality, as defined in section two, article one, chapter eight §8-1-2 of this code, or a public service board of a public service district, as defined in section three, article thirteen-a, chapter sixteen §16-13A-3 of this code.~~

Except where a different meaning clearly appears from the context, the following words when used in this chapter, shall mean:

"Commission" or "Public Service Commission" means the Public Service Commission of West Virginia.

“Customer” means any person, firm, corporation, municipality, public service district, or any other entity who purchases a product or services of any utility and shall include any person, firm, corporation, municipality, public service district, or any other entity who purchases the services or product for resale.

“Governing body” means the municipal body charged with the authority and responsibility of enacting ordinances of the municipality, as defined in §8-1-2 of this code, or a public service board of a public service district, as defined in §16-13A-3 of this code.

“Public utility” means any person or persons, or association of persons, however associated, whether incorporated or not, including municipalities, engaged in any business, whether herein enumerated or not, which is, or shall hereafter be held to be, a public service: *Provided*, That “public utility” does not include individuals or entities owning a solar photovoltaic energy facility located on and designed to meet only the electrical needs of the premises of a retail electric customer, the output of which is subject to a power purchase agreement with the retail electric customer, subject to §24-2-1(a) of this code.

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-1. Jurisdiction of commission; waiver of jurisdiction.

(a) The jurisdiction of the commission ~~shall extend~~ extends to all public utilities in this state and ~~shall include~~ includes any utility engaged in any of the following public services:

~~Common carriage of passengers or goods, whether by air, railroad, street railroad, motor, or otherwise, by express or otherwise, by land, water, or air, whether wholly or partly by land, water, or air; transportation of oil, gas, or water by pipeline; transportation of coal and its derivatives and all mixtures and combinations thereof with other substances by pipeline; sleeping car or parlor car services; transmission of messages by telephone, telegraph, or radio; generation and transmission of electrical energy by hydroelectric or other utilities for service to the public, whether directly or through a distributing utility; supplying water, gas, or electricity by municipalities or others; sewer systems servicing 25 or more persons or firms other than the owner of the sewer systems: *Provided*, That if a public utility other than a political subdivision intends to provide sewer service by an innovative, alternative method, as defined by the federal Environmental Protection Agency, the innovative, alternative method is a public utility function and subject to the jurisdiction of the Public Service Commission regardless of the number of customers served by the innovative, alternative method; any public service district created under the provisions of §16-13A-1 *et seq.* of this code, except that the Public Service Commission will have no jurisdiction over the provision of stormwater services by a public service district; toll bridges, wharves, ferries; solid waste facilities; and any other public service: *Provided, however*, That natural gas producers who provide natural gas service to not more than 25 residential customers are exempt from the jurisdiction of the commission with regard to the provisions of the residential service: *Provided further*, That upon request of any of the customers of the natural gas producers, the commission may, upon good cause being shown, exercise such authority as the commission may deem appropriate over the operation, rates, and charges of the producer and for such length of time as the commission may consider to be proper.~~

(1) common carriage of passengers or goods, whether by air, railroad, street railroad, motor, or otherwise, by express or otherwise, by land, water, or air, whether wholly or partly by land, water, or air;

(2) transportation of oil, gas, or water by pipeline;

(3) transportation of coal and its derivatives and all mixtures and combinations thereof with other substances by pipeline;

(4) sleeping car or parlor car services;

(5) transmission of messages by telephone, telegraph, or radio;

(6) generation and transmission of electrical energy by hydroelectric or other utilities for service to the public, whether directly or through a distributing utility;

(7) supplying water, gas, or electricity by municipalities or others: (A) *Provided*, That natural gas producers who provide natural gas service to not more than 25 residential customers are exempt from the jurisdiction of the commission with regard to the provisions of the residential service; (B) *Provided however*, That upon request of any of the customers of the natural gas producers, the commission may, upon good cause being shown, exercise authority as the commission may consider appropriate over the operation, rates, and charges of the producer and for the length of time determined proper by the commission; (C) *Provided further*, That the provision of a solar photovoltaic energy facility located on and designed to meet only the electrical needs of the premises of a retail electric customer, the output of which is subject to a power purchase agreement (PPAs) with the retail electric customer, shall not constitute a public service, subject to the following conditions and limitations:

(i) PPAs must be 11 point font or larger.

(ii) the aggregate of all PPAs and net metering arrangements in the state for any utility shall not exceed three percent (3%) of the utility's aggregate customer peak demand in the state during the previous year;

(iii) there shall be individual customer on-site generator limits of designing the photovoltaic energy facility to meet only the electrical needs of the premises of the retail electric customer and which in no case shall exceed 25kW for residential customers, 500 kW for commercial customers, and 2,000 kW for industrial customers;

(iv) customers who enter into PPAs relating to photovoltaic facilities are to notify the utility of its intent to enter into a transaction. In response, the utility shall notify within 30 days if any of the caps have been reached. If the utility does not respond within 30 days, the generator may proceed and the caps will be presumed not to have been reached; and

(v) the Public Service Commission may promulgate rules to govern and implement the provisions of interconnections for PPAs, except the PSC does not have authority over the power rates for the arrangements between the on-site generator and the customer;

(8) sewer systems servicing 25 or more persons or firms other than the owner of the sewer systems; *Provided*, That if a public utility other than a political subdivision intends to provide sewer service by an innovative, alternative method, as defined by the federal Environmental Protection Agency, the innovative, alternative method is a public utility function and subject to the jurisdiction of the Public Service Commission, regardless of the number of customers served by the innovative, alternative method;

(9) any public service district created under the provisions of §16-13A-1 et seq. of this code, except that the Public Service Commission has no jurisdiction over the provision of stormwater services by a public service district;

(10) toll bridges, wharves, ferries; solid waste facilities;

(11) and any other public service.

(b) The jurisdiction of the commission over political subdivisions of this state providing separate or combined water and/or sewer services and having at least 4,500 customers and annual combined gross revenues of \$3 million or more that are political subdivisions of the state is limited to:

(1) General supervision of public utilities, as granted and described in §24-2-5 of this code;

(2) Regulation of measurements, practices, acts, or services, as granted and described in §24-2-7 of this code;

(3) Regulation of a system of accounts to be kept by a public utility that is a political subdivision of the state, as granted and described in §24-2-8 of this code;

(4) Submission of information to the commission regarding rates, tolls, charges, or practices, as granted and described in §24-2-9 of this code;

(5) Authority to subpoena witnesses, take testimony, and administer oaths to any witness in any proceeding before or conducted by the commission, as granted and described in §24-2-10 of this code; and

(6) Investigation and resolution of disputes between a political subdivision of the state providing wholesale water and/or wastewater treatment or other services, whether by contract or through a tariff, and its customer or customers, including, but not limited to, rates, fees, and charges, service areas and contested utility combinations: *Provided*, That any request for an investigation related to ~~such~~ a dispute that is based on the act or omission of the political subdivision shall be filed within 30 days of the act or omission of the political subdivision and the commission shall resolve ~~said~~ the dispute within 120 days of filing. The 120-day period for resolution of the dispute may be tolled by the commission until the necessary information showing the basis of the rates, fees, and charges or other information as required by the commission ~~considers necessary~~ is filed: *Provided, however*, That the disputed rates, fees, and charges ~~so~~ fixed by the political subdivision providing separate or combined water and/or sewer services shall remain in full force and effect until set aside, altered or, amended by the commission in an order to be followed in the future.

(7) Customers of water and sewer utilities operated by a political subdivision of the state may bring formal or informal complaints regarding the commission's exercise of the powers enumerated in this section and the commission shall resolve these complaints: *Provided*, That any formal complaint filed under this section that is based on the act or omission of the political subdivision shall be filed within 30 days of the act or omission complained of and the commission shall resolve the complaint within 180 days of filing. The 180-day period for resolution of the dispute may be tolled by the commission until the necessary information showing the basis of the matter complained of is filed by the political subdivision: *Provided, however*, That whenever the commission finds any regulations, measurements, practices, acts, or service to be unjust,

unreasonable, insufficient, or unjustly discriminatory, or otherwise in violation of any provisions of this chapter, or finds that any service is inadequate, or that any service which is demanded cannot be reasonably obtained, the commission shall determine and declare, and by order fix reasonable measurement, regulations, acts, practices or services, to be furnished, imposed, observed, and followed in lieu of those found to be unjust, unreasonable, insufficient, or unjustly discriminatory, inadequate, or otherwise in violation of this chapter, and shall make ~~such other~~ an order respecting the same as shall be that is just and reasonable: *Provided further*, That if the matter complained of would affect rates, fees, and charges ~~so~~ fixed by the political subdivision providing separate or combined water and/or sewer services, the rates, fees, or charges shall remain in full force and effect until set aside, altered, or amended by the commission in an order to be followed in the future.

(8) If a political subdivision has a deficiency in either its bond revenue or bond reserve accounts, or is otherwise in breach of a bond covenant, any bond holder may petition the Public Service Commission for ~~such any~~ redress as that will bring the accounts to current status or otherwise resolve the breached covenant, ~~and the~~ The commission shall ~~have~~ has jurisdiction to fully resolve the alleged deficiency or breach.

(c) The commission may, upon application, waive its jurisdiction and allow a utility operating in an adjoining state to provide service in West Virginia when:

(1) An area of West Virginia cannot be practicably and economically served by a utility licensed to operate within the State of West Virginia;

(2) The area can be provided with utility service by a utility which operates in a state adjoining West Virginia;

(3) The utility operating in the adjoining state is regulated by a regulatory agency or commission of the adjoining state; and

(4) The number of customers to be served is not substantial. The rates the out-of-state utility charges West Virginia customers shall be the same as the rate the utility ~~is duly authorized to~~ may charge in the adjoining jurisdiction. The commission, in the case of any such utility, may revoke its waiver of jurisdiction for good cause.

(d) Any other provisions of this chapter to the contrary notwithstanding:

(1) An owner or operator of an electric generating facility located or to be located in this state that has been designated as an exempt wholesale generator under applicable federal law, or will be so designated prior to commercial operation of the facility, ~~and~~ for which ~~such~~ the facility the owner or operator holds a certificate of public convenience and necessity issued by the commission on or before July 1, 2003, is subject to §24-2-11c(e) through §24-2-11c(j) of this code as if the certificate of public convenience and necessity for the facility were a siting certificate issued under §24-2-11c of this code, and is not otherwise subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the facility except for the making or constructing of a material modification thereof as provided in §24-2-1(d)(5) of this code.

(2) Any person, corporation, or other entity that intends to construct or construct and operate an electric generating facility to be located in this state that has been designated as an exempt wholesale generator under applicable federal law, or will be ~~so~~ designated prior to commercial operation of the facility, ~~and~~ for which facility the owner or operator does not hold a certificate of

public convenience and necessity issued by the commission on or before July 1, 2003, shall, prior to commencement of construction of the facility, obtain a siting certificate from the commission pursuant to the provisions of §24-2-11c of this code in lieu of a certificate of public convenience and necessity pursuant to the provisions of §24-2-11 of this code. An owner or operator of an electric generating facility as is described in this subdivision for which a siting certificate has been issued by the commission is subject to §24-2-11c(e) through §24-2-11c(j) of this code and is not otherwise subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the facility except for the making or constructing of a material modification thereof as provided in §24-2-1(d)(5) of this code.

(3) An owner or operator of an electric generating facility located in this state that had not been designated as an exempt wholesale generator under applicable federal law prior to commercial operation of the facility that generates electric energy solely for sale at retail outside this state or solely for sale at wholesale in accordance with any applicable federal law that preempts state law or solely for both sales at retail and sales at wholesale and that had been constructed and had engaged in commercial operation on or before July 1, 2003, is not subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the facility, regardless of whether the facility subsequent to its construction has been or will be designated as an exempt wholesale generator under applicable federal law: *Provided*, That the owner or operator is subject to §24-2-1(d)(5) of this code if a material modification of the facility is made or constructed.

(4) Any person, corporation, or other entity that intends to construct or construct and operate an electric generating facility to be located in this state that has not been or will not be designated as an exempt wholesale generator under applicable federal law prior to commercial operation of the facility that will generate electric energy solely for sale at retail outside this state or solely for sale at wholesale in accordance with any applicable federal law that preempts state law or solely for both sales at retail and sales at wholesale and that had not been constructed and had not been engaged in commercial operation on or before July 1, 2003, shall, prior to commencement of construction of the facility, obtain a siting certificate from the commission pursuant to the provisions of §24-2-11c of this code in lieu of a certificate of public convenience and necessity pursuant to the provisions of §24-2-11 of this code. An owner or operator of an electric generating facility as is described in this subdivision for which a siting certificate has been issued by the commission is subject to §24-2-11c(e) through §24-2-11c(j) of this code, and is not otherwise subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the facility except for the making or constructing of a material modification thereof as provided in §24-2-1(d)(5) of this code.

(5) An owner or operator of an electric generating facility described in this subsection shall, before making or constructing a material modification of the facility that is not within the terms of any certificate of public convenience and necessity or siting certificate previously issued for the facility or an earlier material modification thereof, obtain a siting certificate for the modification from the commission pursuant to the provisions of §24-2-11c of this code, in lieu of a certificate of public convenience and necessity for the modification pursuant to the provisions of §24-2-11 of this code and, except for the provisions of §24-2-11c of this code, is not otherwise subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the modification.

(6) The commission shall consider an application for a certificate of public convenience and necessity filed pursuant to §24-2-11 of this code, to construct an electric generating facility described in this subsection or to make or construct a material modification of the electric

generating facility as an application for a siting certificate pursuant to §24-2-11c of this code if the application for the certificate of public convenience and necessity was filed with the commission prior to July 1, 2003, and if the commission has not issued a final order ~~thereon~~ as of that date.

(7) The limitations on the jurisdiction of the commission over, and on the applicability of the provisions of this chapter to, the owner or operator of an electric generating facility as imposed by and described in this subsection do not affect or limit the commission's jurisdiction over contracts or arrangements between the owner or operator of the facility and any affiliated public utility subject to the provisions of this chapter.

(e) The commission does not have jurisdiction of Internet protocol-enabled service or voice-over Internet protocol-enabled service. As used in this subsection:

(1) "Internet protocol-enabled service" means any service, capability, functionality, or application provided using Internet protocol, or any successor protocol, that enables an end user to send or receive a communication in Internet protocol format, or any successor format, regardless of whether the communication is voice, data, or video.

(2) "Voice-over Internet protocol service" means any service that:

(i) Enables real-time, two-way voice communications that originate or terminate from the user's location using Internet protocol or a successor protocol; and

(ii) Uses a broadband connection from the user's location.

(3) The term "voice-over Internet protocol service" includes any service that permits users to receive calls that originate on the public-switched telephone network and to terminate calls on the public-switched telephone network.

(f) Notwithstanding any other provisions of this article, the commission ~~has~~ does not have jurisdiction to review or approve any transaction involving a telephone company otherwise subject to §24-2-12 and §24-2-12a of this code, if all entities involved in the transaction are under common ownership.

(g) The Legislature finds that the rates, fees, charges, and ratemaking of municipal power systems are most fairly and effectively regulated by the local governing body. Therefore, notwithstanding any other provisions of this article, the commission ~~has~~ does not have jurisdiction over the setting or adjustment of rates, fees, and charges of municipal power systems. Further, the jurisdiction of the Public Service Commission over municipal power systems is limited to that granted specifically in this code.

On motion of Senator Trump, the following amendment to the Judiciary committee amendment to the bill (Eng. H. B. 3310) was reported by the Clerk and adopted:

On page six, section two, line seventy, after the word "bridges" by inserting the words "located more than five miles from a toll-free bridge which crosses the same body of water or obstacle,".

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

The bill (Eng. H. B. 3310), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Joint Resolution 1, Education Accountability Amendment.

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

At the request of Senator Takubo, and by unanimous consent, the resolution was advanced to third reading with the unreported Judiciary committee amendment pending and the right for further amendments to be considered on that reading.

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.

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

At the request of Senator Takubo, and by unanimous consent, the resolution was advanced to third reading with the right for amendments to be considered on that reading.

(Senator Weld in the Chair.)

The Senate proceeded to the tenth order of business.

Eng. House Bill 2029, Relating to teacher preparation clinical experience programs.

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

Eng. Com. Sub. for House Bill 2145, Relating to student aide class titles.

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

Eng. Com. Sub. for House Bill 2221, Relating to the establishment of an insurance innovation process.

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

Eng. Com. Sub. for House Bill 2266, Relating to expanding certain insurance coverages for pregnant women.

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

Eng. House Bill 2500, Create an act for Statewide Uniformity for Auxiliary Container Regulations.

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

Eng. Com. Sub. for House Bill 2573, Relating generally to the transparency and accountability of state grants to reduce waste, fraud, and abuse.

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

Eng. Com. Sub. for House Bill 2674, Relating to the administration of anesthetics.

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

Eng. Com. Sub. for House Bill 2720, Creating a Merit-Based Personnel System within DOT.

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

Eng. Com. Sub. for House Bill 2794, To extend the Neighborhood Investment Program Act to July 1, 2026.

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

Eng. Com. Sub. for House Bill 2884, To make changes to the FOIA law to protect public utility customer databases from disclosure, with exceptions.

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

Eng. Com. Sub. for House Bill 2927, Adding Caregiving expenses to campaign finance expense.

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

Eng. Com. Sub. for House Bill 2953, To clarify that counties can hire fire fighters as paid staff and to modify the existing procedures to include a procedure of public hearing to commission a vote.

Eng. Com. Sub. for House Bill 2962, Relating generally to dental practice.

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

Eng. Com. Sub. for House Bill 3002, Update road abandonment process.

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

Eng. House Bill 3078, Relating to powers and duties of the parole board.

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

Eng. House Bill 3107, Declaring that Post Traumatic Stress Disorder diagnosed by a licensed psychiatrist is a compensable occupational disease for first responders.

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

Eng. House Bill 3129, Relating to the Consumer Price Index rate increase.

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

Eng. House Bill 3132, Relating to motor carrier inspectors.

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

Eng. House Bill 3133, Relating to motor carrier rates.

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

Eng. House Bill 3177, Removing expired, outdated, inoperative and antiquated provisions and report requirements in education.

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

Eng. Com. Sub. for House Bill 3215, Amending the requirements to become an elected prosecutor.

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

Eng. Com. Sub. for House Bill 3266, Providing for termination of extracurricular contact upon retirement.

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

Eng. House Bill 3299, Authorizing Higher Education Rules.

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

Eng. House Bill 3301, Relating generally to property tax increment financing districts.

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

Eng. House Bill 3304, Authorizing the Division of Corrections and Rehabilitation to establish a Reentry and Transitional Housing Program.

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

Eng. House Bill 3308, Relating to increasing number of limited video lottery terminals.

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

Eng. House Bill 3311, Relating to the cost of medical records.

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

Eng. Com. Sub. for House Joint Resolution 3, Property Tax Modernization Amendment.

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

Pending announcement of meetings of standing committees of the Senate,

On motion of Senator Takubo, at 12:23 p.m., the Senate recessed until 5 p.m. today.

The Senate reconvened at 6:25 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 proclamation from His Excellency, the Governor, extending this current legislative session until and including the eleventh day of April, 2021, which was received and read by the Clerk:

STATE OF WEST VIRGINIA**EXECUTIVE DEPARTMENT****Charleston****A PROCLAMATION****By the Governor**

WHEREAS, the Constitution of West Virginia sets forth the respective powers, duties, and responsibilities of the three separate branches of government; and

WHEREAS, Article VI, Section 22 of the Constitution of West Virginia provides that the current regular session of the Legislature shall not exceed sixty calendar days computed from and including the second Wednesday of February two thousand twenty-one; and

WHEREAS, pursuant to Article VI, Section 22 of the Constitution of West Virginia, the two thousand twenty-one regular session of the Legislature is scheduled to conclude on the tenth day of April, two thousand twenty-one; and

WHEREAS, Article VI, Section 51 of the Constitution of West Virginia sets forth the obligations of the Governor and the Legislature relating to the preparation and enactment of the Budget Bill; and

WHEREAS, Subsection D, Article VI, Section 51 of the Constitution of West Virginia requires the Governor to issue a proclamation extending the regular session of the Legislature if the Budget Bill shall not have been finally acted upon by the Legislature three days before the expiration of its regular session; and

WHEREAS, the Budget Bill has not been finally acted upon by the Legislature as of this seventh day of April, two thousand twenty-one.

NOW, THEREFORE, I, JIM JUSTICE, Governor of the State of West Virginia, do hereby issue this Proclamation, in accordance with Subsection D, Article VI, Section 51 of the Constitution of West Virginia, extending the two thousand twenty-one regular session of the Legislature for an additional period not to exceed one day, through and including the eleventh day of April, two thousand twenty-one; but no matters other than the Budget Bill shall be considered during this extension of the regular session, except a provision for the cost thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



By the Governor

DONE at the Capitol in the City of Charleston, State of West Virginia, on this the seventh day of April, in the year of our Lord, Two Thousand Twenty-one, and in the One Hundred Fifty-Eighth year of the State.


GOVERNOR


SECRETARY OF STATE

Senator Blair (Mr. President) then laid before the Senate the following communication from His Excellency, the Governor, consisting of executive nominations for appointees:



Jim Justice
Governor of West Virginia

April 7, 2021

Senate Executive Message No. 2
Regular Session 2021

TO: The Honorable Members of the
West Virginia Senate

Ladies and Gentlemen:

I respectfully submit the following nominations for your advice and consent:

1. For Member, Motor Vehicle Dealers Advisory Board, Dennis Sheets, Bluefield, Mercer County, for the term ending June 30, 2022.
2. For Member, Motor Vehicle Dealers Advisory Board, Margaret Wills, Fairmont, Marion County, for the term ending June 30, 2022.
3. For Member, Motor Vehicle Dealers Advisory Board, Wally Thornhill, Pecks Mill, Logan County, for the term ending June 30, 2021.
4. For Member, Board of Pharmacy, Jenna Misiti, Huntington, Cabell County, for the term ending June 30, 2023.
5. For Member, West Virginia Northern Community and Technical College Board of Governors, Ron Scott, Jr., Wheeling, Ohio County, for the term ending June 30, 2022.
6. For Member, Election Commission, Matthew G. Chapman, Wheeling, Ohio County, for the term ending June 4, 2026.
7. For Member, Surface Mine Board, Richard Flanigan, Kenova, Wayne County, for the term ending June 30, 2021.
8. For Member, West Virginia Municipal Pensions Oversight Board, Sarah H. Long, Charleston, Kanawha County, for the term ending January 1, 2024.

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9. For Member, West Virginia School of Osteopathic Medicine Board of Governors, Frederick B. Morgan, Bluefield, Virginia, for the term ending June 30, 2024.
10. For Member, Board of Accountancy, Horace W. Emery, Charleston, Kanawha County, for the term ending June 20, 2023.
11. For Member, Board of Accountancy, Theodore A. Lopez, Bridgeport, Taylor County, for the term ending June 30, 2023.
12. For Member, Board of the College Prepaid Tuition and Savings Program, Terri Underhill-Rader, Charleston, Kanawha County, for the term ending June 30, 2025.
13. For Member, West Virginia Board of Chiropractic, Barry A. Stowers, Fayetteville, Fayette County, for the term ending June 30, 2023.
14. For Member, West Virginia Board of Architects, Todd Boggess, Princeton, Mercer County, for the term ending June 30, 2025.
15. For Member, Natural Resources Commission, Byron K. Chambers, Romney, Hampshire County, for the term ending June 30, 2027.
16. For Member, Board of Pharmacy, Dennis Lewis, Chapmanville, Logan County, for the term ending June 30, 2025.
17. For Member, Marshall University Board of Governors, Angela R. Moore, Charleston, Kanawha County, for the term ending June 30, 2024.
18. For Member, Marshall University Board of Governors, Samuel R. Moore, Huntington, Cabell County, for the term ending June 30, 2024.
19. For Member, Marshall University Board of Governors, Donald R. Holcomb, Daniels, Raleigh County, for the term ending June 30, 2024.
20. For Member, West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners, Tyson C. Judy, Scott Depot, Putnam County, for the term ending June 30, 2023.
21. For Member, West Virginia Medical Imaging and Radiation Therapy Technology Board of Examiners, Roxanne E. Clay, Alum Creek, Lincoln County, for the term ending June 30, 2023.
22. For Chief Administrative Law Judge, Office of Tax Appeals, A.M. Pollack, Elkview, Kanawha County, for the term ending June 30, 2024.
23. For Member, West Virginia School of Osteopathic Medicine Board of Governors, Todd A. Smith, Princeton, Mercer County, for the term ending June 30, 2024.

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24. For Member, Real Estate Commission, Margaret Shockey Bartles, Martinsburg, Berkeley County, for the term ending June 30, 2024.
25. For Member, Marshall University Board of Governors, Kathy D'Antoni, Barboursville, Cabell County, for the term ending June 30, 2024.
26. For Member, Board of Directors of the West Virginia United Health System, James Ferguson, Summersville, Nicholas County, for the term ending October 15, 2022.
27. For Member, Statewide Independent Living Council, Brenda Lamkin, Buckhannon, Upshur County, for the term ending June 30, 2023.
28. For Member, Statewide Independent Living Council, Cara T. Price, Philippi, Barbour County, for the term ending June 30, 2023.
29. For Member, Statewide Independent Living Council, Beverley Jones, Hurricane, Putnam County, for the term ending June 30, 2023.
30. For Member, Statewide Independent Living Council, Emily Robinson, Grantsville, Calhoun County, for the term ending June 30, 2023.
31. For Member, Statewide Independent Living Council, Robert Roswall, Charleston, Kanawha County, for the term ending June 30, 2023.
32. For Member, Statewide Independent Living Council, Michelle Wilshere, Charleston, Kanawha County, for the term ending June 30, 2021.
33. For Member, Statewide Independent Living Council, Ray B. Woods, Jr., St. Albans, Kanawha County, for the term ending June 30, 2021.
34. For Member, Statewide Independent Living Council, Carissa Davis, St. Albans, Kanawha County, for the term ending June 30, 2021.
35. For Member, Statewide Independent Living Council, Sandra Haberbosch, Shinnston, Harrison County, for the term ending June 30, 2023.
36. For Member, Statewide Independent Living Council, Darla R. Ervin, Morgantown, Monongalia County, for the term ending June 30, 2021.
37. For Member, Statewide Independent Living Council, Tara Martinez, Charleston, Kanawha County, for the term ending June 30, 2023.
38. For Member, Statewide Independent Living Council, Genette Eltringham, Weirton, Brooke County, for the term ending June 30, 2023.
39. For Member, Statewide Independent Living Council, Ameer Shah, Vienna, Wood County, for the term ending June 30, 2023.

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40. For Member, Statewide Independent Living Council, Lynsay Frye, Paden City, Wetzel County, for the term ending June 30, 2023.
41. For Member, Statewide Independent Living Council, Nichole Roberts, Hinton, Summers County, for the term ending June 30, 2023.
42. For Member, Racing Commission, JB Akers, Charleston, Kanawha County, for the term ending April 1, 2024.
43. For Director/State Forester, West Virginia Division of Forestry, C. Tom Cover, Jr., Lewisburg, Greenbrier County, to serve at the will and pleasure of the Governor.
44. For Member, Board of Examiners of Psychologists, Susannah Poe, Fairmont, Marion County, for the term ending June 30, 2023.
45. For Member, Board of Examiners of Psychologists, Charley W. Bowen, Jr., Culloden, Putnam County, for the term ending June 30, 2023.
46. For Member, Board of Optometry, David W. Harshberger, New Martinsville, Wetzel County, for the term ending June 30, 2023.
47. For Member, West Virginia University Board of Governors, James T. Jones, Morgantown, Monongalia County, for the term ending June 30, 2024.
48. For Member, West Virginia University Board of Governors, Taunja Willis-Miller, Morgantown, Monongalia County, for the term ending June 30, 2024.
49. For Member, West Virginia University Board of Governors, Patrice A. Harris, Atlanta, Georgia, for the term ending June 30, 2024.
50. For Member, West Virginia Board of Medicine, Christopher Tipton, Kistler, Logan County, for the term ending September 30, 2022.
51. For Member, Fairmont State University Board of Governors, Deborah M. Prezioso, Fairmont, Marion County, for the term ending June 30, 2024.
52. For Member, Fairmont State University Board of Governors, Wendy G. Adkins, Morgantown, Monongalia County, for the term ending June 30, 2024.
53. For Member, West Liberty University Board of Governors, Jack C. Adams, McMurray, Pennsylvania, for the term ending June 30, 2024.
54. For Member, West Liberty University Board of Governors, Jamie Evick, Benwood, Marshall County, for the term ending June 30, 2024.

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55. For Member, West Liberty University Board of Governors, Michael J. Baker, Wheeling, Ohio County, for the term ending June 30, 2023.
56. For Member, New River Community and Technical College Board of Governors, Roger F. Topping, Princeton, Mercer County, for the term ending June 30, 2022.
57. For Member, West Virginia Board of Manufactured Housing Construction and Safety, Richard Casto, Madison, Boone County, for the term ending June 30, 2026.
58. For Member, West Virginia Board of Manufactured Housing Construction and Safety, Steven B. Solomon, Morgantown, Monongalia County, for the term ending June 30, 2026.
59. For Member, Board of Dentistry, William A. Klenk, Fayetteville, Fayette County, for the term ending June 30, 2025.
60. For Member, Fairmont State University Board of Governors, Jason C. Pizatella, Charleston, Kanawha County, for the term ending June 30, 2024.
61. For Member, West Liberty University Board of Governors, Richard H. Carter, Wheeling, Ohio County, for the term ending June 30, 2024.
62. For Member, West Virginia Board of Medicine, Ashish P. Sheth, Charleston, Kanawha County, for the term ending September 30, 2024.
63. For Executive Director, West Virginia Parkways Authority, Jeffrey A. Miller, Beckley, Raleigh County, to serve at the will and pleasure of the Governor.
64. For Member, West Virginia Municipal Pensions Oversight Board, Michael Payne, Weirton, Hancock County, for the term ending January 1, 2025.
65. For Member, West Virginia Municipal Pensions Oversight Board, Jason M. Matthews, Parkersburg, Wood County, for the term ending January 1, 2023.
66. For Member, West Virginia Municipal Pensions Oversight Board, David W. Lanham, Charleston, Kanawha County, for the term ending January 1, 2025.
67. For Member, West Virginia Archives and History Commission, Darla Spencer, Charleston, Kanawha County, for the term ending June 30, 2023.
68. For Member, West Virginia Archives and History Commission, Tracy L. Burch, Culloden, Cabell County, for the term ending June 30, 2023.
69. For Member, West Virginia Archives and History Commission, David Trowbridge, Huntington, Cabell County, for the term ending June 30, 2023.
70. For Member, West Virginia Archives and History Commission, Nathan J. Randolph, Huntington, Cabell County, for the term ending June 30, 2021.

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71. For Member, West Virginia Archives and History Commission, Audy M. Perry, Huntington, Cabell County, for the term ending June 30, 2022.
72. For Member, West Virginia Board of Professional Surveyors, Douglas C. McElwee, Charleston, Kanawha County, for the term ending June 30, 2024.
73. For Member, West Virginia Board of Hearing Aid Dealers, Marsha Mattingly, Huntington, Cabell County, for the term ending June 30, 2021.
74. For Member, West Virginia Board of Hearing Aid Dealers, Jason Kaposy, Petersburg, Grant County, for the term ending June 30, 2024.
75. For Member, West Virginia Board of Hearing Aid Dealers, Jenny Cross, Elkins, Randolph County, for the term ending June 30, 2021.
76. For Member, West Virginia Board of Hearing Aid Dealers, Nancy B. Mullins Gillispie, Sumerco, Lincoln County, for the term ending June 30, 2021.
77. For Member, Fire Commission, William D. Camp, Parkersburg, Wood County, for the term ending June 30, 2024.
78. For Member, Fire Commission, Grant K. Gunnoe, Winfield, Putnam County, for the term ending June 30, 2024.
79. For Member, Fire Commission James L. Oldaker, Alum Creek, Lincoln County, for the term ending June 30, 2025.
80. For Member, West Virginia Archives and History Commission, Robert S. Conte, Union, Monroe County, for the term ending June 30, 2023.
81. For Member West Virginia Archives and History Commission, Dan Gatts, Moundsville, Marshall County, for the term ending June 30, 2023.
82. For Member, Aeronautics Commission, Gerald R. Sites, Petersburg, Grant County, for the term ending June 30, 2024.
83. For Member, Aeronautics Commission, James W. Wallace, Beverly, Randolph County, for the term ending June 30, 2024.
84. For Member, Aeronautics Commission, Tracy K. Miller, Bridgeport, Harrison County, for the term ending June 30, 2023.
85. For Member, West Virginia Emergency Medical Services Advisory Council, David J. Weller, Falling Waters, Berkeley County, for the term ending June 30, 2023.

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86. For Member, West Virginia Emergency Medical Services Advisory Council, Patricia Watson, Hamlin, Lincoln County, for the term ending June 30, 2023.
87. For Member, West Virginia Emergency Medical Services Advisory Council, Brian Doughty, Charleston, Kanawha County, for the term ending June 30, 2023.
88. For Member, West Virginia Emergency Medical Services Advisory Council, Brian W. Potter, Buckhannon, Upshur County, for the term ending June 30, 2023.
89. For Member, West Virginia Board of Hearing Aid Dealers, Deborah Chewing Barnes, Elkins, Randolph County, for the term ending June 30, 2023.
90. For Member, Commission on the Arts, Barbara A. Polgar, Follansbee, Brooke County, for the term ending June 30, 2021.
91. For Member, Commission on the Arts, Charles H. Friddle III, Elkins, Randolph County, for the term ending June 30, 2023.
92. For Member, Jobs Investment Trust Board, William B. Goode, Hurricane, Putnam County, for the term ending June 30, 2024.
93. For Member, Jobs Investment Trust Board, Timothy S. Millne, Huntington, Cabell County, for the term ending June 30, 2024.
94. For Member, Public Employees Insurance Agency Finance Board, William G. Milam, Charleston, Kanawha County, for the term ending June 30, 2024.
95. For Member, Public Employees Insurance Agency Finance Board, Jason Myers, Parsons, Tucker County, for the term ending June 30, 2023.
96. For Member, Public Employees Insurance Agency Finance Board, Jared Robertson, Grassy Meadows, Greenbrier County, for the term ending June 30, 2022.
97. For Member, Public Employees Insurance Agency Finance Board, Melody Duke, Winfield, Putnam County, for the term ending June 30, 2022.
98. For Member, New River Community and Technical College Board of Governors, Jim S. Ferguson, Bluefield, Mercer County, for the term ending June 30, 2021.
99. For Member, New River Community and Technical College Board of Governors, Thomas F. Lemke, Daniels, Raleigh County, for the term ending June 30, 2024.
100. For Member, New River Community and Technical College Board of Governors, Thomas R. Cochran, Daniels, Raleigh County, for the term ending June 30, 2023.
101. For Member, New River Community and Technical College Board of Governors, The Honorable Linda Sumner, Beckley, Raleigh County, for the term ending June 30, 2024.

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102. For Member, New River Community and Technical College Board of Governors, Yvonne D. Seay, Beckley, Raleigh County, for the term ending June 30, 2021.
103. For Member, Public Employees Insurance Agency Finance Board, Michael T. Smith, Milton, Cabell County, for the term ending June 30, 2023.
104. For Member, Water Development Board, John M. Miller III, Gerrardstown, Berkley County, for the term ending June 30, 2026.
105. For Member, New River Community and Technical College Board of Governors, John Barnes, Lewisburg, Greenbrier County, for the term ending June 30, 2023.
106. For Member, Board of Directors of the West Virginia United Health System, Bernard P. Twigg, Glen Dale, Marshall County, for the term ending October 15, 2026.
107. For Member, Election Commission, Benjamin M. Sullivan, Charleston, Kanawha County, for the term ending June 4, 2023.
108. For Member, Board of Risk and Insurance Management, Joseph M. Price, Charleston, Kanawha County, for the term ending June 30, 2024.
109. For Member, West Virginia Contractor Licensing Board, Amy Fairman, Fairmont, Marion County, for the term ending June 30, 2024.
110. For Member, Industrial Council, Anna M. Dailey, Charleston, Kanawha County, for the term ending June 30, 2024.
111. For Member, Industrial Council, Bengy K. Swanson, Core, Monongalia County, for the term ending June 30, 2024.
112. For Member, Industrial Council, Patrick M. Smith, South Charleston, Kanawha County, for the term ending June 30, 2023.
113. For Member, Municipal Home Rule Board, Dan Vriendt, St. Albans, Kanawha County, to serve at the will and pleasure of the Governor.
114. For Member, West Virginia Board of Education, Arthur S. Maynard, Huntington, Cabell County, for the term ending November 4, 2029.
115. For Member, Fire Commission, Steven L. Byers, Jr., Weston, Lewis County, for the term ending June 30, 2023.
116. For Member, West Virginia Real Estate Appraiser Licensing and Certification Board, Joseph A. Chico III, Morgantown, Monongalia County, for the term ending June 30, 2023.

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117. For Member, Glenville State College Board of Governors, Frederick W. Parsons, Ripley, Jackson County, for the term ending June 30, 2024.
118. For Member and Chair, Flatwater Trail Commission, William R. Currey, St. Albans, Kanawha County, for the term ending December 31, 2024.
119. For Member, Flatwater Trail Commission, Amanda J. Pitzer, Thornton, Preston County, for the term ending December 31, 2022.
120. For Member, Flatwater Trail Commission, George Levitsky, Fairmont, Marion County, for the term ending December 31, 2021.
121. For Member, Flatwater Trail Commission, John S. Wilson, Jr., Bridgeport, Harrison County, for the term ending December 31, 2023.
122. For Member, Flatwater Trail Commission, John Burchett, Williamson, Mingo County, for the term ending December 31, 2021.
123. For Member, Board of Control for Southern Regional Education, Sarah Armstrong Tucker, Charleston, Kanawha County, for the term ending June 30, 2024.
124. For Member, West Virginia Regional Jail and Correctional Facility Authority Board, Charles N. Zerkle, Jr., Huntington, Cabell County, for the term ending June 30, 2023.
125. For Member, West Virginia Regional Jail and Correctional Facility Authority Board, David Blair Couch, Vienna, Wood County, for the term ending June 30, 2024.
126. For Member, Glenville State College Board of Governors, Douglas S. Morris, Naples, Florida, for the term ending June 30, 2024.
127. For Member, West Virginia Parole Board, Jack G. Roop, Beckley, Raleigh County, for the term ending June 30, 2022.
128. For Adjutant General, Brigadier General William E. Crane, Charleston, Kanawha County, to serve at the will and pleasure of the Governor.
129. For Member, Workforce Development Board, Diane W. Strong-Treister, Charleston, Kanawha County, for the term ending June 30, 2021.
130. For Member, Workforce Development Board, Stephanie Ahart, Morgantown, Monongalia County, for the term ending June 30, 2021.
131. For Member, Workforce Development Board, John Moses, Wheeling, Ohio County, for the term ending June 30, 2022.
132. For Member, Workforce Development Board, Stephanie J. Smith, Charleston, Kanawha County, for the term ending June 30, 2022.

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133. For Member, Workforce Development Board, Ray G. Burke, Nitro, Kanawha County, for the term ending June 30, 2022.
134. For Member, Workforce Development Board, Myisha Robinson, South Charleston, Kanawha County, for the term ending June 30, 2023.
135. For Member, Workforce Development Board, Michael Bombard, Fairmont, Marion County, for the term ending June 30, 2023.
136. For Member, Workforce Development Board, Steve Cox, Bidwell, Ohio, for the term ending June 30, 2023.
137. For Member, Workforce Development Board, Randall C. Rapp, Vienna, Wood County, for the term ending June 30, 2023.
138. For Member, Workforce Development Board, Michelle Foster, Charleston, Kanawha County, for the term ending June 30, 2023.
139. For Member, Workforce Development Board, Michael Sirockman, Winfield, Putnam County, for the term ending June 30, 2023.
140. For Member, Workforce Development Board, Brian L. Ulery, South Charleston, Kanawha County, for the term ending June 30, 2023.
141. For Member, Workforce Development Board, Marijane K. Waldron, Huntington, Cabell County, for the term ending June 30, 2023.
142. For Member, Workforce Development Board, Bryan Johnson, Kenova, Wayne County, for the term ending June 30, 2023.
143. For Member, Workforce Development Board, Bill J. Crouch, Charleston, Kanawha County, for the term ending June 30, 2023.
144. For Member, Workforce Development Board, Roy E. Hamilton, Hurricane, Putnam County, for the term ending June 30, 2022.
145. For Member, Workforce Development Board, Matthew J. Watts, Charleston, Kanawha County, for the term ending June 30, 2021.
146. For Member, Workforce Development Board, Natalie Oliverio, Clarksburg, Harrison County, for the term ending June 30, 2021.
147. For Member, Workforce Development Board, Marie Beaver, Charleston, Kanawha County, for the term ending June 30, 2021.

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148. For Member, Workforce Development Board, Scott A. Adkins, Charleston, Kanawha County, for the term ending June 30, 2023.
149. For Member, Workforce Development Board, R. Andrew Skidmore, Winfield, Putnam County, for the term ending June 30, 2021.
150. For Member, Workforce Development Board, Heather Vanater, Charleston, Kanawha County, for the term ending June 30, 2021.
151. For Member, Workforce Development Board, Jeff Rowe, South Point, Ohio, for the term ending June 30, 2022.
152. For Member, Workforce Development Board, Brian Stanley, Parkersburg, Wood County, for the term ending June 30, 2023.
153. For Member, Workforce Development Board, Lee Ann Belmont, Charleston, Kanawha County, for the term ending June 30, 2022.
154. For Member, Workforce Development Board, Traci L. Nelson, Charleston, Kanawha County, for the term ending June 30, 2023.
155. For Member, Workforce Development Board, Sarah Boley, Friendly, Tyler County, for the term ending June 30, 2022.
156. For Member, Workforce Development Board, Clinton C. Burch, Winfield, Putnam County, for the term ending June 30, 2023.
157. For Member, Workers' Compensation Board of Review, Bradley A. Crouser, Charleston, Kanawha County, for the term ending December 31, 2026.
158. For Member, Southern West Virginia Community and Technical College Board of Governors, J. Chris Adkins, Danville, Boone County, for the term ending June 30, 2023.
159. For Member, Southern West Virginia Community and Technical College Board of Governors, Eddie J. Canterbury, Logan, Logan County, for the term ending June 30, 2024.
160. For Member, Southern West Virginia Community and Technical College Board of Governors, Samuel A. Stewart, Matheny, Wyoming County, for the term ending June 30, 2024.
161. For Member, Southern West Virginia Community and Technical College Board of Governors, Robert Baldwin, Chapmanville, Logan County, for the term ending June 30, 2024.
162. For Member, Southern West Virginia Community and Technical College Board of Governors, David H. Gresham, Chapmanville, Logan County, for the term ending June 30, 2021.
163. For Member, Housing Development Fund, Robert L. Nistendirk, Charleston, Kanawha County, for the term ending October 30, 2024.

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164. For Member, Housing Development Fund, Sam G. Kapourales, Williamson, Mingo County, for the term ending October 30, 2023.
165. For Member, Housing Development Fund, John Gianola, Charleston, Kanawha County, for the term ending October 30, 2024.
166. For Member, Housing Development Fund, Kristina D. Raynes, Eleanor, Putnam County, for the term ending October 30, 2022.
167. For Chief Administrative Law Judge, Workers' Compensation Office of Judges within the Office of the Insurance Commissioner, Ted A. White, Wheeling, Ohio County, for the term ending December 31, 2023.
168. For Member, West Virginia Regional Jail and Correctional Facility Authority Board, David L. Hinkle, Bridgeport, Taylor County, for the term ending June 30, 2024.
169. For Member, Industrial Council, The Honorable Jeff Mullins, Daniels, Raleigh County, for the term ending June 30, 2021.
170. For Member, West Virginia Parole Board, Harold L. Hughes, Alum Creek, Kanawha County, for the term ending June 30, 2025.
171. For Member, West Virginia Hospital Finance Authority, Derek T. Snyder, Parkersburg, Wood County, for the term ending January 9, 2024.
172. For Member, West Virginia Board of Medicine, David A. Mullins, Princeton, Mercer County, for the term ending September 30, 2025.
173. For Member, West Virginia Board of Medicine, Mustafa Rahim, Beckley, Raleigh County, for the term ending September 30, 2024.
174. For Member, West Virginia Board of Medicine, Kiran R. Patel, Charleston, Kanawha County, for the term ending September 30, 2025.
175. For Member, West Virginia Board of Chiropractic, Karl Boone, Buckhannon, Upshur County, for the term ending June 30, 2022.
176. For Member, Board of Veterinary Medicine, Shawn D. Sette, Hurricane, Putnam County, for the term ending June 30, 2023.
177. For Member, Board of Veterinary Medicine, Jesse A. Fallon, Morgantown, Monongalia County, for the term ending June 30, 2022.
178. For Member, Board of Registration for Foresters, Dan Hackett, Buckhannon, Upshur County, for the term ending June 30, 2024.

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179. For Member, Board of Registration for Foresters, Todd A. Lotter, Buckhannon, Upshur County, for the term ending June 30, 2025.
180. For Member, Board of Registration for Foresters, Denzil Linton, Canvas, Nicholas County, for the term ending June 30, 2023.
181. For Member, Real Estate Commission, Joseph T. Bevil, Nimitz, Summers County, for the term ending June 30, 2023.
182. For Member, Oil and Gas Conservation Commission, Randall M. Albert, Bluefield, Mercer County, for the term ending July 27, 2026.
183. For Member, West Virginia State University Board of Governors, Charles E. Jones, Jr., Charleston, Kanawha County, for the term ending June 30, 2024.
184. For Member, West Virginia State University Board of Governors, E. Gail Pitchford, Charleston, Kanawha County, for the term ending June 30, 2023.
185. For Member, West Virginia State University Board of Governors, Ian C. Flores, Cross Lanes, Kanawha County, for the term ending June 30, 2024.
186. For Member, West Virginia State University Board of Governors, Lester Raines, Charleston, Kanawha County, for the term ending June 30, 2023.
187. For Director, Geological and Economic Survey, Jessica Pierson Moore, Morgantown, Monongalia County, to serve at the will and pleasure of the Governor.
188. For Member, West Virginia Investment Management Board of Trustees, David H. Gardner, Sr., Charleston, Kanawha County, for the term ending January 31, 2027.
189. For Secretary, West Virginia Department of Environmental Protection, Harold D. Ward, Lake, Logan County, to serve at the will and pleasure of the Governor.
190. For Member, Bluefield State College Board of Governors, Cathy Deeb, Bluefield, Mercer County, for the term ending June 30, 2024.
191. For Member, West Virginia Board of Osteopathic Medicine, Sharon Horton Rowe, Lewisburg, Greenbrier County, for the term ending June 30, 2025.
192. For Member, West Virginia Board of Osteopathic Medicine, Jimmy W. Adams, Barboursville, Cabell County, for the term ending June 30, 2025.
193. For Member, West Virginia Board of Osteopathic Medicine, Terry V. Cox, Hurricane, Putnam County, for the term ending June 30, 2022.
194. For Member, West Virginia Board of Treasury Investments, Mark A. Mangano, Chester, Hancock County, for the term ending June 30, 2023.

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195. For Member, Housing Development Fund, Christopher A. Stansbury, Charleston, Kanawha County, for the term ending October 30, 2024.
196. For Director, Division of Emergency Management, GE McCabe, Jr., Milton, Cabell County, to serve at the will and pleasure of the Governor.
197. For Member, Board of Directors of the West Virginia United Health System, Randy Williams, Morgantown, Monongalia County, for the term ending October 15, 2022.
198. For Member, Board of Directors of the West Virginia United Health System, Michelle Rotellini, Daniels, Raleigh County, for the term ending October 15, 2026.
199. For Member, State Conservation Committee, Eli McCoy, Charleston, Kanawha County, for the term ending September 6, 2021.
200. For Member, State Conservation Committee, Angela Rosser, Prociou, Clay County, for the term ending September 6, 2023.
201. For Member, State Conservation Committee, Britney Hervey Farris, Wellsburg, Brooke County, for the term ending September 6, 2022.
202. For Member, Board of Funeral Service Examiners, Eric B. Nichols, Charleston, Kanawha County, for the term ending June 30, 2024.
203. For Member, West Virginia Investment Management Board of Trustees, The Honorable Mike Hall, Winfield, Putnam County, for the term ending January 31, 2024.
204. For Member, West Virginia Board of Social Work Examiners, Charles S. Inghram, Athens, Mercer County, for the term ending June 30, 2025.
205. For Member, West Virginia Board of Social Work Examiners, Natalie Buskirk Murphy, Huntington, Cabell County, for the term ending June 30, 2025.
206. For Member, West Virginia Board of Social Work Examiners, Joanne Mahood Boileau, Ghent, Raleigh County, for the term ending June 30, 2025.
207. For Member, West Virginia Commission for the Deaf and Hard of Hearing, Gloria Hollen, Inwood, Berkeley County, for the term ending June 30, 2023.
208. For Member, West Virginia Commission for the Deaf and Hard of Hearing, Roy B. Forman, Williamstown, Wood County, for the term ending June 30, 2023.
209. For Member, West Virginia Commission for the Deaf and Hard of Hearing, John W. Burdette, Roncerverte, Greenbrier County, for the term ending June 30, 2023.

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210. For Member, West Virginia Commission for the Deaf and Hard of Hearing, Paul See, Moorefield, Hardy County, for the term ending June 30, 2023.
211. For Member, Catastrophic Illness Commission, Victoria Shuman, Caldwell, Greenbrier County, for the term ending August 31, 2022.
212. For Member, Catastrophic Illness Commission, Sandra L. Cotton, Morgantown, Monongalia County, for the term ending August 31, 2023.
213. For Member, Catastrophic Illness Commission, John R. Davidson, Jr., Charleston, Kanawha County, for the term ending August 31, 2024.
214. For Member, Catastrophic Illness Commission, Jacques R. Williams, Morgantown, Monongalia County, for the term ending August 31, 2022.
215. For Member, Board of the College Prepaid Tuition and Savings Program Board of Trustees, Patrick M. Smith, South Charleston, Kanawha County, for the term ending June 30, 2021.
216. For Member, West Virginia Board of Social Work Examiners, Robert D. Musick, Morgantown, Monongalia County, for the term ending June 30, 2025.
217. For Member, Board of Barbers and Cosmetologists, Catherine Donahoe, Barboursville, Cabell County, for the term ending June 30, 2025.
218. For Member, Board of Optometry, Sheena H. Hunt, Elkins, Randolph County, for the term ending June 30, 2023.
219. For Member, West Virginia Massage Therapy Licensure Board, Laurie Lively, Lewisburg, Greenbrier County, for the term ending June 30, 2021.
220. For Member, West Virginia Massage Therapy Licensure Board, John D. Skelton, Shady Spring, Raleigh County, for the term ending June 30, 2022.
221. For Member, West Virginia Massage Therapy Licensure Board, Marsha D. Starr, Charleston, Kanawha County, for the term ending June 30, 2022.
222. For Member, West Virginia Massage Therapy Licensure Board, Tina M. Turner, Huntington, Cabell County, for the term ending June 30, 2021.
223. For Member, National Coal Heritage Area Authority, William R. Archer, Bluefield, Mercer County, for the term ending June 30, 2024.
224. For Member, National Coal Heritage Area Authority, James C. Gaal, Hinton, Summers County, for the term ending June 30, 2023.
225. For Member, National Coal Heritage Area Authority, Debrina J. Williams, Logan, Logan County, for the term ending June 30, 2022.

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226. For Member, National Coal Heritage Area Authority, Kris Mitchell, Spurlockville, Boone County, for the term ending June 30, 2024.
227. For Member, National Coal Heritage Area Authority, Sharon Cruikshank, Fayetteville, Fayette County, for the term ending June 30, 2022.
228. For Member, National Coal Heritage Area Authority, Christy L. Laxton, Pineville, Wyoming County, for the term ending June 30, 2024.
229. For Member, West Virginia Public Employees Grievance Board, Alesia Green, Hurricane, Putnam County, for the term ending June 30, 2022.
230. For Member, West Virginia Public Employees Grievance Board, Maria V. Eshenaur, Point Pleasant, Mason County, for the term ending June 30, 2021.
231. For Member, Consolidated Public Retirement Board, Donald Murray, Chester, Hancock County, for the term ending June 30, 2023.
232. For Member, Consolidated Public Retirement Board, David Nelson, Julian, Boone County, for the term ending June 30, 2025.
233. For Member, Consolidated Public Retirement Board, Reginald Patterson, Hurricane, Putnam County, for the term ending June 30, 2025.
234. For Member, West Virginia University - Parkersburg Board of Governors, Donna M. Smith, Vienna, Wood County, for the term ending June 30, 2024.
235. For Member, West Virginia University - Parkersburg Board of Governors, Jason Landers, Vienna, Wood County, for the term ending June 30, 2024.
236. For Member, West Virginia University - Parkersburg Board of Governors, John P. Hushion, Vienna, Wood County, for the term ending June 30, 2024.
237. For Member, West Virginia University - Parkersburg Board of Governors, Joseph R. Oliverio, Belmont, Pleasants County, for the term ending June 30, 2024.
238. For Member, West Virginia University - Parkersburg Board of Governors, Ami L. Shaver, Vienna, Wood County, for the term ending June 30, 2022.
239. For Member, West Virginia Massage Therapy Licensure Board, Roland W. Meffert, Hurricane, Putnam County, for the term ending June 30, 2021.
240. For Member, National Coal Heritage Area Authority, Frederick A. Barkey, Charleston, Kanawha County, for the term ending June 30, 2023.

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241. For Member, West Virginia Contractor Licensing Board, Mary N. Cleland, Charleston, Kanawha County, for the term ending June 30, 2024.
242. For Member, Consolidated Public Retirement Board, Mike P. McKown, Charleston, Kanawha County, for the term ending June 30, 2025.
243. For Member, Consolidated Public Retirement Board, Rhonda Bolyard, Morgantown, Monongalia County, for the term ending June 30, 2023.
244. For Member, Bridge Valley Community and Technical College Board of Governors, Mark C. Blankenship, Charleston, Kanawha County, for the term ending June 30, 2024.
245. For Member, Bridge Valley Community and Technical College Board of Governors, Megan Callaghan Bailey, Charleston, Kanawha County, for the term ending June 30, 2024.
246. For Member, Bridge Valley Community and Technical College Board of Governors, Barry Holstein, Charleston, Kanawha County, for the term ending June 30, 2024.
247. For Member, Bridge Valley Community and Technical College Board of Governors, Larry Pack, Jr., East Bank, Kanawha County, for the term ending June 30, 2024.
248. For Member, Bridge Valley Community and Technical College Board of Governors, Ashley N. Deem, South Charleston, Kanawha County, for the term ending June 30, 2024.
249. For Member, School Building Authority, The Honorable Kenneth W. Mann, Greenville, Monroe County, for the term ending July 31, 2022.
250. For Member, Auctioneers Board of Review, Shelby L. Crouse, St. Albans, Kanawha County, for the term ending January 1, 2022.
251. For Member, Auctioneers Board of Review, James W. Frio, Valley Grove, Ohio County, for the term ending January 1, 2023.
252. For Member, Auctioneers Board of Review, Oscar E. Click, Leon, Mason County, for the term ending January 1, 2024.
253. For Member, National Coal Heritage Area Authority, James H. Lackey, Huntington, Wayne County, for the term ending June 30, 2023.
254. For Member, Committee for the Purchase of Commodities and Services from the Handicapped, Kim Nuckles, Charleston, Kanawha County, for the term ending January 31, 2023.
255. For Member, Committee for the Purchase of Commodities and Services from the Handicapped, Douglas Auten, Morgantown, Monongalia County, for the term ending January 31, 2023.

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256. For Member, Committee for the Purchase of Commodities and Services from the Handicapped, Susannah Carpenter, Charleston, Kanawha County, for the term ending January 1, 2023.

257. For Member, Committee for the Purchase of Commodities and Services from the Handicapped, John F. Hyre, Kingwood, Preston County, for the term ending January 1, 2023.

Notice of these appointments was previously provided to the appropriate legislative staff at the time the appointments were made.

Sincerely,



Jim Justice
Governor

JCJ: mrp

cc: Clerk of the Senate
Assistant Clerk of the Senate
Senate Confirmations Chair

Which communication was received and referred to the Committee on Confirmations.

On motion of Senator Boley, consideration of the nominations immediately hereinbefore reported was made a special order of business for Saturday, April 10, 2021, at 1 p.m.

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



Jim Justice
Governor of West Virginia

April 7, 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:

Senate Bill No. Sixty-Seven (67), which was presented to me on April 1, 2021.

Committee Substitute for Senate Bill No. Three Hundred Fifty-Six (356), which was presented to me on April 1, 2021.

Senate Bill No. Three Hundred Ninety (390), which was presented to me on April 1, 2021.

Committee Substitute for Senate Bill No. Four Hundred Thirty-One (431), which was presented to me on April 1, 2021.

Committee Substitute for Senate Bill No. Four Hundred Thirty-Five (435), which was presented to me on April 1, 2021.

You will note that I have approved these bills on April 7, 2021.

Sincerely,

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Stephen J. Harrison, Clerk



Jim Justice
Governor of West Virginia

April 7, 2021

The Honorable Stephen J. Harrison, Clerk
West Virginia House of Delegates
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 House Bill No. Two Thousand Fourteen (2014), which was presented to me on April 1, 2021.

Committee Substitute for House Bill No. Two Thousand Two Hundred Ninety (2290), which was presented to me on April 1, 2021.

Committee Substitute for House Bill No. Two Thousand Three Hundred Eighty-Two (2382), which was presented to me on April 1, 2021.

Committee Substitute for House Bill No. Two Thousand Eight Hundred Ninety-Six (2896), which was presented to me on April 1, 2021.

House Bill No. Two Thousand Eight Hundred Ninety-Seven (2897), which was presented to me on April 1, 2021.

You will note that I have approved these bills on April 7, 2021.

Sincerely

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

Jim Justice
Governor

JJ/mh
cc: The Honorable Lee Cassis



Jim Justice
Governor of West Virginia

April 7, 2021

The Honorable Stephen J. Harrison, Clerk
West Virginia House of Delegates
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:

House Bill No. Two Thousand Eight Hundred Ninety-Nine (2899), which was presented to me on April 1, 2021.

House Bill No. Two Thousand Nine Hundred One (2901), which was presented to me on April 1, 2021.

House Bill No. Two Thousand Nine Hundred Three (2903), which was presented to me on April 1, 2021.

House Bill No. Two Thousand Nine Hundred Twenty (2920), which was presented to me on April 1, 2021.

House Bill No. Two Thousand Nine Hundred Forty (2940), which was presented to me on April 1, 2021.

You will note that I have approved these bills on April 7, 2021.

Sincerely

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

Jim Justice
Governor

JJ/mh

cc: The Honorable Lee Cassis

The Senate again proceeded to the fourth order of business.

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

Your Committee on Education has had under consideration

Senate Concurrent Resolution 72 (originating in the Committee on Education)—Requesting the Joint Committee on Government and Finance study the possible programs and procedures which can be implemented by county boards of education to facilitate summer and non-school-day feeding programs to prevent child food insecurity.

Whereas, More than 5,300,000 children nationally and one in five children in West Virginia live in a household that is food insecure; and

Whereas, Over 65 percent of school-aged children in West Virginia qualify for free or reduced-price meals; and

Whereas, Inadequate access to food places children at risk for health problems, obesity, nutrient deficiencies, and difficulties with learning and discipline; and

Whereas, Food insecurity for children continues when they are not in school, such as after school, snow days, during summer vacation, or extended breaks; and

Whereas, Innovative ideas and partnerships between county boards of education and other organizations are vital to ensure that children have access to nutritious, healthy, and sufficient food in and out of school; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the possible programs and procedures which can be implemented by county boards of education to facilitate summer and non-school-day feeding programs to prevent child food insecurity; and, be it

Further Resolved, That the Joint Committee on Government and Finance create a matrix containing the programs and resources available to each county board of education which can be used to address and prevent child food insecurity; and, be it

Further Resolved, That the study examine potential partnerships with social and civic groups, food pantries and food banks, faith-based initiatives, and corporate partnerships to aid county boards of education in providing food to students outside of the school day; and, be it

Further Resolved, That the study include recommendations for increasing efficiency in the delivery of the feeding programs to prevent child food insecurity as well as for streamlining coordination between all parties involved in the delivery of the feeding programs; 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.

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

Respectfully submitted,

Patricia Puertas Rucker,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the resolution (S. C. R. 72) contained in the foregoing report from the Committee on Education was then referred to the Committee on Rules.

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

Your Committee on the Judiciary has had under consideration

Eng. Com. Sub. for House Bill 2025, Provide liquor, wine, and beer licensees with some new concepts developed during the State of Emergency utilizing new technology to provide greater freedom to operate in a safe and responsible manner.

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 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 2368, Mylissa Smith's Law, creating patient visitation privileges.

With an amendment from the Committee on Health and Human Resources pending;

And has also amended same.

And reports the same back with the recommendation that it do pass as last amended by the Committee on the Judiciary.

Respectfully submitted,

Charles S. Trump IV,
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 2370, Provide that Public Service Districts cannot charge sewer rates for filling a swimming pool.

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. Com. Sub. for House Bill 2581, Providing for the valuation of natural resources property and an alternate method of appeal of proposed valuation of natural resources property.

With amendments from the Committee on the Judiciary pending;

And reports the same back with the recommendation that it do pass 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. Com. Sub. for House Bill 2667, To create a cost saving program for state buildings regarding energy efficiency.

Eng. House Bill 2900, Expiring funds to the balance of the Department of Education – State Board of Education – School Building Authority – School Construction Fund.

Eng. House Bill 3313, Making supplemental appropriation to the Division of Motor Vehicles.

Eng. House Bill 3314, Making supplemental appropriation to West Virginia State Police.

Eng. House Bill 3315, Making supplemental appropriation to Division of Environmental Protection - Oil and Gas Reclamation Fund.

And,

Eng. House Bill 3316, Supplemental appropriation to the Department of Education, State Board of Education.

And reports the same back with the recommendation that they each 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 2694, Create the 2nd Amendment Preservation Act.

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 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 2747, Transferring the Parole Board to the Office of Administrative Hearings.

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 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 2982, Relating to the Second Chances at Life Act of 2021.

With an amendment from the Committee on Health and Human Resources pending;

And has also amended same.

And reports the same back with the recommendation that it do pass as last amended by the Committee on the Judiciary.

Respectfully submitted,

Charles S. Trump IV,
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 2997, 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.

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 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 3106, To change the hearing requirement for misdemeanors to 10 days.

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 3128, Relating to carrier fees on 911 fee revenues.

With amendments from the Committee on Government Organization pending;

And has also amended same.

And reports the same back with the recommendation that it do pass as last amended by the Committee on Finance.

Respectfully submitted,

Eric J. Tarr,
Chair.

At the request of Senator Tarr, unanimous consent being granted, the Senate proceeded to the consideration of

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

On third reading, having been deferred in earlier proceedings today and now coming up in deferred order, with the unreported Finance committee amendment pending, and with the right having been granted on Monday, April 5, 2021, for further amendments to be received on third reading, was again reported by the Clerk.

At the request of Senator Tarr, as chair of the Committee on Finance, and by unanimous consent, the unreported Finance committee amendment to the bill was withdrawn.

On motion of Senator Tarr, the following amendment to the bill was reported by the Clerk:

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

CHAPTER 11. TAXATION.

ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE TAX ACT.

§11-13A-3. Imposition of tax on privilege of severing coal, limestone or sandstone, or furnishing certain health care services, effective dates therefor; reduction of severance rate for coal mined by underground methods based on seam thickness.

(a) Imposition of tax. — Upon every person exercising the privilege of engaging or continuing within this state in the business of severing, extracting, reducing to possession and producing for sale, profit or commercial use coal, limestone or sandstone, or in the business of furnishing certain health care services, there is hereby levied and shall be collected from every person exercising such privilege an annual privilege tax.

(b) Rate and measure of tax. —

(1) Subject to the provisions of subsection (h) of this section, the tax imposed in subsection (a) of this section is five percent of the gross value of the natural resource produced or the health care service provided, as shown by the gross income derived from the sale or furnishing thereof by the producer or the provider of the health care service, except as otherwise provided in this article: *Provided*, That effective July 1, 2019, the tax rate imposed by this subsection on the gross value of thermal or steam coal produced shall be reduced incrementally over the next three tax years for a total reduction of two percent by July 1, 2021. That on July 1, 2019, the reduction shall

occur at the rate of 35 percent of the two percent reduction, on July 1, 2020, the reduction shall occur at the rate of 65 percent of the two percent reduction, and on July 1, 2021, at the rate of 100 percent of the two percent reduction. In the case of coal, the rate of tax includes the thirty-five one hundredths of one percent additional severance tax on coal imposed by the state for the benefit of counties and municipalities as provided in §11-13A-6 of this code and the additional severance tax on coal imposed by the state for the benefit of coal-producing counties as provided in §11-13A-6a of this code.

(2) On and after January 1, 2022, and notwithstanding any other provision of this article, or this code, the rate of tax on the privilege of engaging or continuing within this state in the business of severing, extracting, reducing to possession and producing for sale, profit or commercial use coal, shall be imposed and paid as follows. In the case of coal, the rate of tax includes the thirty-five one hundredths of one percent additional severance tax on coal imposed by the state for the benefit of counties and municipalities as provided in §11-13A-6 of this code and the additional severance tax on coal imposed by the state for the benefit of coal-producing counties as provided in §11-13A-6a of this code: *Provided*, That effective January 1, 2022, the thirty-five one hundredths of one percent additional severance tax levied pursuant to this section shall be deposited into the fund created pursuant to §11B-2-32 of this code.

(A) For Metallurgical Coal and Coal not elsewhere classified:

| <u>When the annualized gross</u> | <u>The rate of tax on the gross value</u> |
|---|--|
| <u>value of coal per ton is:</u> | <u>of the coal is:</u> |
| Less than \$65.00 | 4.0% |
| \$65.00 to \$114.99 | 5.0% |
| \$115.00 to \$134.99 | 5.5% |
| \$135.00 to \$164.99 | 6.0% |
| \$165.00 to \$199.99 | 6.5% |
| \$200 or more | 7.0% |

(B) For Steam Coal:

| <u>When the annualized gross</u> | <u>The rate of tax on the gross value</u> |
|---|--|
| <u>value of coal per ton is:</u> | <u>of the coal is:</u> |
| Less than \$35.00..... | 2.0% |
| \$35.00 to \$59.99..... | 3.0% |
| \$60.00 to \$69.99 | 3.5% |
| \$70.00 to \$84.99 | 4.0% |
| \$85.00 to \$99.99 | 5.0% |

| | |
|-----------------------------------|-------------|
| <u>\$100.00 to \$119.99</u> | <u>6.0%</u> |
| <u>\$120.00 or more.....</u> | <u>7.0%</u> |

(C) For coal mined by underground methods from seams with an average thickness of 37 inches to 45 inches:

| <u>When the annualized gross</u> | <u>The rate of tax on the gross value</u> |
|---|--|
| <u>value of coal per ton is:</u> | <u>of the coal is:</u> |
| <u>Less than \$65.00.....</u> | <u>1.5%</u> |
| <u>\$65.00 to \$114.99.....</u> | <u>2.0%</u> |
| <u>\$115.00 to \$134.99.....</u> | <u>2.5%</u> |
| <u>\$135.00 to \$164.99</u> | <u>3.0%</u> |
| <u>\$165.00 to \$199.99.....</u> | <u>4.0%</u> |
| <u>\$200.00 or more</u> | <u>5.0%</u> |

(D) For coal mined by underground methods from seams with an average thickness of less than 37 inches:

| <u>When the annualized gross</u> | <u>The rate of tax on the gross value</u> |
|---|--|
| <u>value of coal per ton is:</u> | <u>of the coal is:</u> |
| <u>Less than \$65.00.....</u> | <u>0.75%</u> |
| <u>\$65.00 to \$114.99.....</u> | <u>1.0%</u> |
| <u>\$115.00 to \$134.99</u> | <u>1.5%</u> |
| <u>\$135.00 to \$164.99</u> | <u>2.0%</u> |
| <u>\$165.00 to \$199.99.....</u> | <u>3.0%</u> |
| <u>\$200 or more</u> | <u>4.0%</u> |

(c) “Metallurgical coal” means bituminous coal suitable for the manufacture of coke used or useable for the manufacture of iron or steel, or both.

(d) “Thermal or steam coal” defined. - For purposes of this section the term “thermal or steam coal” means coal sold for the purpose of generating electricity.

(d) (e) “Certain health care services” defined. — For purposes of this section, the term “certain health care services” means, and is limited to, behavioral health services.

(f) “Annualized gross value” defined. — For purposes of this section, the term “annualized gross value” means, and is limited to, the average price of coal for a particular category provided in subdivision (2), subsection (b) of this section for the taxable year of the taxpayer derived by dividing the gross proceeds for the particular category by the amount of tons produced within that category.

~~(e)~~ (g) Tax in addition to other taxes. — The tax imposed by this section applies to all persons severing or processing, or both severing and processing, in this state natural resources enumerated in subsection (a) of this section and to all persons providing certain health care services in this state as enumerated in subsection (d) of this section and shall be in addition to all other taxes imposed by law.

~~(f)~~ (h) Effective date. — This section, as amended in 1993, shall apply to gross proceeds derived after May 31, 1993. The language of this section, as in effect on January 1, 1993, shall apply to gross proceeds derived prior to June 1, 1993 and, with respect to such gross proceeds, shall be fully and completely preserved.

~~(g)~~ (i) Reduction of severance tax rate. — For tax years beginning after the effective date of this subsection, any person exercising the privilege of engaging within this state in the business of severing coal for the purposes provided in subsection (a) of this section shall be allowed a reduced rate of tax on coal mined by underground methods in accordance with the following:

(1) For coal mined by underground methods from seams with an average thickness of 37 inches to 45 inches, the tax imposed in subsection (a) of this section shall be two percent of the gross value of the coal produced. For coal mined by underground methods from seams with an average thickness of less than 37 inches, the tax imposed in subsection (a) of this section shall be one percent of the gross value of the coal produced. Gross value is determined from the sale of the mined coal by the producer. This rate of tax includes the thirty-five one hundredths of one percent additional severance tax imposed by the state for the benefit of counties and municipalities as provided in §11-13A-6 of this code.

(2) This reduced rate of tax applies to any new underground mine producing coal after the effective date of this subsection, from seams of less than 45 inches in average thickness or any existing mine that has not produced coal from seams 45 inches or less in thickness in the 180 days immediately preceding the effective date of this subsection.

(3) The seam thickness shall be based on the weighted average isopach mapping of actual coal thickness by mine as certified by a professional engineer.

~~(h)~~ (j)(1) Termination and expiration of the behavioral health severance and business privilege tax. — The tax imposed upon providers of health care services under the provisions of this article shall expire, terminate and cease to be imposed with respect to privileges exercised on or after July 1, 2016. Expiration of the tax as provided in this subsection does not relieve any person from payment of any tax imposed with respect to privileges exercised before the expiration date.

(2) Refunds made. — The Tax Commissioner shall issue a requisition on the Treasury for any amount finally, administratively or judicially determined to be an overpayment of the tax terminated under this subsection. The Auditor shall issue a warrant on the Treasurer for any refund requisitioned under this subsection payable to the taxpayer entitled to the refund, and the Treasurer shall pay the warrant out of the fund into which the amount refunded was originally paid.

(j) (k) Termination and expiration of the privilege tax on limestone or sandstone. — The taxes imposed under this section for persons exercising the privilege of engaging or continuing within this state in the business of severing, extracting, reducing to possession and producing for sale, profit or commercial use limestone or sandstone shall cease, terminate and be of no further force or effect on and after July 1, 2019. Termination of the taxes imposed under this section do not relieve any person of any liability or duty to pay tax imposed under this article with respect to privileges exercised before the effective date of the termination.

§11-13A-3a. Imposition of tax on privilege of severing natural gas or oil Tax Commissioner to develop a uniform reporting form.

(a) *Imposition of tax.* — For the privilege of engaging or continuing within this state in the business of severing natural gas or oil for sale, profit or commercial use, there is levied and shall be collected from every person exercising the privilege an annual privilege tax at the rate and measure provided in subsection (b) of this section: *Provided*, That effective for all taxable periods beginning on or after January 1, 2000, there is an exemption from the imposition of the tax provided in this article on the following: (1) Free natural gas provided to any surface owner; (2) natural gas produced from any well which produced an average of less than 5,000 cubic feet of natural gas per day during the calendar year immediately preceding a given taxable period; (3) oil produced from any oil well which produced an average of less than one-half barrel of oil per day during the calendar year immediately preceding a given taxable period; and (4) for a maximum period of 10 years, all natural gas or oil produced from any well which has not produced marketable quantities of natural gas or oil for five consecutive years immediately preceding the year in which a well is placed back into production and thereafter produces marketable quantities of natural gas or oil.

(b) *Rate and measure of tax.* — The tax imposed in subsection (a) of this section is five percent of the gross value of the natural gas or oil produced by the producer as shown by the gross proceeds derived from the sale thereof by the producer, except as otherwise provided in this article: *Provided*, That effective for taxable periods beginning on or after January 1, 2020:

(1) For all natural gas produced from any well which produced an average in excess of 60,000 cubic feet of natural gas per day during the calendar year immediately preceding a given taxable year, and for oil produced from any well which produced an average in excess of 10 barrels of oil per day, during the calendar year immediately preceding the beginning date of a given taxable year, the rate of tax is five percent of the gross value of the natural gas or oil produced as shown by the gross proceeds derived from the sale thereof by the producer: *Provided*, That beginning on and after January 1, 2022, and notwithstanding any other provision of this article or this code:

(A) All natural gas produced from any well which produced an average in excess of 60,000 cubic feet of natural gas per day, and all natural gas produced from any well utilizing horizontal drilling techniques targeting shale formations which produced an average between 5,000 cubic feet of natural gas per day and 60,000 cubic feet of natural gas per day, during the calendar year immediately preceding a given taxable year, shall be subject to the following rate of tax on the privilege of severing natural gas for sale, profit, or commercial use on wells:

| <u>When the annualized gross</u> | <u>The rate of tax on the gross value</u> |
|---|---|
| <u>value of natural gas per MCF is:</u> | <u>of the natural gas produced is:</u> |
| Less than \$0.80 | 4.0% |

| | |
|-------------------------------|-------------|
| <u>\$0.80 to \$2.99</u> | <u>5.0%</u> |
| <u>\$3.00 to \$4.99</u> | <u>6.0%</u> |
| <u>\$5.00 to \$5.99</u> | <u>6.5%</u> |
| <u>\$6.00 or more.....</u> | <u>7.0%</u> |

(B) All oil produced from any well which produced an average in excess of 10 barrels of oil per day, and all oil produced from any well utilizing horizontal drilling techniques targeting shale formations which produced an average between one-half barrel per day and 10 barrels per day, during the calendar year immediately preceding a given taxable year, shall be subject to the following rate of tax on the privilege of severing oil for sale, profit, or commercial use on wells:

| <u>When the annualized gross</u> | <u>The rate of tax on the gross value</u> |
|------------------------------------|---|
| <u>value of oil per barrel is:</u> | <u>of the oil produced is:</u> |
| <u>Less than \$20.00.....</u> | <u>4.0%</u> |
| <u>\$20.00 to \$69.99.....</u> | <u>5.0%</u> |
| <u>\$70.00 to \$89.99</u> | <u>6.0%</u> |
| <u>\$90.00 to \$109.99.....</u> | <u>6.5%</u> |
| <u>\$110.00 or more.....</u> | <u>7.0%</u> |

(2) For all natural gas produced from any well, excluding wells utilizing horizontal drilling techniques targeting shale formations, which produced an average between 5,000 cubic feet of natural gas per day and 60,000 cubic feet of natural gas per day during the calendar year immediately preceding the beginning date of a given taxable year, and for oil produced from any well, excluding wells utilizing horizontal drilling techniques targeting shale formations, which produced an average between one-half barrel per day and 10 barrels per day, during the calendar year immediately preceding the beginning date of a given taxable year, the rate of tax is two and five tenths percent of the gross value of the natural gas or oil produced as shown by the gross proceeds derived from the sale thereof by the producer; and

~~(3) For all natural gas produced from wells utilizing horizontal drilling techniques targeting shale formations, which produced an average between 5,000 cubic feet of natural gas per day and 60,000 cubic feet of natural gas per day during the calendar year immediately preceding the beginning date of a given taxable year, and for oil produced from wells utilizing horizontal drilling techniques targeting shale formations, which produced an average between one-half barrel per day and 10 barrels per day, during the calendar year immediately preceding the beginning date of a given taxable year, the rate of tax is five percent of the gross value of the natural gas or oil produced as shown by the gross proceeds derived from the sale thereof by the producer.~~

(c) *Tax in addition to other taxes.* — The tax imposed by this section applies to all persons severing gas or oil in this state, and is in addition to all other taxes imposed by law.

(d) For purposes of this section, in determining the average amount of production of gas and oil in any given calendar year, a taxpayer must calculate the actual production of such well in the calendar year and divide the same by the number of days the well was in operation and producing gas or oil in such calendar year.

(e) "Annualized gross value" defined. – For purposes of this section, the term "annualized gross value" means, and is limited to:

(1) For natural gas, the total gross proceeds for sales of natural gas in the taxable year divided by the number of MCF produced for the taxable year, taking into account all wells from which natural gas was produced.

(2) For oil, the total gross proceeds for sales of oil in the taxable year divided by the number of barrels produced for the taxable year, taking into account all wells from which oil was produced.

~~(e)~~ (f) After the dedication in §11-13A-5a is made, the remaining proceeds collected from the tax imposed at the rate prescribed under subdivision (2), subsection (b) of this section are dedicated to the Oil and Gas Abandoned Well Plugging Fund created under §22-6-29a of this code: *Provided*, That if on June 1, 2023, or on June 1 of any year thereafter, there exists in the Oil and Gas Abandoned Well Plugging Fund an amount equal to or exceeding the sum of \$6 million then the special rate of tax imposed under subdivision (2), subsection (b) of this section is reduced to zero for the taxable year beginning on and after the next succeeding January 1. The Tax Commissioner shall issue an Administrative Notice by July 1 of each year indicating the balance in the fund as of the immediately preceding June 1 and the rate of tax on wells pursuant to this subsection.

(g) Effective January 1, 2022, the additional severance tax levied pursuant to this section over and above the current rate of the severance tax shall be deposited into the fund created pursuant to §11B-2-32 of this code. The tax commission may promulgate procedural rules to effectuate the provisions of this subsection.

ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

§11-15-2. Definitions.

(a) *General.* — When used in this article and article fifteen-a of this chapter, words defined in subsection (b) of this section have the meanings ascribed to them in this section, except in those instances where a different meaning is provided in this article or the context in which the word is used clearly indicates that a different meaning is intended by the Legislature.

(b) *Definitions.* —

(1) "Business" includes all activities engaged in or caused to be engaged in with the object of gain or economic benefit, direct or indirect, and all activities of the state and its political subdivisions which involve sales of tangible personal property or the rendering of services when those service activities compete with or may compete with the activities of other persons.

(2) "Communication" means all telephone, radio, light, light wave, radio telephone, telegraph and other communication or means of communication, whether used for voice communication, computer data transmission or other encoded symbolic information transfers and includes commercial broadcast radio, commercial broadcast television and cable television.

(3) “Contracting”:

(A) *In general.* — “Contracting” means and includes the furnishing of work, or both materials and work, for another (by a sole contractor, general contractor, prime contractor, subcontractor or construction manager) in fulfillment of a contract for the construction, alteration, repair, decoration or improvement of a new or existing building or structure, or any part thereof, or for removal or demolition of a building or structure, or any part thereof, or for the alteration, improvement or development of real property. Contracting also includes services provided by a construction manager so long as the project for which the construction manager provides the services results in a capital improvement to a building or structure or to real property.

(B) *Form of contract not controlling.* — An activity that falls within the scope of the definition of contracting constitutes contracting regardless of whether the contract governing the activity is written or verbal and regardless of whether it is in substance or form a lump sum contract, a cost-plus contract, a time and materials contract, whether or not open-ended, or any other kind of construction contract.

(C) *Special rules.* — For purposes of this definition:

(i) The term “structure” includes, but is not limited to, everything built up or composed of parts joined together in some definite manner and attached or affixed to real property or which adds utility to real property or any part thereof or which adds utility to a particular parcel of property and is intended to remain there for an indefinite period of time;

(ii) The term “alteration” means, and is limited to, alterations which are capital improvements to a building or structure or to real property;

(iii) The term “repair” means, and is limited to, repairs which are capital improvements to a building or structure or to real property;

(iv) The term “decoration” means, and is limited to, decorations which are capital improvements to a building or structure or to real property;

(v) The term “improvement” means, and is limited to, improvements which are capital improvements to a building or structure or to real property;

(vi) The term “capital improvement” means improvements that are affixed to or attached to and become a part of a building or structure or the real property or which add utility to real property, or any part thereof, and that last or are intended to be relatively permanent. As used herein, “relatively permanent” means lasting at least a year in duration without the necessity for regularly scheduled recurring service to maintain the capital improvement. “Regular recurring service” means regularly scheduled service intervals of less than one year;

(vii) Contracting does not include the furnishing of work, or both materials and work, in the nature of hookup, connection, installation or other services if the service is incidental to the retail sale of tangible personal property from the service provider’s inventory: *Provided*, That the hookup, connection or installation of the foregoing is incidental to the sale of the same and performed by the seller thereof or performed in accordance with arrangements made by the seller thereof. Examples of transactions that are excluded from the definition of contracting pursuant to this subdivision include, but are not limited to, the sale of wall-to-wall carpeting and the installation of wall-to-wall carpeting, the sale, hookup and connection of mobile homes, window air

conditioning units, dishwashers, clothing washing machines or dryers, other household appliances, drapery rods, window shades, venetian blinds, canvas awnings, free-standing industrial or commercial equipment and other similar items of tangible personal property. Repairs made to the foregoing are within the definition of contracting if the repairs involve permanently affixing to or improving real property or something attached thereto which extends the life of the real property or something affixed thereto or allows or intends to allow the real property or thing permanently attached thereto to remain in service for a year or longer; and

(viii) The term “construction manager” means a person who enters into an agreement to employ, direct, coordinate or manage design professionals and contractors who are hired and paid directly by the owner or the construction manager. The business activities of a “construction manager” as defined in this subdivision constitute contracting, so long as the project for which the construction manager provides the services results in a capital improvement to a building or structure or to real property.

(4) “Directly used or consumed” in the activities of manufacturing, transportation, transmission, communication or the production of natural resources means used or consumed in those activities or operations which constitute an integral and essential part of the activities, as contrasted with and distinguished from those activities or operations which are simply incidental, convenient or remote to the activities.

(A) Uses of property or consumption of services which constitute direct use or consumption in the activities of manufacturing, transportation, transmission, communication or the production of natural resources include only:

(i) In the case of tangible personal property, physical incorporation of property into a finished product resulting from manufacturing production or the production of natural resources;

(ii) Causing a direct physical, chemical or other change upon property undergoing manufacturing production or production of natural resources;

(iii) Transporting or storing property undergoing transportation, communication, transmission, manufacturing production or production of natural resources;

(iv) Measuring or verifying a change in property directly used in transportation, communication, transmission, manufacturing production or production of natural resources;

(v) Physically controlling or directing the physical movement or operation of property directly used in transportation, communication, transmission, manufacturing production or production of natural resources;

(vi) Directly and physically recording the flow of property undergoing transportation, communication, transmission, manufacturing production or production of natural resources;

(vii) Producing energy for property directly used in transportation, communication, transmission, manufacturing production or production of natural resources;

(viii) Facilitating the transmission of gas, water, steam or electricity from the point of their diversion to property directly used in transportation, communication, transmission, manufacturing production or production of natural resources;

(ix) Controlling or otherwise regulating atmospheric conditions required for transportation, communication, transmission, manufacturing production or production of natural resources;

(x) Serving as an operating supply for property undergoing transmission, manufacturing production or production of natural resources, or for property directly used in transportation, communication, transmission, manufacturing production or production of natural resources;

(xi) Maintaining or repairing of property, including maintenance equipment, directly used in transportation, communication, transmission, manufacturing production or production of natural resources;

(xii) Storing, removal or transportation of economic waste resulting from the activities of manufacturing, transportation, communication, transmission or the production of natural resources;

(xiii) Engaging in pollution control or environmental quality or protection activity directly relating to the activities of manufacturing, transportation, communication, transmission or the production of natural resources and personnel, plant, product or community safety or security activity directly relating to the activities of manufacturing, transportation, communication, transmission or the production of natural resources; or

(xiv) Otherwise using as an integral and essential part of transportation, communication, transmission, manufacturing production or production of natural resources.

(B) Uses of property or services which do not constitute direct use or consumption in the activities of manufacturing, transportation, transmission, communication or the production of natural resources include, but are not limited to:

(i) Heating and illumination of office buildings;

(ii) Janitorial or general cleaning activities;

(iii) Personal comfort of personnel;

(iv) Production planning, scheduling of work or inventory control;

(v) Marketing, general management, supervision, finance, training, accounting and administration; or

(vi) An activity or function incidental or convenient to transportation, communication, transmission, manufacturing production or production of natural resources, rather than an integral and essential part of these activities.

(5) "Directly used or consumed" in the activities of gas storage, the generation or production or sale of electric power, the provision of a public utility service or the operation of a utility business means used or consumed in those activities or operations which constitute an integral and essential part of those activities or operation, as contrasted with and distinguished from activities or operations which are simply incidental, convenient or remote to those activities.

(A) Uses of property or consumption of services which constitute direct use or consumption in the activities of gas storage, the generation or production or sale of electric power, the provision of a public utility service or the operation of a utility business include only:

(i) Tangible personal property, custom software or services, including equipment, machinery, apparatus, supplies, fuel and power and appliances, which are used immediately in production or generation activities and equipment, machinery, supplies, tools and repair parts used to keep in operation exempt production or generation devices. For purposes of this subsection, production or generation activities shall commence from the intake, receipt or storage of raw materials at the production plant site;

(ii) Tangible personal property, custom software or services, including equipment, machinery, apparatus, supplies, fuel and power, appliances, pipes, wires and mains, which are used immediately in the transmission or distribution of gas, water and electricity to the public, and equipment, machinery, tools, repair parts and supplies used to keep in operation exempt transmission or distribution devices, and these vehicles and their equipment as are specifically designed and equipped for those purposes are exempt from the tax when used to keep a transmission or distribution system in operation or repair. For purposes of this subsection, transmission or distribution activities shall commence from the close of production at a production plant or wellhead when a product is ready for transmission or distribution to the public and shall conclude at the point where the product is received by the public;

(iii) Tangible personal property, custom software or services, including equipment, machinery, apparatus, supplies, fuel and power, appliances, pipes, wires and mains, which are used immediately in the storage of gas or water, and equipment, machinery, tools, supplies and repair parts used to keep in operation exempt storage devices;

(iv) Tangible personal property, custom software or services used immediately in the storage, removal or transportation of economic waste resulting from the activities of gas storage, the generation or production or sale of electric power, the provision of a public utility service or the operation of a utility business;

(v) Tangible personal property, custom software or services used immediately in pollution control or environmental quality or protection activity or community safety or security directly relating to the activities of gas storage, generation or production or sale of electric power, the provision of a public utility service or the operation of a utility business.

(B) Uses of property or services which would not constitute direct use or consumption in the activities of gas storage, generation or production or sale of electric power, the provision of a public utility service or the operation of a utility business include, but are not limited to:

(i) Heating and illumination of office buildings;

(ii) Janitorial or general cleaning activities;

(iii) Personal comfort of personnel;

(iv) Production planning, scheduling of work or inventory control;

(v) Marketing, general management, supervision, finance, training, accounting and administration; or

(vi) An activity or function incidental or convenient to the activities of gas storage, generation or production or sale of electric power, the provision of public utility service or the operation of a utility business.

(6) "Gas storage" means the injection of gas into a storage reservoir or the storage of gas for any period of time in a storage reservoir or the withdrawal of gas from a storage reservoir engaged in by businesses subject to the business and occupation tax imposed by sections two and two-e, article thirteen of this chapter.

(7) "Generating or producing or selling of electric power" means the generation, production or sale of electric power engaged in by businesses subject to the business and occupation tax imposed by section two, two-d, two-m or two-n, article thirteen of this chapter.

(8) "Gross proceeds" means the amount received in money, credits, property or other consideration from sales and services within this state, without deduction on account of the cost of property sold, amounts paid for interest or discounts or other expenses whatsoever. Losses may not be deducted, but any credit or refund made for goods returned may be deducted.

(9) "Includes" and "including", when used in a definition contained in this article, does not exclude other things otherwise within the meaning of the term being defined.

(10) "Manufacturing" means a systematic operation or integrated series of systematic operations engaged in as a business or segment of a business which transforms or converts tangible personal property by physical, chemical or other means into a different form, composition or character from that in which it originally existed.

(11) "Person" means any individual, partnership, association, corporation, limited liability company, limited liability partnership or any other legal entity, including this state or its political subdivisions or an agency of either, or the guardian, trustee, committee, executor or administrator of any person.

(12) "Personal service" includes those: (A) Compensated by the payment of wages in the ordinary course of employment; and (B) rendered to the person of an individual without, at the same time, selling tangible personal property, such as nursing, barbering, shoe shining, manicuring and similar services.

(13) "Prepaid wireless calling service" means a telecommunications service that provides the right to utilize mobile wireless service as well as other nontelecommunications services, ~~including the download of digital products delivered electronically,~~ content and ancillary services, which must be paid for in advance that is sold in predetermined units or dollars of which the number decline with use in a known amount: Provided, That, effective January 1, 2022, notwithstanding any provision of this code to the contrary, the download of all digital products delivered electronically shall be taxable.

(14) Production of natural resources.

(A) "Production of natural resources" means, except for oil and gas, the performance, by either the owner of the natural resources or another, of the act or process of exploring, developing, severing, extracting, reducing to possession and loading for shipment and shipment for sale, profit or commercial use of any natural resource products and any reclamation, waste disposal or environmental activities associated therewith and the construction, installation or fabrication of

ventilation structures, mine shafts, slopes, boreholes, dewatering structures, including associated facilities and apparatus, by the producer or others, including contractors and subcontractors, at a coal mine or coal production facility.

(B) For the natural resources oil and gas, “production of natural resources” means the performance, by either the owner of the natural resources, a contractor or a subcontractor, of the act or process of exploring, developing, drilling, well-stimulation activities such as logging, perforating or fracturing, well-completion activities such as the installation of the casing, tubing and other machinery and equipment and any reclamation, waste disposal or environmental activities associated therewith, including the installation of the gathering system or other pipeline to transport the oil and gas produced or environmental activities associated therewith and any service work performed on the well or well site after production of the well has initially commenced.

(C) All work performed to install or maintain facilities up to the point of sale for severance tax purposes is included in the “production of natural resources” and subject to the direct use concept.

(D) “Production of natural resources” does not include the performance or furnishing of work, or materials or work, in fulfillment of a contract for the construction, alteration, repair, decoration or improvement of a new or existing building or structure, or any part thereof, or for the alteration, improvement or development of real property, by persons other than those otherwise directly engaged in the activities specifically set forth in this subdivision as “production of natural resources”.

(15) “Providing a public service or the operating of a utility business” means the providing of a public service or the operating of a utility by businesses subject to the business and occupation tax imposed by sections two and two-d, article thirteen of this chapter.

(16) “Purchaser” means a person who purchases tangible personal property, custom software or a service taxed by this article.

(17) “Sale”, “sales” or “selling” includes any transfer of the possession or ownership of tangible personal property or custom software for a consideration, including a lease or rental, when the transfer or delivery is made in the ordinary course of the transferor’s business and is made to the transferee or his or her agent for consumption or use or any other purpose. “Sale” also includes the furnishing of a service for consideration. Notwithstanding anything to the contrary in this code, effective after June 30, 2008, “sale” also includes the furnishing of prepaid wireless calling service for consideration.

(18) “Service” or “selected service” includes all nonprofessional activities engaged in for other persons for a consideration, which involve the rendering of a service as distinguished from the sale of tangible personal property or custom software, but does not include contracting, personal services or the services rendered by an employee to his or her employer or any service rendered for resale: *Provided*, That the term “service” or “selected service” does not include payments received by a vendor of tangible personal property as an incentive to sell a greater volume of such tangible personal property under a manufacturer’s, distributor’s or other third party’s marketing support program, sales incentive program, cooperative advertising agreement or similar type of program or agreement, and these payments are not considered to be payments for a “service” or “selected service” rendered, even though the vendor may engage in attendant or ancillary activities associated with the sales of tangible personal property as required under the programs or agreements.

(19) “Streamlined Sales and Use Tax Agreement” or “agreement”, when used in this article, has the same meaning as when used in article fifteen-b of this chapter, except when the context in which the word “agreement” is used clearly indicates that a different meaning is intended by the Legislature.

(20) “Tax” includes all taxes, additions to tax, interest and penalties levied under this article or article ten of this chapter.

(21) “Tax Commissioner” means the State Tax Commissioner or his or her delegate. The term “delegate” in the phrase “or his or her delegate”, when used in reference to the Tax Commissioner, means any officer or employee of the state Tax ~~Division~~ Department duly authorized by the Tax Commissioner directly, or indirectly by one or more redelegations of authority, to perform the functions mentioned or described in this article or rules promulgated for this article.

(22) “Taxpayer” means any person liable for the tax imposed by this article or additions to tax, penalties and interest imposed by article ten of this chapter.

(23) “Transmission” means the act or process of causing liquid, natural gas or electricity to pass or be conveyed from one place or geographical location to another place or geographical location through a pipeline or other medium for commercial purposes.

(24) “Transportation” means the act or process of conveying, as a commercial enterprise, passengers or goods from one place or geographical location to another place or geographical location.

(25) “Ultimate consumer” or “consumer” means a person who uses or consumes services or personal property.

(26) “Vendor” means any person engaged in this state in furnishing services taxed by this article or making sales of tangible personal property or custom software. “Vendor” and “seller” are used interchangeably in this article.

(c) *Additional definitions.* — Other terms used in this article are defined in article fifteen-b of this chapter, which definitions are incorporated by reference into article fifteen of this chapter. Additionally, other sections of this article may define terms primarily used in the section in which the term is defined.

§11-15-3. Amount of tax; allocation of tax and transfers.

(a) *Vendor to collect.* — For the privilege of selling tangible personal property or custom software and for the privilege of furnishing certain selected services defined in sections two and eight of this article, the vendor shall collect from the purchaser the tax as provided under this article and article fifteen-b of this chapter, and shall pay the amount of tax to the Tax Commissioner in accordance with the provisions of this article or article fifteen-b of this chapter.

(b) *Amount of tax.* — The general consumer sales and service tax imposed by this article shall be at the rate of 6¢ on the dollar of sales or services, excluding gasoline and special fuel sales, which remain taxable at the rate of 5¢ on the dollar of sales.

(c) *Calculation tax on fractional parts of a dollar until January 1, 2004.* — There shall be no tax on sales where the monetary consideration is 5¢ or less. The amount of the tax shall be computed as follows:

- (1) On each sale, where the monetary consideration is from 6¢ to 16¢, both inclusive, 1¢.
- (2) On each sale, where the monetary consideration is from 17¢ to 33¢, both inclusive, 2¢.
- (3) On each sale, where the monetary consideration is from 34¢ to 50¢, both inclusive, 3¢.
- (4) On each sale, where the monetary consideration is from 51¢ to 67¢, both inclusive, 4¢.
- (5) On each sale, where the monetary consideration is from 68¢ to 84¢, both inclusive, 5¢.
- (6) On each sale, where the monetary consideration is from 85¢ to \$1, both inclusive, 6¢.

(7) If the sale price is in excess of \$1, 6¢ on each whole dollar of sale price, and upon any fractional part of a dollar in excess of whole dollars as follows: 1¢ on the fractional part of the dollar if less than 17¢; 2¢ on the fractional part of the dollar if in excess of 16¢ but less than 34¢; 3¢ on the fractional part of the dollar if in excess of 33¢ but less than 51¢; 4¢ on the fractional part of the dollar if in excess of 50¢ but less than 68¢; 5¢ on the fractional part of the dollar if in excess of 67¢ but less than 85¢; and 6¢ on the fractional part of the dollar if in excess of 84¢. For example, the tax on sales from \$1.01 to \$1.16, both inclusive, 7¢; on sales from \$1.17 to \$1.33, both inclusive, 8¢; on sales from \$1.34 to \$1.50, both inclusive, 9¢; on sales from \$1.51 to \$1.67, both inclusive, 10¢; on sales from \$1.68 to \$1.84, both inclusive, 11¢ and on sales from \$1.85 to \$2, both inclusive, 12¢: *Provided*, That beginning January 1, 2004, tax due under this article shall be calculated as provided in subsection (d) of this subsection and this subsection (c) does not apply to sales made after December 31, 2003.

(d) *Calculation of tax on fractional parts of a dollar after December 31, 2003.* — Beginning January 1, 2004, the tax computation under subsection (b) of this section shall be carried to the third decimal place, and the tax rounded up to the next whole cent whenever the third decimal place is greater than four and rounded down to the lower whole cent whenever the third decimal place is four or less. The vendor may elect to compute the tax due on a transaction on a per item basis or on an invoice basis provided the method used is consistently used during the reporting period.

(e) *No aggregation of separate sales transactions, exception for coin-operated devices.* — Separate sales, such as daily or weekly deliveries, shall not be aggregated for the purpose of computation of the tax even though the sales are aggregated in the billing or payment therefor. Notwithstanding any other provision of this article, coin-operated amusement and vending machine sales shall be aggregated for the purpose of computation of this tax.

(f) *Rate of tax on certain mobile homes.* — Notwithstanding any provision of this article to the contrary, after December 31, 2003, the tax levied on sales of mobile homes to be used by the owner thereof as his or her principal year-round residence and dwelling shall be an amount equal to six percent of fifty percent of the sales price.

(g) *Construction; custom software.* — After December 31, 2003, whenever the words “tangible personal property” or “property” appear in this article, the same shall also include the words “custom software”.

(h) *Computation of tax on sales of gasoline and special fuel.* — The method of computation of tax provided in this section does not apply to sales of gasoline and special fuel.

(i) Calculation of tax after January 1, 2022 - After January 1, 2022, the general consumer sales and service tax imposed by this article shall be at the rate of 8¢ on the dollar of sales or services, excluding gasoline and special fuel sales.

§11-15-3b. Exceptions to reduced rate of tax on food and food ingredients intended for human consumption; increased rate of taxation after January 1, 2022.

The reduced rate of tax provided on food and food ingredients intended for human consumption provided in section three-a of this article shall not apply to sales, purchases and uses by consumers of “prepared food”, as defined in ~~article fifteen-b of this chapter §11-15b-1 et seq. of this code, which shall remain taxable at the general rate of tax specified in section three of this article and section two, article fifteen-a of this chapter §11-15-3 and §11-15b-2 of this code:~~ §11-15-3 and §11-15b-2 of this code: Provided, That after June 30, 2007, the reduced rate of tax provided in section three-a of this article §11-15-3-a of this code shall not apply to sales, purchases and uses by consumers of “prepared food”, “food sold through vending machines” and “soft drinks” as defined in article fifteen-b of this chapter §11-15b-1 et seq. of this code, which shall be taxed at the general rate of tax specified in section three of this article and section two, article fifteen-a of this chapter §11-15-3 and §11-15b-2 of this code: Provided, however, That effective January 1, 2022, the rate of tax specified in §11-15-3 and §11-15b-2 of this code shall not apply to sales, purchases and uses by consumers of “prepared food”, “food sold through vending machines” and “soft drinks” as defined §11-15b-1 et seq. of this code, those sales, purchases and uses by consumers shall be taxed at the rate of 8¢ per dollar.

§11-15-8. Furnishing of services included; exceptions.

(a) The provisions of this article apply not only to selling tangible personal property and custom software, but also to the furnishing of all services, except professional and personal services except as otherwise provided in this article, and except those services furnished by businesses subject to the control of the Public Service Commission when the service or the manner in which it is delivered is subject to regulation by the Public Service Commission.

(b) Notwithstanding any provision of this code to the contrary, on and after January 1, 2022, the sales of professional accounting services, sales of professional legal services, sales of professional engineering services, and sales of professional architect services shall be subject to a three percent excise tax: Provided, That notwithstanding any provision of this code to the contrary, any amount over \$1000 derived through the performance of legal services provided on a contingency fee basis that result in a legal settlement shall have an excise tax imposed on it at the rate of 8 percent of the amount derived.

(c) The proceeds from the additional tax on legal services provided on a contingency basis shall be deposited in the Stabilization and Future Economic Reform Fund as set forth in §11B-2-32 of this code.

§11-15-9. Exemptions.

(a) *Exemptions for which exemption certificate may be issued.* — A person having a right or claim to any exemption set forth in this subsection may, in lieu of paying the tax imposed by this article and filing a claim for refund, execute a certificate of exemption, in the form required by the

Tax Commissioner, and deliver it to the vendor of the property or service in the manner required by the Tax Commissioner. However, the Tax Commissioner may, by rule, specify those exemptions authorized in this subsection for which exemption certificates are not required. The following sales of tangible personal property and services are exempt as provided in this subsection:

(1) Sales of gas, steam, and water delivered to consumers through mains or pipes and sales of electricity;

(2) Sales of textbooks required to be used in any of the schools of this state or in any institution in this state which qualifies as a nonprofit or educational institution subject to the West Virginia Department of Education and the Arts, the Higher Education Policy Commission, or the Council for Community and Technical College Education for universities and colleges located in this state;

(3) Sales of property or services to this state, its institutions or subdivisions, governmental units, institutions, or subdivisions of other states: *Provided*, That the law of the other state provides the same exemption to governmental units or subdivisions of this state and to the United States, including agencies of federal, state, or local governments for distribution in public welfare or relief work;

(4) Sales of vehicles which are titled by the Division of Motor Vehicles and which are subject to the tax imposed by §11-15-3c of this code or like tax;

(5) Sales of property or services to churches which make no charge whatsoever for the services they render: *Provided*, That the exemption granted in this subdivision applies only to services, equipment, supplies, food for meals, and materials directly used or consumed by these organizations and does not apply to purchases of gasoline or special fuel;

(6) Sales of tangible personal property or services to a corporation or organization which has a current registration certificate issued under §11-12-1 *et seq.* of this code, which is exempt from federal income taxes under Section 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986, as amended, and which is:

(A) A church or a convention or association of churches as defined in Section 170 of the Internal Revenue Code of 1986, as amended;

(B) An elementary or secondary school which maintains a regular faculty and curriculum and has a regularly enrolled body of pupils or students in attendance at the place in this state where its educational activities are regularly carried on;

(C) A corporation or organization which annually receives more than one half of its support from any combination of gifts, grants, direct or indirect charitable contributions, or membership fees;

(D) An organization which has no paid employees and its gross income from fundraisers, less reasonable and necessary expenses incurred to raise the gross income (or the tangible personal property or services purchased with the net income), is donated to an organization which is exempt from income taxes under Section 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986, as amended;

(E) A youth organization, such as the Girl Scouts of the United States of America, the Boy Scouts of America, or the YMCA Indian Guide/Princess Program and the local affiliates thereof, which is organized and operated exclusively for charitable purposes and has as its primary purpose the nonsectarian character development and citizenship training of its members;

(F) For purposes of this subsection:

(i) The term “support” includes, but is not limited to:

(I) Gifts, grants, contributions, or membership fees;

(II) Gross receipts from fundraisers which include receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities in any activity which is not an unrelated trade or business within the meaning of Section 513 of the Internal Revenue Code of 1986, as amended;

(III) Net income from unrelated business activities, whether or not the activities are carried on regularly as a trade or business;

(IV) Gross investment income as defined in Section 509(e) of the Internal Revenue Code of 1986, as amended;

(V) Tax revenues levied for the benefit of a corporation or organization either paid to or expended on behalf of the organization; and

(VI) The value of services or facilities (exclusive of services or facilities generally furnished to the public without charge) furnished by a governmental unit referred to in Section 170(c)(1) of the Internal Revenue Code of 1986, as amended, to an organization without charge. This term does not include any gain from the sale or other disposition of property which would be considered as gain from the sale or exchange of a capital asset or the value of an exemption from any federal, state, or local tax or any similar benefit;

(ii) The term “charitable contribution” means a contribution or gift to or for the use of a corporation or organization, described in Section 170(c)(2) of the Internal Revenue Code of 1986, as amended; and

(iii) The term “membership fee” does not include any amounts paid for tangible personal property or specific services rendered to members by the corporation or organization;

(G) The exemption allowed by this subdivision does not apply to sales of gasoline or special fuel or to sales of tangible personal property or services to be used or consumed in the generation of unrelated business income as defined in Section 513 of the Internal Revenue Code of 1986, as amended. The exemption granted in this subdivision applies only to services, equipment, supplies, and materials used or consumed in the activities for which the organizations qualify as tax-exempt organizations under the Internal Revenue Code and does not apply to purchases of gasoline or special fuel which are taxable as provided in §11-14C-1 *et seq.* of this code;

(7) An isolated transaction in which any taxable service or any tangible personal property is sold, transferred, offered for sale, or delivered by the owner of the property or by his or her representative for the owner’s account, the sale, transfer, offer for sale, or delivery not being made in the ordinary course of repeated and successive transactions of like character by the owner or

on his or her account by the representative: *Provided*, That nothing contained in this subdivision may be construed to prevent an owner who sells, transfers, or offers for sale tangible personal property in an isolated transaction through an auctioneer from availing himself or herself of the exemption provided in this subdivision, regardless of where the isolated sale takes place. The Tax Commissioner may propose a legislative rule for promulgation pursuant to §29A-3-1 *et seq.* of this code which he or she considers necessary for the efficient administration of this exemption;

(8) Sales of tangible personal property or of any taxable services rendered for use or consumption in connection with the commercial production of an agricultural product the ultimate sale of which is subject to the tax imposed by this article or which would have been subject to tax under this article: *Provided*, That sales of tangible personal property and services to be used or consumed in the construction of or permanent improvement to real property and sales of gasoline and special fuel are not exempt: *Provided, however*, That nails and fencing may not be considered as improvements to real property;

(9) Sales of tangible personal property to a person for the purpose of resale in the form of tangible personal property: *Provided*, That sales of gasoline and special fuel by distributors and importers is taxable except when the sale is to another distributor for resale: *Provided, however*, That sales of building materials or building supplies or other property to any person engaging in the activity of contracting, as defined in this article, which is to be installed in, affixed to or incorporated by that person or his or her agent into any real property, building, or structure is not exempt under this subdivision;

(10) Sales of newspapers when delivered to consumers by route carriers;

(11) Sales of drugs, durable medical goods, mobility-enhancing equipment and prosthetic devices dispensed upon prescription and sales of insulin to consumers for medical purposes;

~~(12) Sales of radio and television broadcasting time, preprinted advertising circulars and newspaper, and outdoor advertising space for the advertisement of goods or services;~~

~~(13)~~ (12) Sales and services performed by day care centers;

~~(14)~~ (13) Casual and occasional sales of property or services not conducted in a repeated manner or in the ordinary course of repetitive and successive transactions of like character by a corporation or organization which is exempt from tax under subdivision (6) of this subsection on its purchases of tangible personal property or services. For purposes of this subdivision, the term "casual and occasional sales not conducted in a repeated manner or in the ordinary course of repetitive and successive transactions of like character" means sales of tangible personal property or services at fundraisers sponsored by a corporation or organization which is exempt, under subdivision (6) of this subsection, from payment of the tax imposed by this article on its purchases when the fundraisers are of limited duration and are held no more than six times during any 12-month period and "limited duration" means no more than 84 consecutive hours: *Provided*, That sales for volunteer fire departments and volunteer school support groups, with duration of events being no more than 84 consecutive hours at a time, which are held no more than 18 times in a 12-month period for the purposes of this subdivision are considered "casual and occasional sales not conducted in a repeated manner or in the ordinary course of repetitive and successive transactions of a like character";

~~(15)~~ (14) Sales of property or services to a school which has approval from the Higher Education Policy Commission or the Council for Community and Technical College Education to

award degrees, which has its principal campus in this state and which is exempt from federal and state income taxes under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended: *Provided*, That sales of gasoline and special fuel are taxable as provided in §11-15-18, §11-15-18b, and §11-14C-1 *et seq.* of this code;

~~(16)~~ (15) Sales of lottery tickets and materials by licensed lottery sales agents and lottery retailers authorized by the State Lottery Commission, under the provisions of §29-22-1 *et seq.* of this code;

~~(17)~~ (16) Leases of motor vehicles titled pursuant to the provisions of §17A-3-1 *et seq.* of this code to lessees for a period of 30 or more consecutive days;

~~(18)~~ (17) Notwithstanding the provisions of §11-15-18 or §11-15-18b of this code or any other provision of this article to the contrary, sales of propane to consumers for poultry house heating purposes, with any seller to the consumer who may have prior paid the tax in his or her price, to not pass on the same to the consumer, but to make application and receive refund of the tax from the Tax Commissioner pursuant to rules which are promulgated after being proposed for legislative approval in accordance with chapter 29A of this code by the Tax Commissioner;

~~(19)~~ (18) Any sales of tangible personal property or services purchased and lawfully paid for with food stamps pursuant to the federal food stamp program codified in 7 U. S. C. §2011, *et seq.*, as amended, or with drafts issued through the West Virginia special supplement food program for women, infants, and children codified in 42 U. S. C. §1786;

~~(20)~~ (19) Sales of tickets for activities sponsored by elementary and secondary schools located within this state;

~~(21)~~ Sales of electronic data processing services and related software: *Provided*, That, for the purposes of this subdivision, "electronic data processing services" means:

~~(A) The processing of another's data, including all processes incident to processing of data such as keypunching, keystroke verification, rearranging, or sorting of previously documented data for the purpose of data entry or automatic processing and changing the medium on which data is sorted, whether these processes are done by the same person or several persons; and~~

~~(B) Providing access to computer equipment for the purpose of processing data or examining or acquiring data stored in or accessible to the computer equipment;~~

~~(22)~~ (20) Tuition charged for attending educational summer camps;

~~(23)~~ (21) Dispensing of services performed by one corporation, partnership, or limited liability company for another corporation, partnership, or limited liability company when the entities are members of the same controlled group or are related taxpayers as defined in Section 267 of the Internal Revenue Code. "Control" means ownership, directly or indirectly, of stock, equity interests, or membership interests possessing 50 percent or more of the total combined voting power of all classes of the stock of a corporation, equity interests of a partnership or membership interests of a limited liability company entitled to vote or ownership, directly or indirectly, of stock, equity interests or membership interests possessing 50 percent or more of the value of the corporation, partnership, or limited liability company;

~~(24)~~ (22) Food for the following are exempt:

(A) Food purchased or sold by a public or private school, school-sponsored student organizations, or school-sponsored parent-teacher associations to students enrolled in the school or to employees of the school during normal school hours; but not those sales of food made to the general public;

(B) Food purchased or sold by a public or private college or university or by a student organization officially recognized by the college or university to students enrolled at the college or university when the sales are made on a contract basis so that a fixed price is paid for consumption of food products for a specific period of time without respect to the amount of food product actually consumed by the particular individual contracting for the sale and no money is paid at the time the food product is served or consumed;

(C) Food purchased or sold by a charitable or private nonprofit organization, a nonprofit organization, or a governmental agency under a program to provide food to low-income persons at or below cost;

(D) Food sold by a charitable or private nonprofit organization, a nonprofit organization, or a governmental agency under a program operating in West Virginia for a minimum of five years to provide food at or below cost to individuals who perform a minimum of two hours of community service for each unit of food purchased from the organization;

(E) Food sold in an occasional sale by a charitable or nonprofit organization, including volunteer fire departments and rescue squads, if the purpose of the sale is to obtain revenue for the functions and activities of the organization and the revenue obtained is actually expended for that purpose;

(F) Food sold by any religious organization at a social or other gathering conducted by it or under its auspices, if the purpose in selling the food is to obtain revenue for the functions and activities of the organization and the revenue obtained from selling the food is actually used in carrying out those functions and activities: *Provided*, That purchases made by the organizations are not exempt as a purchase for resale; or

(G) Food sold by volunteer fire departments and rescue squads that are exempt from federal income taxes under Section 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986, as amended, when the purpose of the sale is to obtain revenue for the functions and activities of the organization and the revenue obtained is exempt from federal income tax and actually expended for that purpose;

~~(25)~~ (23) Sales of food by little leagues, midget football leagues, youth football or soccer leagues, band boosters, or other school, or athletic booster organizations supporting activities for grades kindergarten through 12 and similar types of organizations, including scouting groups and church youth groups, if the purpose in selling the food is to obtain revenue for the functions and activities of the organization and the revenues obtained from selling the food is actually used in supporting or carrying on functions and activities of the groups: *Provided*, That the purchases made by the organizations are not exempt as a purchase for resale;

~~(26)~~ (24) Charges for room and meals by fraternities and sororities to their members: *Provided*, That the purchases made by a fraternity or sorority are not exempt as a purchase for resale;

~~(27)~~ (25) Sales of or charges for the transportation of passengers in interstate commerce;

~~(28)~~ (26) Sales of tangible personal property or services to any person which this state is prohibited from taxing under the laws of the United States or under the Constitution of this state;

~~(29)~~ (27) Sales of tangible personal property or services to any person who claims exemption from the tax imposed by this article or §11-15A-1 *et seq.* of this code, or pursuant to the provision of any other chapter of this code;

~~(30)~~ (28) Charges for the services of opening and closing a burial lot;

~~(31)~~ (29) Sales of livestock, poultry, or other farm products in their original state by the producer of the livestock, poultry, or other farm products or a member of the producer's immediate family who is not otherwise engaged in making retail sales of tangible personal property; and sales of livestock sold at public sales sponsored by breeders or registry associations or livestock auction markets: *Provided*, That the exemptions allowed by this subdivision may be claimed without presenting or obtaining exemption certificates provided the farmer maintains adequate records;

~~(32)~~ (30) Sales of motion picture films to motion picture exhibitors for exhibition if the sale of tickets or the charge for admission to the exhibition of the film is subject to the tax imposed by this article and sales of coin-operated video arcade machines or video arcade games to a person engaged in the business of providing the machines to the public for a charge upon which the tax imposed by this article is remitted to the Tax Commissioner: *Provided*, That the exemption provided in this subdivision may be claimed by presenting to the seller a properly executed exemption certificate;

~~(33)~~ (31) Sales of aircraft repair, remodeling, and maintenance services when the services are to an aircraft operated by a certified or licensed carrier of persons or property, or by a governmental entity, or to an engine or other component part of an aircraft operated by a certificated or licensed carrier of persons or property, or by a governmental entity and sales of tangible personal property that is permanently affixed or permanently attached as a component part of an aircraft owned or operated by a certificated or licensed carrier of persons or property, or by a governmental entity, as part of the repair, remodeling, or maintenance service and sales of machinery, tools, or equipment directly used or consumed exclusively in the repair, remodeling, or maintenance of aircraft, aircraft engines, or aircraft component parts for a certificated or licensed carrier of persons or property or for a governmental entity;

~~(34)~~ ~~Charges for memberships or services provided by health and fitness organizations relating to personalized fitness programs;~~

~~(35)~~ (32) Sales of services by individuals who babysit for a profit: *Provided*, That the gross receipts of the individual from the performance of baby-sitting services do not exceed \$5,000 in a taxable year;

~~(36)~~ (33) Sales of services by public libraries or by libraries at academic institutions or by libraries at institutions of higher learning;

~~(37)~~ (34) Commissions received by a manufacturer's representative;

~~(38)~~ (35) Sales of primary opinion research services when:

(A) The services are provided to an out-of-state client;

(B) The results of the service activities, including, but not limited to, reports, lists of focus group recruits and compilation of data are transferred to the client across state lines by mail, wire, or other means of interstate commerce, for use by the client outside the state of West Virginia; and

(C) The transfer of the results of the service activities is an indispensable part of the overall service.

For the purpose of this subdivision, the term "primary opinion research" means original research in the form of telephone surveys, mall intercept surveys, focus group research, direct mail surveys, personal interviews, and other data collection methods commonly used for quantitative and qualitative opinion research studies;

~~(39)~~ (36) Sales of property or services to persons within the state when those sales are for the purposes of the production of value-added products: *Provided*, That the exemption granted in this subdivision applies only to services, equipment, supplies, and materials directly used or consumed by those persons engaged solely in the production of value-added products: *Provided, however*, That this exemption may not be claimed by any one purchaser for more than five consecutive years, except as otherwise permitted in this section.

For the purpose of this subdivision, the term "value-added product" means the following products derived from processing a raw agricultural product, whether for human consumption or for other use. For purposes of this subdivision, the following enterprises qualify as processing raw agricultural products into value-added products: Those engaged in the conversion of:

- (A) Lumber into furniture, toys, collectibles, and home furnishings;
- (B) Fruits into wine;
- (C) Honey into wine;
- (D) Wool into fabric;
- (E) Raw hides into semi-finished or finished leather products;
- (F) Milk into cheese;
- (G) Fruits or vegetables into a dried, canned, or frozen product;
- (H) Feeder cattle into commonly accepted slaughter weights;
- (I) Aquatic animals into a dried, canned, cooked, or frozen product; and
- (J) Poultry into a dried, canned, cooked, or frozen product;

~~(40)~~ (37) Sales of music instructional services by a music teacher and artistic services or artistic performances of an entertainer or performing artist pursuant to a contract with the owner or operator of a retail establishment, restaurant, inn, bar, tavern, sports or other entertainment facility, or any other business location in this state in which the public or a limited portion of the public may assemble to hear or see musical works or other artistic works be performed for the enjoyment of the members of the public there assembled when the amount paid by the owner or operator for the artistic service or artistic performance does not exceed \$3,000: *Provided*, That

nothing contained herein may be construed to deprive private social gatherings, weddings, or other private parties from asserting the exemption set forth in this subdivision. For the purposes of this exemption, artistic performance or artistic service means and is limited to the conscious use of creative power, imagination, and skill in the creation of aesthetic experience for an audience present and in attendance and includes, and is limited to, stage plays, musical performances, poetry recitations and other readings, dance presentation, circuses and similar presentations, and does not include the showing of any film or moving picture, gallery presentations of sculptural or pictorial art, nude or strip show presentations, video games, video arcades, carnival rides, radio or television shows, or any video or audio taped presentations, or the sale or leasing of video or audio tapes, air shows, or any other public meeting, display or show other than those specified herein: *Provided, however*, That nothing contained herein may be construed to exempt the sales of tickets from the tax imposed in this article. The State Tax Commissioner shall propose a legislative rule pursuant to §29A-3-1 *et seq.* of this code establishing definitions and eligibility criteria for asserting this exemption which is not inconsistent with the provisions set forth herein: *Provided further*, That nude dancers or strippers may not be considered as entertainers for the purposes of this exemption;

~~(44)~~ (38) Charges to a member by a membership association or organization which is exempt from paying federal income taxes under Section 501(c)(3) or (c)(6) of the Internal Revenue Code of 1986, as amended, for membership in the association or organization, including charges to members for newsletters prepared by the association or organization for distribution primarily to its members, charges to members for continuing education seminars, workshops, conventions, lectures, or courses put on or sponsored by the association or organization, including charges for related course materials prepared by the association or organization or by the speaker or speakers for use during the continuing education seminar, workshop, convention, lecture, or course, but not including any separate charge or separately stated charge for meals, lodging, entertainment, or transportation taxable under this article: *Provided*, That the association or organization pays the tax imposed by this article on its purchases of meals, lodging, entertainment, or transportation taxable under this article for which a separate or separately stated charge is not made. A membership association or organization which is exempt from paying federal income taxes under Section 501(c)(3) or (c)(6) of the Internal Revenue Code of 1986, as amended, may elect to pay the tax imposed under this article on the purchases for which a separate charge or separately stated charge could apply and not charge its members the tax imposed by this article or the association or organization may avail itself of the exemption set forth in subdivision (9) of this subsection relating to purchases of tangible personal property for resale and then collect the tax imposed by this article on those items from its member;

~~(42)~~ (39) Sales of governmental services or governmental materials by county assessors, county sheriffs, county clerks, or circuit clerks in the normal course of local government operations;

~~(43)~~ (40) Direct or subscription sales by the Division of Natural Resources of the magazine currently entitled Wonderful West Virginia and by the Division of Culture and History of the magazine currently entitled Goldenseal and the journal currently entitled West Virginia History;

~~(44)~~ (41) Sales of soap to be used at car wash facilities;

~~(45)~~ (42) Commissions received by a travel agency from an out-of-state vendor;

~~(46)~~ (43) The service of providing technical evaluations for compliance with federal and state environmental standards provided by environmental and industrial consultants who have formal

certification through the West Virginia Department of Environmental Protection or the West Virginia Bureau for Public Health, or both. For purposes of this exemption, the service of providing technical evaluations for compliance with federal and state environmental standards includes those costs of tangible personal property directly used in providing such services that are separately billed to the purchaser of such services and on which the tax imposed by this article has previously been paid by the service provider;

~~(47)~~ (44) Sales of tangible personal property and services by volunteer fire departments and rescue squads that are exempt from federal income taxes under Section 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986, as amended, if the sole purpose of the sale is to obtain revenue for the functions and activities of the organization and the revenue obtained is exempt from federal income tax and actually expended for that purpose;

~~(48)~~ (45) Lodging franchise fees, including royalties, marketing fees, reservation system fees, or other fees assessed that have been or may be imposed by a lodging franchiser as a condition of the franchise agreement;

~~(49)~~ (46) Sales of the regulation size United States flag and the regulation size West Virginia flag for display; and

~~(50)~~ (47) Sales of an aircraft sold in this state on or after July 1, 2020, as evidenced by a Federal Aviation Administration Bill of Sale AC Form 8050-2 and registered outside of this state as evidenced by Federal Aviation Administration Aircraft Registration AC Form 8050-1 shall be exempt, so long as the aircraft is removed from this state within 60 days of the date of purchase on the bill of sale. The time between the date of purchase and the removal of the aircraft shall not be counted for purposes of determining whether the aircraft is subject to use tax.

(b) *Refundable exemptions.* — Any person having a right or claim to any exemption set forth in this subsection shall first pay to the vendor the tax imposed by this article and then apply to the Tax Commissioner for a refund or credit, or as provided in §11-15-9d of this code give to the vendor his or her West Virginia direct pay permit number. The following sales of tangible personal property and services are exempt from tax as provided in this subsection:

(1) Sales of property or services to bona fide charitable organizations who make no charge whatsoever for the services they render: *Provided*, That the exemption granted in this subdivision applies only to services, equipment, supplies, food, meals, and materials directly used or consumed by these organizations and does not apply to purchases of gasoline or special fuel;

(2) Sales of services, machinery, supplies, and materials directly used or consumed in the activities of manufacturing, transportation, transmission, communication, production of natural resources, gas storage, generation, or production or selling electric power, provision of a public utility service or the operation of a utility service or the operation of a utility business, in the businesses or organizations named in this subdivision and does not apply to purchases of gasoline or special fuel;

(3) Sales of property or services to nationally chartered fraternal or social organizations for the sole purpose of free distribution in public welfare or relief work: *Provided*, That sales of gasoline and special fuel are taxable;

(4) Sales and services, firefighting or station house equipment, including construction and automotive, made to any volunteer fire department organized and incorporated under the laws of the State of West Virginia: *Provided*, That sales of gasoline and special fuel are taxable; and

(5) Sales of building materials or building supplies or other property to an organization qualified under Section 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986, as amended, which are to be installed in, affixed to, or incorporated by, the organization or its agent into real property or into a building or structure which is or will be used as permanent low-income housing, transitional housing, an emergency homeless shelter, a domestic violence shelter, or an emergency children and youth shelter if the shelter is owned, managed, developed, or operated by an organization qualified under Section 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986, as amended.

(c) *Effective date.* – The amendments to this section in 2018 shall take effect beginning July 1, 2018, and apply to former sales made on and after that date: *Provided*, That the amendments to subdivision (6), subsection (b) of this section take effect upon passage of this act of the Legislature and shall be construed to prohibit on and after January 1, 2018, all transfers to the State Road Fund established in the State Treasury pursuant to section 52, article VI of the Constitution of West Virginia, of the taxes imposed by §11-15-1 *et seq.* and §11-15A-1 *et seq.* of this code.

~~§11-15-9h. Exemptions for sales of computer hardware and software directly incorporated into manufactured products; certain leases; sales of electronic data processing service; sales of computer hardware and software directly used in communication; sales of educational software; sales of Internet advertising; sales of high-technology business services directly used in fulfillment of a government contract; sales of tangible personal property for direct use in a high-technology business or Internet advertising business; definitions.~~

(a) In order to modernize the exemptions from tax contained in this article as a result of technological advances in computers and the expanded role of computers, the Internet and global instant communications in business and to encourage computer software developers, computer hardware designers, systems engineering firms, electronic data processing companies and other high-technology companies to locate and expand their businesses in West Virginia, the following sales of tangible personal property and software are exempt:

(1) Sales of computer hardware or software (including custom designed software) to be directly incorporated by a manufacturer into a manufactured product. For purposes of this subsection, the payment of licensing fees for the right to incorporate hardware or software developed by persons other than the manufacturer into a manufactured product is exempt from the tax imposed by this article;

(2) Sales of computer hardware or software (including custom designed software) directly used in communication as defined in this article;

(3) Sales of electronic data processing services;

(4) Sales of educational software required to be used in any of the public schools of this state or in any institution in this state which qualifies as a nonprofit or educational institution subject to administration, regulation, certification or approval of the Department of Education, the ~~Department of Education and the Arts~~ or the Higher Education Policy Commission;

(5) Sales of Internet advertising of goods and services;

(6) Sales of high-technology business services to high-technology businesses which enter into contracts with this state, its institutions and subdivisions, governmental units, institutions or subdivisions of other states, or with the United States, including agencies of federal, state or local governments for direct use in fulfilling the government contract; and

(7) Sales of prewritten computer software, computers, computer hardware, servers and building materials and tangible personal property to be installed into a building or facility for direct use in a high-technology business or an Internet advertising business.

(b) *Definitions.* —

As used in this article, the following terms have the following meanings:

~~(1)~~ “Computer hardware” means a computer, as defined in article fifteen-b of this chapter, and the directly and immediately connected physical equipment involved in the performance of data processing or communications functions, including data input, data output, data processing, data storage, and data communication apparatus that is directly and immediately connected to the computer. The term “computer hardware” does not include computer software.

~~(2)~~ “High-technology business” means and is limited to businesses primarily engaged in the following activities: Computer hardware design and development; computer software design, development, customization and upgrade; computer systems design and development; website design and development; network design and development; design and development of new manufactured products which incorporate computer hardware and software; electronic data processing; network management, maintenance, engineering, administration and security services; website management, maintenance, engineering, administration and security services and computer systems management, maintenance, engineering, administration and security services. High-technology business as defined herein is intended to include businesses which engage in the activities enumerated in this definition as their primary business activity, and not as a secondary or incidental activity and not as an activity in support of or incidental to business activity not specifically enumerated in this definition.

~~(3)~~ “High-technology business services” means and is limited to computer hardware design and development; computer software design, development, customization and upgrade; computer systems design and development; website design and development; network design and development; electronic data processing; computer systems management; computer systems maintenance; computer systems engineering; computer systems administration and computer systems security services.

~~(4)~~ “Internet advertising business” means a for-profit business that is engaged, for monetary remuneration, in the primary business activity of announcing, or calling public attention to, goods or services in order to induce the public to purchase those goods or services, and which uses the Internet as its sole advertising communications medium. For purposes of this definition, Internet advertising must be the primary business activity of the business and not a secondary or incidental activity and not an activity in support of or incidental to other business activity.

~~(5)~~ “Network” means a group of two or more computer systems linked together.

~~(6)~~ “Server” means a computer or device on a network that manages network resources.

(c) The amendments to this section made in the first extraordinary session of the Legislature in 2009 shall apply to purchases made on and after July 1, 2009.

(d) The provisions of this section shall terminate and shall not apply to any sales made on or after January 1, 2022.

ARTICLE 15A. USE TAX.

§11-15A-2. Imposition of tax; ~~six percent tax rate~~; inclusion of services as taxable; transition rules; allocation of tax and transfers.

(a) An excise tax is hereby levied and imposed on the use in this state of tangible personal property, custom software or taxable services, to be collected and paid as provided in this article or article fifteen-b of this chapter, at the rate of six percent of the purchase price of the property or taxable services, except as otherwise provided in this article; Provided, That effective January 1, 2022, for sales occurring and services provided the rate of taxation imposed by this article shall be 8% of the purchase price of the property or taxable services, unless provided otherwise in this article.

(b) *Calculation of tax on fractional parts of a dollar.* — The tax computation under subsection (a) of this section shall be carried to the third decimal place and the tax rounded up to the next whole cent whenever the third decimal place is greater than four and rounded down to the lower whole cent whenever the third decimal place is four or less. The vendor may elect to compute the tax due on a transaction on a per item basis or on an invoice basis provided the method used is consistently used during the reporting period.

(c) “Taxable services,” for the purposes of this article, means services of the nature that are subject to the tax imposed by ~~article fifteen of this chapter~~ §11-15-1 et seq. of this code. In this article, wherever the words “tangible personal property” or “property” appear, the same shall include the words “or taxable services,” where the context so requires.

(d) Use tax is hereby imposed upon every person using tangible personal property, custom software or taxable service within this state. That person’s liability is not extinguished until the tax has been paid. A receipt with the tax separately stated thereon issued by a retailer engaged in business in this state, or by a foreign retailer who is authorized by the Tax Commissioner to collect the tax imposed by this article, relieves the purchaser from further liability for the tax to which the receipt refers.

(e) Purchases of tangible personal property or taxable services made for the government of the United States or any of its agencies by ultimate consumers is subject to the tax imposed by this section. Industrial materials and equipment owned by the federal government within the State of West Virginia of a character not ordinarily readily obtainable within the state, is not subject to use tax when sold, if the industrial materials and equipment would not be subject to use taxes if sold outside of the state for use in West Virginia.

(f) This article does not apply to purchases made by counties or municipal corporations.

ARTICLE 17. TOBACCO PRODUCTS EXCISE TAX ACT.

§11-17-3. Levy of tax; ratio; dedication of proceeds.

(a) *Tax on cigarettes and tobacco products other than cigarettes.* — For the purpose of providing revenue for the General Revenue Fund of the state, an excise tax is hereby levied and imposed on sales of cigarettes and tobacco products other than cigarettes.

(b) *Tax rate on cigarettes.* — Effective May 1, 2003, the excise tax rate levied and imposed on the sale of cigarettes is 55 cents on each 20 cigarettes or in like ratio on any part thereof: *Provided*, That on and after July 1, 2016, the excise tax rate levied and imposed on the sale of cigarettes is \$1.20 on each 20 cigarettes or in like ratio on any part thereof: *Provided, however*, That effective January 1, 2022, the excise tax rate levied and imposed on the sale of cigarettes is \$2.20 on each 20 cigarettes or in like ratio on any part thereof: *Provided, further*, That effective January 1, 2022, 12.5 percent of the excise tax levied pursuant to this section shall be deposited into the fund created pursuant to §11B-2-32 of this code. Only one sale of the same article shall be used in computing the amount of tax due under this subsection.

(c) *Tax on tobacco products other than cigarettes.* — Effective January 1, 2002, the excise tax levied and imposed on the sales or use of tobacco products other than cigarettes at the rate equal to seven percent of the wholesale price of each article or item of tobacco products other than cigarettes sold by the wholesaler or subjobber dealer, whether or not sold at wholesale, or if not sold, then at the same rate upon the use by the wholesaler or dealer: *Provided*, That on and after July 1, 2016, the excise tax rate levied and imposed on the sales or use of tobacco products other than cigarettes is at the rate equal to 12 percent of the wholesale price of each article or item of tobacco products other than cigarettes sold by the wholesaler or subjobber dealer, whether or not sold at wholesale, or if not sold, then at the same rate upon the use by the wholesaler or dealer: *Provided, however*, That on and after January 1, 2022, the excise tax rate levied and imposed on the sales or use of tobacco products other than cigarettes is at the rate equal to 19.5 percent of the wholesale price of each article or item of tobacco products other than cigarettes sold by the wholesaler or subjobber dealer, whether or not sold at wholesale, or if not sold, then at the same rate upon the use by the wholesaler or dealer: *Provided, further*, That effective January 1, 2022, 7.5 percent of the excise tax levied pursuant to this section shall be deposited into the fund created pursuant to §11B-2-32 of this code. Only one sale of the same article shall be used in computing the amount of tax due under this subsection.

(d) *Effective date of amendments.* — Amendments to this section enacted in the year 2003 apply in determining tax imposed under this article from May 1, 2003, through June 30, 2016. Amendments to this section enacted in the year 2016 apply in determining tax imposed under this article effective on and after July 1, 2016.

§11-17-4b. Levy of tax on e-cigarette liquid; definitions; rate; invoice; report; payment; authority of the Tax Commissioner to inspect and examine witnesses; presumption; bond.

(a) *Definitions.* — When used in this section, words, terms and phrases defined in this subsection, and any variations thereof required by the context, have the meaning ascribed to them in this subsection, except where the context indicates a different meaning is intended.

(1) “E-cigarette” means an electrical or electronic device that provides a smoke, vapor, fog, mist, gas or aerosol suspension of nicotine or another substance that, when used or inhaled, simulates the activity of smoking. The term e-cigarette includes, but is not limited to, a device that is composed of a heating element, battery or electrical or electronic circuit, or a combination of heating element, battery and electrical or electronic circuit, which works in combination with e-liquid to produce an inhalable product. The term e-cigarette includes, but is not limited to, any so

designed, or similarly designed, product that is manufactured, distributed, marketed or sold as an e-cigarette, e-cigar, e-pipe or under any other name or descriptor. The term “simulates the activity of smoking”, in the context of this definition, means replicating, mimicking or reproducing an experience similar to inhaling, or otherwise drawing into the mouth or nose, or exhaling the smoke or combustion product of burning tobacco or any other product or material that can be used in a similar fashion.

(2) “E-cigarette liquid” means any of the liquids or liquid mixtures used in e-cigarettes and is also known as e-juice, e-fluid, e-liquid or e-liquid product. E-cigarette liquid includes e-cigarette liquid mixing kits and e-cigarette liquid mixing kit components. When used in, or with, an e-cigarette, e-cigarette liquid is vaporized or otherwise converted into an inhalable product. E-cigarette liquid may or may not include, without limitation, propylene glycol, vegetable glycerin, nicotine from any source or flavorings.

(b) *Levy of tax; rate.* —

(1) On and after July 1, 2016, an excise tax is levied and imposed on sales of e-cigarette liquid at the rate of 7.5 cents per milliliter or fraction thereof, or if not sold, then at the same rate upon the use by the wholesaler or dealer: Provided, That on and after January 1, 2022, the excise tax levied and imposed on the sales of e-cigarette liquid is at the rate of 23 percent of the wholesale price of each article or item, or if not sold, then at the same rate upon the use by the wholesaler or dealer: Provided, however, That effective January 1, 2022, revenues received from the first 90 percent of the excise tax levied pursuant to this section shall be deposited into the fund created pursuant to §11B-2-32 of this code. For purposes of this article, any distributor, dealer, subjobber, subjobber dealer, retailer or any other person that imports or transports e-cigarette liquids into this state, or that causes e-cigarette liquids to be imported or transported into this state, is hereby deemed to be a wholesaler for purposes of this section and is liable for the tax imposed under this article. No wholesaler or other person may purchase e-cigarette liquids from any seller not approved by the Tax Commissioner. E-cigarette liquid mixing kits and e-cigarette liquid mixing kit components shall be taxed in accordance with the amount of e-cigarette liquid, in milliliters, that can be produced by or from the kit or components thereof, as determined by the Tax Commissioner.

(2) Only one sale of e-cigarette liquid shall be used in computing the amount of tax due under this section.

(c) *How tax paid; invoice required; reports required; due date; records to be kept.* —

(1) The tax imposed in this section on e-cigarette liquid shall be paid using an invoice method prescribed by the Tax Commissioner.

(2) The tax will be paid on any and all e-cigarette liquid coming into the state for the purpose of sale or use in this state on and after July 1, 2016.

(3) *Contents of delivery ticket or invoice.* — Unless otherwise permitted in writing by the Tax Commissioner, each delivery ticket or invoice for each purchase or sale of e-cigarette liquid must be recorded upon a serially numbered invoice showing:

(A) The name and address of the seller and the purchaser;

(B) The point of delivery;

(C) The date;

(D) (i) The number of e-cigarette cartridges, apparatus, containers or other devices; (ii) the quantity in milliliters of each cartridge, apparatus, container or other device; (iii) the wholesale price of each e-cigarette cartridge, apparatus, container or other device delivered in this state; or (iv) if sold outside of a cartridge or other device or container, the total quantity in milliliters of e-cigarette liquid not in cartridges, apparatus or other device or container delivered in this state and the wholesale price of the e-cigarette liquid;

(E) The invoice must either set out the amount of tax imposed by this article separately on the invoice or the invoice may instead indicate that the tax imposed under this article is included in the total price; and

(F) Any other information required by the Tax Commissioner.

(4) *Reports and payments due date.* — On or before the 15th day of each month, manufacturers, importers, every place of business as defined in this article, retail dealers, subjobbers, vending machine operators and wholesale dealers and their agents, shall file a report covering the business transacted in the previous month providing any information the Tax Commissioner determines necessary for the ascertainment or assessment of the taxes imposed by this article. Reports shall be signed under penalty of perjury and be in a form as prescribed by the Tax Commissioner. The amount of tax shown to be due on the monthly report, if any, shall be remitted on or before the due date of the monthly report. The first report due for e-liquid sales is August 15, 2016, for the sales completed in July 2016.

(5) *Reports required.* — The reports prescribed in this article are required, although a tax may not be due or no business transacted, for the period covered by the report. In the case of any failure to file a report on the date prescribed for filing when no tax is due, unless it is shown that the failure was due to reasonable cause, there is hereby imposed a penalty of \$25 for each month or fraction of a month that such report is delinquent, until the report is filed, in addition to any penalties imposed under section 19A of this article.

(6) *Records.* — Each person required to file a report shall make and keep the records necessary to substantiate the accuracy of the reports required by this section including, but not limited to, records of inventories, receipts, disbursements and sales. Records shall be retained for a period of time not less than three years from the time the report is due or the time when the report is filed, whichever is later.

(d) *Inspection of records and stocks; examination of witnesses; registration of e-cigarette sellers; presumption of nontax paid.* —

(1) The Tax Commissioner has the authority to inspect or examine the records, books and papers, and any equipment or e-cigarette apparatus, and any stock of e-cigarette liquid kept in or upon the premises of persons who sell, possess or store e-cigarette liquid, for the purpose of determining the quantity and value of e-cigarette liquid acquired, on hand or disbursed, to verify the truth and accuracy of any statement, return, form or report and to ascertain whether the tax imposed by this article has been properly paid.

(2) In addition to the Tax Commissioner's powers set forth in article 10 of this chapter, the Tax Commissioner or the Tax Commissioner's agent may examine witnesses under oath in order to ascertain the amount of taxes and reports due under this article. If a witness or person fails or

refuses to testify or grant access to records, books, papers, equipment or e-cigarette apparatus, or any stock of e-cigarette liquid, necessary or useful to ascertain the amount of taxes and reports due under this article, the Tax Commissioner shall certify the facts and names to the circuit court of the county having jurisdiction of the party and the court shall issue a summons to the party to appear before the Tax Commissioner at a place designated within the jurisdiction of the court, on a day fixed, to be continued as the occasion may require for good cause shown, to testify and give evidence and to produce for inspection any books, records and papers that may be required and to grant access to records, books, papers, equipment or e-cigarette apparatus, or any stock of e-cigarette liquid, for the purpose of ascertaining the amount of tax and reports due, if any.

(3) Each wholesale dealer of e-cigarette liquid must register with the Tax Commissioner and maintain a business registration certificate, showing the wholesale dealer of e-cigarette liquid to be registered as a seller of tobacco products or seller of both cigarettes and tobacco products prior to the sale or delivery of e-cigarette liquid to any retail dealer or subjobber in this state. A wholesale dealer may sell tax-paid e-cigarette liquid only to another wholesaler or a retail dealer or subjobber in this state. No person may purchase nontaxed e-cigarette liquid from any seller not approved by the Tax Commissioner.

(4) Whenever e-cigarette liquid is found in the place of business of any retail dealer, without evidence that the tax imposed by this section has been paid, it shall be presumed that the e-cigarette liquid is kept on the premises in violation of this article.

(e) *Bond.* — The Tax Commissioner may require wholesalers, subjobbers or retail dealers to file a continuous surety bond in an amount to be fixed by the Tax Commissioner but no less than \$1,000. The bond shall be conditioned upon faithfully complying with the provisions of this article including the filing of the returns and payment of all taxes prescribed by this article.

(f) *Administration and enforcement.* — The provisions of this article and articles nine and 10 of this chapter apply to administration and enforcement of the excise tax on e-cigarette liquid in the same manner and to the same extent as they apply to administration and enforcement of the excise tax on tobacco products, as imposed under this article.

(g) *Criminal sanctions.* — The criminal sanctions imposed in section nineteen-a of this article are hereby imposed with equal force and application with relation to actions, transactions and responsibilities prescribed under this section and under this article. For the purpose of applying and interpreting the provisions of section nineteen-a of this article, the words “container of tobacco products” shall be interpreted to mean and include the words “container of tobacco products or e-cigarette liquid”.

ARTICLE 21. PERSONAL INCOME TAX.

§11-21-4g. Reduction and elimination of personal income tax.

(a). Findings.

(1) The Legislature finds that the state of West Virginia has suffered a tremendous loss of population over the past ten years. This loss in population is attributable to many factors including, in large part, the burdensome tax structure in West Virginia.

(2) There is a need to encourage the citizens to not only stay in West Virginia, but for those who may have left to return and for others to consider West Virginia an attractive alternative for

relocation. Additionally, if West Virginia is seen as attractive to citizens, business may be more inclined to locate in the state.

(3) The Legislature is committed to taking necessary measures to tackle the issues which have created the drain in population. This includes reforming an overburdensome tax structure. As a result, the Legislature is committed to reductions in the personal income tax and to ultimately reaching a complete elimination of that tax.

(4) This commitment to tax elimination should be done in a financially responsible manner to provide current and future citizens of the state greater personal income and a better quality of life.

(b). *Personal Income Tax Reduction Criteria.*

(1). Effective January 1, 2022, and thereafter, if the balance in the Stabilization and Future Economic Reform Fund as set forth in §11B-2-32 of this code is at or above \$100,000,000 at the end of any fiscal year, then the balance shall be transferred to the General Revenue Fund in increments of \$50,000,000 until the balance in the fund is less than or equal to \$100,000,000 but greater than or equal to \$50,000,000. For each \$50,000,000 incremental transfer the personal income tax shall be reduced by 12.5 basis points at the beginning of the next tax year.

(2) Effective January 1, 2022, and thereafter, there shall be a reduction in the personal income tax that is equal to the unappropriated amount of general revenue. For purposes of this section unappropriated revenue shall mean the difference between the total general revenue of the budget introduced by the Governor and the general revenue amount of the enacted budget. The reduction set forth in this subsection shall be directly proportionate to the amount each of the income brackets as set forth in §11-21-4e of this code contribute to the personal income tax collection in state fiscal year 2019. In those years in which there is no unappropriated amount of general revenue, there shall be no reduction in the personal income tax.

(3) Effective January 1, 2022, and thereafter, there shall be a dollar-for-dollar reduction in personal income tax for any increase in general revenue over the previous year's actual collections that are attributable to increases to existing revenue sources or newly created revenue sources. These revenue sources shall include, but are not limited to, increased, modifications, or additions to any tax proceeds collected pursuant to this chapter that are deposited into the general revenue. The reduction set forth in this subsection shall be directly proportionate to the amount each of the income bracket as set forth in §11-21-4e of this code contributes to the personal income tax collection in state fiscal year 2019. In those years in which there is no increase in revenue from newly created revenue sources, there shall be no reduction in the personal income tax.

(c) *Further Legislative action required.* When the rate of taxation as set forth in this section has been reduced pursuant to the provisions of this section, that rate shall not again be raised without further action of the Legislature.

(d) *Past tax liabilities.* Tax liabilities, if any, arising for taxable periods prior to the date the tax is repealed, shall be determined, administered, assessed, and collected as if the tax imposed by this article had not been repealed, and the rights and duties of taxpayers and the state shall be fully and completely preserved.

(e) Complete elimination. Upon a complete elimination of the personal income tax, every provision of this article shall be repealed for all tax periods beginning on and after January 1 of the first year in which the rate of the personal income tax becomes zero percent.

(f) Reporting. The Tax Department shall prepare an annual report to the Joint Committee on Government and Finance detailing any changes to the personal income tax and increases in revenue from increases to existing revenue sources or newly created revenue sources.

(g) Notification. The Tax Department shall at least annually notify taxpayers of any changes in the personal income tax structure. This notice should come at the beginning of each tax year.

(h) Rulemaking. The Tax Department shall promulgate procedural rules to implement the provisions of this section. These rules include:

(1) The process for a reduction of the personal income tax based upon the balance in the fund created pursuant to §11-21-4k;

(2) The process for a reduction of the personal income tax based upon unappropriated amounts of general revenue;

(3) The process for a reduction of the personal income tax based upon increases in general revenue collections over previous years collections;

(4) A means to notify taxpayers of changes to their tax liability, including their tax rate and effective tax rate; and

(5) An annual report to the Joint Committee on Government and Finance of any changes to the personal income tax in the preceding tax year and any increases in collections attributable.

§11-21-25. Sales Tax Relief Credit.

(a) Definitions – As used in this section, the following terms shall have the meaning ascribed to them in this subsection, unless the context in which the term is used clearly requires a different meaning or a specific different definition is provided:

(1) “Household” means the claimant and his or her spouse, if any, living in the same residence, as well any dependent children that may be claimed on the taxpayer’s federal income tax return. The household also includes any persons living in the same dwelling as the claimant and sharing its furnishings, facilities, and accommodation, but does not include bona fide lessees, tenants, or roomers and boarders on contract;

(2) “Household income” means all income received by all persons of a household while members of the household;

(3) “Income” means the sum of adjusted gross income as defined in the United States Internal Revenue Code, the modifications in §11-21-12(b), §11-21-12f and §11-21-12g of this Code increasing federal adjusted gross income, and all nontaxable income, including the amount of capital gains excluded from adjusted gross income, alimony, support money, nontaxable strike benefits, cash public assistance and relief, not including relief granted under this chapter, the gross amount of any pension or annuity, including Railroad Retirement Act benefits and veterans’ disability pensions, all payments received under the federal social security and state

reemployment assistance or unemployment insurance laws, nontaxable interest received from the federal government or any of its instrumentalities, workers' compensation, and the gross amount of loss of time insurance, but not including gifts from nongovernmental sources, food stamps, or surplus foods, or other relief in kind provided by a public agency;

(4) "Tax year" or "taxable year" means the calendar year used for computing household income under this chapter. A claimant's tax year is the same period as is covered by his federal income tax return.

(b) Refundable Credit – Subject to the requirements and limitations of this section, for tax years beginning on and after January 1, 2022, any resident having a gross household income equal to or less than \$35,000 for the tax year, shall be allowed a refundable credit against the taxes imposed by this article equal to the following amounts:

(1) For all residents having a household income of less than \$10,000, the amount of refundable credit shall be \$250.

(2) For all residents having a household income between \$10,001 and \$14,999, the amount of refundable credit shall be \$150.

(3) For all residents having a household income between \$15,000 and \$20,000, the amount of refundable credit shall be \$150.

(4) For all residents having a household income between \$20,001 and \$24,999, the amount of refundable credit shall be \$100.

(5) For all residents having a household income between \$25,000 and \$29,999, the amount of refundable credit shall be \$100.

(6) For all residents having a household income between \$30,000 and \$34,999, the amount of refundable credit shall be \$50.

(c) One claim per household - Notwithstanding any other provision of this section to the contrary, only one claimant per household per tax year shall be entitled to relief under this section.

(d) Advance Refunds of Credit – The amount of credit which would (but for this subsection) be allowable under this section shall be reduced (but not below zero) by the aggregate refunds and credits made or allowed to the taxpayer under this subsection.

(1) In General – Each claimant who would have been an eligible resident based upon their household income in the year preceding the taxable year shall be allowed a prepayment of the credit: *Provided*, That any claim for prepayment of the credit must be made on or before April 15 of the tax year to which it relates.

(2) Advanced refund amount – For the 2022 calendar year, for purposes of subdivision (1) of this subsection, the advanced refund amount is the amount that would have been allowed as a credit under this section for the 2020 taxable year if this section had applied to such taxable year.

(3) Timing and manner of payments – The Commissioner shall, subject to the provisions of this article, pay any advance refund of credit under the following guidelines:

- (i) 25% of the amount of prepayment by June 15 of the taxable year;
- (ii) 25% of the amount of prepayment by September 15 of the taxable year;
- (iii) 25% of the amount of prepayment by December 15 of the taxable year; and
- (iv) 25% of the amount of prepayment by March 15 of the year following the taxable year.

(4) Interest not accruable - No interest shall be allowed on any prepayment attributable to this subsection.

(5) Delivery of payments – Notwithstanding any provision of this Code to the contrary, the Commissioner may certify and disburse refunds using any reasonable commercial means necessary.

(e) The Commissioner may prescribe such rules as may be necessary to carry out the purposes of this section to increases to existing revenue sources or newly created revenue sources.

CHAPTER 11B. DEPARTMENT OF REVENUE.

ARTICLE 2. STATE BUDGET OFFICE.

§11B-2-20. Reduction of appropriations; powers of Governor; Revenue Shortfall Reserve Fund and permissible expenditures therefrom.

(a) Notwithstanding any provision of this section, the Governor may reduce appropriations according to any of the methods set forth in sections twenty-one and twenty-two of this article. The Governor may, in lieu of imposing a reduction in appropriations, request an appropriation by the Legislature from the Revenue Shortfall Reserve Fund established in this section.

(b) The Revenue Shortfall Reserve Fund is continued within the State Treasury. The Revenue Shortfall Reserve Fund shall be funded continuously and on a revolving basis in accordance with this subsection up to an aggregate amount not to exceed thirteen percent of the total appropriations from the State Fund, General Revenue, for the fiscal year just ended. The Revenue Shortfall Reserve Fund shall be funded as set forth in this subsection from surplus revenues, if any, in the State Fund, General Revenue, as the surplus revenues may accrue from time to time.

Except as provided otherwise in this subsection, within sixty days of the end of each fiscal year, the secretary shall cause to be deposited into the Revenue Shortfall Reserve Fund such amount of the first ~~fifty percent~~ 50% of all surplus revenues, if any, determined to have accrued during the fiscal year just ended, as may be necessary to bring the balance of the Revenue Shortfall Reserve Fund to ~~thirteen percent of the total appropriations from the State Fund, General Revenue, for the fiscal year just ended.~~ If at the end of any fiscal year the Revenue Shortfall Reserve Fund is funded at an amount equal to or exceeding thirteen percent of the state's General Revenue Fund budget for the fiscal year just ended, then there shall be no further deposit by the secretary under the provisions of this section of any surplus revenues as set forth in this subsection until that time the Revenue Shortfall Reserve Fund balance is less than thirteen percent of the total appropriations from the State Fund, General Revenue. when combined with the Revenue Shortfall Reserve Fund – Part B as set forth in subsection (f) of this section is equal to or is greater than 23% of a rolling average of the actual revenue collected in the immediately

preceding seven fiscal years, the secretary shall deposit into the Stabilization and Future Economic Reform Fund as set forth in §11B-2-32 of this code 50% of the surplus after deducting any unappropriated balance which for the purposes of this section is the difference between the total general revenue of the budget introduced by the Governor and the general revenue amount of the enacted budget.

(c) Not earlier than November 1 of each calendar year, if the state's fiscal circumstances are such as to otherwise trigger the authority of the Governor to reduce appropriations under this section or §11B-2-21 or §11B-2-22 ~~of this article of this code~~, then in that event the Governor may notify the presiding officers of both houses of the Legislature in writing of his or her intention to convene the Legislature pursuant to section nineteen, article VI of the Constitution of West Virginia for the purpose of requesting the introduction of a supplementary appropriation bill or to request a supplementary appropriation bill at the next preceding regular session of the Legislature to draw money from the surplus Revenue Shortfall Reserve Fund to meet any anticipated revenue shortfall. If the Legislature fails to enact a supplementary appropriation from the Revenue Shortfall Reserve Fund during any special legislative session called for the purposes set forth in this section or during the next preceding regular session of the Legislature, then the Governor may proceed with a reduction of appropriations pursuant to §11B-2-21 or §11B-2-22 ~~of this article of this code~~. Should any amount drawn from the Revenue Shortfall Reserve Fund pursuant to an appropriation made by the Legislature prove insufficient to address any anticipated shortfall, then the Governor may also proceed with a reduction of appropriations pursuant to sections twenty-one and twenty-two of this article.

(d) Upon the creation of the fund, the Legislature is authorized and may make an appropriation from the Revenue Shortfall Reserve Fund for revenue shortfalls, for emergency revenue needs caused by acts of God or natural disasters or for other fiscal needs as determined solely by the Legislature.

(e) Prior to October 31 in any fiscal year in which revenues are inadequate to make timely payments of the state's obligations, the Governor may, by executive order, after first notifying the presiding officers of both houses of the Legislature in writing, borrow funds from the Revenue Shortfall Reserve Fund: *Provided*, That for the fiscal year 2014, pursuant to this subsection and subject to all other conditions, requirements and limitations set forth in this section, the Governor may borrow funds from the Revenue Shortfall Reserve Fund prior to the first day of April. The amount of funds borrowed under this subsection shall not exceed one and one-half percent of the general revenue estimate for the fiscal year in which the funds are to be borrowed, or the amount the Governor determines is necessary to make timely payment of the state's obligations, whichever is less. Any funds borrowed pursuant to this subsection shall be repaid, without interest, and redeposited to the credit of the Revenue Shortfall Reserve Fund within ninety days of their withdrawal.

(f) The Revenue Shortfall Reserve Fund – Part B is continued within the State Treasury. The Revenue Shortfall Reserve Fund – Part B shall consist of moneys transferred from the West Virginia Tobacco Settlement Medical Trust Fund pursuant to the provisions of section two, article eleven-a, chapter four of this code, repayments made of the loan from the West Virginia Tobacco Settlement Medical Trust Fund to the Physician's Mutual Insurance Company pursuant to the provisions of article twenty-f, chapter thirty-three of this code and all interest and other return earned on the moneys in the Revenue Shortfall Reserve Fund – Part B. Moneys in the Revenue Shortfall Reserve Fund – Part B may be expended solely for the purposes set forth in subsection (d) of this section, subject to the following conditions:

(1) No moneys in the Revenue Shortfall Reserve Fund – Part B nor any interest or other return earned thereon may be expended for any purpose unless all moneys in the Revenue Shortfall Reserve Fund described in subsection (b) of this section have first been expended, except that the interest or other return earned on moneys in the Revenue Shortfall Reserve Fund – Part B may be expended as provided in subdivision (2) of this subsection;

(2) Notwithstanding any other provision of this section to the contrary, the Legislature may appropriate any interest and other return earned thereon that may accrue on the moneys in the Revenue Shortfall Reserve Fund – Part B after June 30, 2025, for expenditure for the purposes set forth in §4-11a-3 of this code; and

(3) Any appropriation made from Revenue Shortfall Reserve Fund – Part B shall be made only in instances of revenue shortfalls or fiscal emergencies of an extraordinary nature.

(g) Subject to the conditions upon expenditures from the Revenue Shortfall Reserve Fund – Part B prescribed in subsection (f) of this section, in appropriating moneys pursuant to the provisions of this section, the Legislature may in any fiscal year appropriate from the Revenue Shortfall Reserve Fund and the Revenue Shortfall Reserve Fund – Part B a total amount up to, but not exceeding, ten percent of the total appropriations from the State Fund, General Revenue, for the fiscal year just ended.

(h) (1) Of the moneys in the Revenue Shortfall Reserve Fund, \$100 million, or such greater amount as may be certified as necessary by the Director of the Budget Office for the purposes of subsection (e) of this section, shall be made available to the West Virginia Board of Treasury Investments for management and investment of the moneys in accordance with the provisions of article six-c, chapter twelve of this code. All other moneys in the Revenue Shortfall Reserve Fund shall be made available to the West Virginia Investment Management Board for management and investment of the moneys in accordance with the provisions of article six, chapter twelve of this code. Any balance of the Revenue Shortfall Reserve Fund, including accrued interest and other return earned thereon at the end of any fiscal year, does not revert to the General Fund but shall remain in the Revenue Shortfall Reserve Fund for the purposes set forth in this section.

(2) All of the moneys in the Revenue Shortfall Reserve Fund – Part B shall be made available to the West Virginia Investment Management Board for management and investment of the moneys in accordance with the provisions of §12-6-1 *et seq.* of this code. Any balance of the Revenue Shortfall Reserve Fund – Part B, including accrued interest and other return earned thereon at the end of any fiscal year, shall not revert to the General Fund but shall remain in the Revenue Shortfall Reserve Fund – Part B for the purposes set forth in this section.

§11B-2-32. Stabilization and Future Economic Reform Fund.

(a) There is created in the State Treasury a special account, designated the “Stabilization and Future Economic Reform Fund”, which is an interest- and earnings-accumulating account administered by the State Treasurer in accordance with the provisions of this section.

(b) The purpose of the fund is to provide a long term smoothing mechanism for utilizing one time appropriations and volatile revenue sources for decreasing net taxation on the people of West Virginia and to provide long term financial security to the state and its citizens and to act as a means to avoid revenue shortfalls without the necessity of accessing the Revenue Shortfall Reserve Funds as set forth in §11B-2-20 of this code.

(c) The fund shall consist of the following funding sources:

(1) Appropriation by the Legislature;

(2) Income from investments;

(3) Deposits as required by §11B-2-20; and

(4) All other sums available for deposit to the account, public or private.

(d) Any balance remaining in the fund at the end of the fiscal year does not revert to the General Revenue Fund but remains in the fund and may be used in a manner consistent with this article.

(e) For fiscal years beginning on or after January 1, 2022, the Secretary of the Department of Tax and Revenue, with the written approval of the Governor, may transfer additional moneys to the fund to supplement the General Revenue Fund where budget shortfalls may have occurred. The Legislature may authorize transfers of moneys from the fund to stabilize the state's General Revenue Fund up to, but not more than, 50% of the fund's current balance as of the beginning of the fiscal year in which the transfer shall be authorized.

(f) The Stabilization and Future Economic Reform Fund may be invested in the manner permitted by §12-6-8 of this code and the Secretary of the Department of Tax and Revenue may contract with the West Virginia Investment Management Board, or the West Virginia Board of Treasury Investments, for any services with respect to fund investments that the secretary considers necessary and prudent.

(g) Upon the complete elimination of the state personal income tax as set forth in §11-21-4g of this code, the proceeds from the Stabilization and Future Economic Reform Fund may be utilized to reduce the fiscal impact of additional taxes including but not limited to, taxation on income that is not employee compensation such as interest, dividends, retirement income in the form of pensions or annuities, the manufacturing inventory and equipment tax, and to stabilize the state's annual budget.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 22. STATE LOTTERY ACT.

§29-22-9b. Personal income tax reduction instant lottery scratch-off game.

(a) Beginning January 1, 2022, the commission shall establish an instant lottery scratch-off game designated as the personal income tax reduction game, which is offered by the lottery.

(b) Notwithstanding the provisions of §29-22-18 of this code, all net profits received from the sale of personal income tax reduction benefit game lottery tickets, materials and games are deposited with the state Treasurer into the "Personal Income Tax Reduction Lottery Fund" created under subsection (c) of this section. These funds shall be transferred to the Stabilization and Future Economic Reform Fund as set forth in §11B-2-32 of this code upon written request of the Secretary of Tax and Revenue to the Investment Management Board and the state Treasurer in accordance with the provisions of this section. This transfer shall occur at least annually.

(c) There is created in the state treasury a special revenue fund designated and known as the "Personal Income Tax Reduction Lottery Fund" which shall consist of all revenues derived from the Personal Income Tax Reduction game and any appropriation to the fund by the Legislature and all interest or other returns earned by the investment of the fund.

(d) The commission shall change the design or theme of the personal income tax reduction game regularly so that the game remains competitive with the other instant lottery scratch-off games offered by the commission. The tickets for the instant lottery game created in this section shall clearly state that the profits derived from the game are being used to eliminate the personal income tax in this state.

Following discussion,

Senator Romano then moved that Senator Tarr's amendment to Engrossed House Bill 3300 be tabled.

Following discussion,

Senator Trump arose to a point of order stating the motion to table is not a debatable motion under Rule 40 of the Rules of the Senate.

Which point of order, the President ruled well taken.

The question being on the adoption of Senator Romano's motion that Senator Tarr's amendment to Engrossed House Bill 3300 be tabled, and on this question, Senator Beach demanded the yeas and nays.

Following a point of inquiry to the President, with resultant response thereto,

The roll being taken, the yeas were: Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, Stollings, Unger, and Woelfel—11.

The nays were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—23.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Romano's motion that Senator Tarr's amendment to the bill (Eng. H. B. 3300) be tabled was rejected.

Senator Woelfel arose to a point of order citing Rule 15a of the Rules of the Senate which states in part "Prior to any committee reporting a bill to the floor, any bill which either increases or decreases the revenue or fiscal liability of the State or any county, municipality or other subdivision of the State or in any manner changes or modifies any existing tax or rate of taxation, such bill shall have attached thereto a fiscal note, if available."

Which point of order, the President ruled not well taken stating Rule 15a of the Rules of the Senate applies to bills, not amendments, and a fiscal note had been prepared for the bill.

Following discussion,

Senator Karnes moved the previous question.

Following a point of inquiry to the President, with resultant response thereto,

Senator Woelfel arose to a point of order stating Senator Karnes was on the Senate floor and was not wearing a mask in contravention to Senate rules.

Which point of order, the President ruled not well taken.

The question being on the adoption of Senator Karnes aforestated motion for the previous question, and on this question, Senator Lindsay demanded the yeas and nays.

The roll being taken, the yeas were: Azinger, Karnes, and Martin—3.

The nays were: Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Smith, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—31.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Karnes motion for the previous question had not prevailed.

Following discussion,

(Senator Weld in the Chair.)

Following discussion,

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

Following discussion,

Senator Weld arose to a point of order stating that debate had digressed to a personal nature rather than the merits of Senator Tarr's amendment to the bill.

Which point of order, the President ruled well taken.

Following extended discussion,

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

Having been engrossed, the bill (Eng. H. B. 3300), as just amended, was then read a third time and put upon its passage.

Following points of inquiry to the President, with resultant responses thereto,

Senator Unger arose to a point of order citing Rule 15a of the Rules of the Senate which states in part "Prior to any committee reporting a bill to the floor, any bill which either increases or decreases the revenue or fiscal liability of the State or any county, municipality or other subdivision of the State or in any manner changes or modifies any existing tax or rate of taxation, such bill shall have attached thereto a fiscal note, if available."

Which point of order, the President ruled not well taken stating that the pending bill originated in the House of Delegates and a fiscal note had been prepared.

Senator Unger then appealed the ruling of the Chair, and on this question, Senator Unger demanded the yeas and nays.

Following points of inquiry to the President, with resultant responses thereto,

The question being "Shall the Chair be sustained?"

On this question, the yeas were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Lindsay, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—24.

The nays were: Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Plymale, Romano, Stollings, Unger, and Woelfel—10.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared the Chair sustained

Pending discussion,

Senator Baldwin moved that the bill (Eng. H. B. 3300) be rereferred to the Committee on Finance.

The question being on the adoption of Senator Baldwin's aforestated motion, and on this question, Senator Romano demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, Stollings, Unger, and Woelfel—11.

The nays were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—23.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared Senator Baldwin's aforestated motion had not prevailed.

Pending discussion,

The question being "Shall Engrossed House Bill 3300 pass?"

Senator Woelfel requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate.

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

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Grady, Karnes, Maroney, Maynard, Roberts, Rucker, Smith, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—18.

The nays were: Baldwin, Beach, Caputo, Hamilton, Ihlenfeld, Jeffries, Lindsay, Martin, Nelson, Phillips, Plymale, Romano, Stollings, Stover, Unger, and Woelfel—16.

Absent: None.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 3300) passed.

At the request of Senator Tarr, as chair of the Committee on Finance, and by unanimous consent, the unreported Finance committee amendment to the title of the bill was withdrawn.

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

Eng. House Bill 3300—A Bill to amend and reenact §11-13A-3 and §11-13A-3a of the Code of West Virginia, 1931, as amended; to amend and reenact §11-15-2, §11-15-3, §11-15-3b, §11-15-8, §11-15-9, and §11-15-9h; to amend and reenact §11-15A-2; to amend and reenact §11-17-3 and §11-17-4b; to amend said article by adding thereto new sections, designated §11-21-4g and §11-21-25; to amend and reenact §11B-2-20; to amend said code by adding thereto a new section, designated §11B-2-32; and to amend said code by adding thereto a new section, designated §29-22-9B, all relating to optimizing economic efficiency and revenue efficiency of the West Virginia tax structure, across multiple facets of the tax system, and to modernize State taxation to reflect best practices, and standards for an integrated tax system; reducing the personal income tax; providing for revenue replacement measures; relating to the severance tax imposed on the privilege of severing coal, oil, and natural gas for sale, profit or commercial use; specifying classifications of certain natural resources; specifying tiered rates for certain classifications of natural resources; changing the rate of the consumer sales and service tax and use tax; modifying tax on prepared foods; relating to the imposition of the consumers sales and service and the use tax upon the provision of certain professional services; providing for an excise tax on professional legal, engineering, architectural, and accounting services; providing for an excise tax on legal settlements based on a contingency fee agreement; relating to the imposition of the consumer sales and service and use tax on advertising services, electronic data processing, personalized fitness services, and certain high technology services and equipment; modifying the use tax; relating to increasing the excise tax on cigarettes, other tobacco products, and e-cigarette liquid; to phase in a reduction in the rate of personal income tax; to provide that further action of the Legislature is necessary to raise the personal income tax following a reduction; to provide for elimination of the personal income tax upon the occurrence of certain events; providing findings; requiring notification to taxpayers of changes to personal income tax; requiring reporting to the legislature; allowing for inoperability of certain statutory provisions upon complete elimination of the personal income tax; to provide for tax liabilities that existed prior to elimination of personal income tax; providing a tax credit for low income households to offset the

sales tax increase; providing for early payment of the credit; to establish Stabilization and Future Economic Reform Fund; to dedicate certain funding sources to fund; allowing fund to be invested; reallocating surplus revenues to fund upon the occurrence of certain events; to allow budget surplus to be deposited into fund upon obtaining a certain balance in the state revenue shortfall funds; to provide for uses of fund following the elimination of the personal income tax; to provide that Secretary of Tax and Revenue has authority over fund; to allow Secretary of Tax and Revenue to deposit additional amounts into fund upon obtaining a specified balance in the fund; to allow for a reduction in personal income tax brackets upon occurrence of unappropriated revenue; providing for dollar for dollar reduction in personal income tax brackets upon increases in general revenue related to specified events; to allow Legislature to transfer from fund to General Revenue Fund upon the fund reaching a certain balance; to allow fund to be invested; to reallocate budget surplus at the end of a fiscal year; to allow a percentage of budget surplus to be directed to the fund; to require the Lottery Commission develop a new instant lottery scratch-off game; creating a special revenue account at the Lottery Commission; providing for a transfer of funds from the special revenue account to Stabilization and Future Economic Reform Fund; to allow Lottery Commission to change new instant lottery scratch-off game to allow it to remain competitive; making technical corrections; specifying effective dates; authorizing promulgation of rules; and defining terms.

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 tenth order of business.

The end of today's first reading calendar having been reached, the Senate returned to the consideration of

Com. Sub. for Senate Bill 125, Budget Bill.

On third reading, coming up in deferred order, with the right having been granted on Monday, April 5, 2021, for amendments to be received on third reading, was again reported by the Clerk.

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

On page thirty-six, item 45, line thirty, by striking out "3,676,414" and inserting in lieu thereof "4,900,000".

On motions of Senators Ihlenfeld, Baldwin, Beach, Caputo, Jeffries, Lindsay, Plymale, Romano, Stollings, Unger, and Woelfel, the following amendment to the bill (Com. Sub. for S. B. 125) was next reported by the Clerk:

On pages fifty-eight and fifty-nine, item sixty-eight, by striking out all of item sixty-eight and inserting in lieu thereof a new item sixty-eight to read as follows:

68 - West Virginia State Police

(WV Code Chapter 15)

Fund 0453 FY 2022 Org 0612

| | | |
|---|-------|------------------|
| Personal Services and Employee Benefits..... | 00100 | \$ 63,321,161 |
| Salary and Benefits of Cabinet Secretary and Agency Heads..... | 00201 | 139,300 |
| Children's Protection Act..... | 09000 | 1,022,574 |
| Current Expenses..... | 13000 | 10,396,274 |
| Repairs and Alterations..... | 06400 | 450,523 |
| Trooper Class..... | 52100 | 3,299,147 |
| Barracks Lease Payments..... | 55600 | 237,898 |
| Communications and Other Equipment (R)..... | 55800 | 1,070,968 |
| Trooper Retirement Fund..... | 60500 | 9,925,563 |
| Handgun Administration Expense..... | 74700 | 77,892 |
| Capital Outlay and Maintenance (R)..... | 75500 | 250,000 |
| Retirement Systems – Unfunded Liability..... | 77500 | 19,156,000 |
| Automated Fingerprint Identification System..... | 89800 | 2,211,693 |
| BRIM Premium..... | 91300 | <u>5,743,921</u> |
| Total..... | | \$ 117,302,914 |

Any unexpended balances remaining in the appropriations for Communications and Other Equipment (fund 0453, appropriation 55800) and Capital Outlay and Maintenance (fund 0453, appropriation 75500) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

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

Following discussion,

The question being on the adoption of the amendment offered by Senators Ihlenfeld, Baldwin, Beach, Caputo, Jeffries, Lindsay, Plymale, Romano, Stollings, Unger, and Woelfel to the bill, and on this question, Senator Romano demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Caputo, Hamilton, Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, Stollings, Unger, and Woelfel—12.

The nays were: Azinger, Boley, Clements, Grady, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—22.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared the amendment offered by Senators Ihlenfeld, Baldwin, Beach, Caputo, Jeffries, Lindsay, Plymale, Romano, Stollings, Unger, and Woelfel to the bill rejected.

On motions of Senators Lindsay, Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Plymale, Romano, Stollings, Unger, and Woelfel, the following amendments to the bill (Com. Sub. for S. B. 125) were next reported by the Clerk and considered simultaneously:

On page sixty-seven, item eighty-three, line one, by striking out "0" and inserting in lieu thereof "500,000";

And,

On page sixty-seven, item eighty-three, line four, by striking out "29,950,955" and inserting in lieu thereof "30,450,955".

Following discussion,

The question being on the adoption of the amendments offered by Senators Lindsay, Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Plymale, Romano, Stollings, Unger, and Woelfel to the bill, and on this question, Senator Smith demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, Stollings, Unger, and Woelfel—11.

The nays were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—23.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared the amendments offered by Senators Lindsay, Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Plymale, Romano, Stollings, Unger, and Woelfel to the bill rejected.

On motions of Senators Lindsay, Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Plymale, Romano, Stollings, Unger, and Woelfel, the following amendment to the bill (Com. Sub. for S. B. 125) was next reported by the Clerk:

On page seventy-one, item ninety-five, by striking out all of item ninety-five and inserting in lieu thereof a new item ninety-five to read as follows:

95 - West Virginia University –

School of Medicine

Medical School Fund

(WV Code Chapter 18B)

Fund 0343 FY 2022 Org 0463

| | | |
|--|-------|------------------|
| WVU School of Health Science – Eastern Division..... | 05600 | \$ 2,235,352 |
| WVU – School of Health Sciences..... | 17400 | 15,056,370 |
| WVU – School of Health Sciences – Charleston Division..... | 17500 | 2,286,711 |
| Rural Health Outreach Programs (R)..... | 37700 | 164,517 |
| West Virginia University School of Medicine | | |
| BRIM Subsidy..... | 46000 | <u>1,203,087</u> |
| Total..... | | \$ 20,946,037 |

Any unexpended balance remaining in the appropriation for Rural Health Outreach Programs (fund 0343, appropriation 37700) at the close of fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

On page seventy-two, item ninety-seven, line one, by striking out “12,051,542” and inserting in lieu thereof “12,235,068”;

On page seventy-two, item ninety-seven, line six, by striking out “13,464,687” and inserting in lieu thereof “13,648,213”;

On page seventy-three, item ninety-nine, line one, by striking out “8,746,107” and inserting in lieu thereof “8,879,296”;

On page seventy-three, item ninety-nine, line six, by striking out “9,463,215” and inserting in lieu thereof “9,596,404”;

On page seventy-four, item one hundred, line one, by striking out “6,287,473” and inserting in lieu thereof “6,383,221”;

On page seventy-four, item one hundred one, line one, by striking out “10,319,269” and inserting in lieu thereof “10,476,415”;

On page seventy-four, item one hundred three, line one, by striking out “6,350,238” and inserting in lieu thereof “6,446,942”;

On page seventy-four, item one hundred four, line one, by striking out “12,493,572” and inserting in lieu thereof “12,683,829”;

On page seventy-five, item one hundred five, line one, by striking out “8,966,122” and inserting in lieu thereof “9,102,662”;

On page seventy-five, item one hundred six, line one, by striking out “11,172,374” and inserting in lieu thereof “11,342,512”.

And,

On page seventy-five, item one hundred six, line three, by striking out “14,122,566” and inserting in lieu thereof “14,292,704”.

Following discussion,

The question being on the adoption of the amendment offered by Senators Lindsay, Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Plymale, Romano, Stollings, Unger, and Woelfel to the bill, and on this question, Senator Romano demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, Stollings, Unger, and Woelfel—11.

The nays were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—23.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared the amendment offered by Senators Lindsay, Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Plymale, Romano, Stollings, Unger, and Woelfel to the bill rejected.

On motions of Senators Woelfel, Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, Stollings, and Unger, the following amendments to the bill (Com. Sub. for S. B. 125) were next reported by the Clerk and considered simultaneously:

On page seventy-two, item ninety-six, line one, by striking out “85,017,960” and inserting in lieu thereof “97,017,960”;

On page seventy-two, item ninety-six, line seven, by striking out “98,742,558” and inserting in lieu thereof “110,742,558”;

On page seventy-three, item ninety-eight, line one, by striking out “40,761,199” and inserting in lieu thereof “46,761,199”;

And,

On page seventy-three, item ninety-eight, line seven, by striking out “43,282,632” and inserting in lieu thereof “49,282,632”.

Following discussion,

At the request of Senator Woelfel, unanimous consent being granted, the amendments offered by Senators Woelfel, Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, Stollings, and Unger to the bill were withdrawn.

On motions of Senators Plymale, Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Lindsay, Romano, Stollings, Unger, and Woelfel, the following amendments to the bill (Com. Sub. for S. B. 125) were next reported by the Clerk and considered simultaneously:

On page one hundred three, item one hundred seventy-five, line two, by striking out "1,648,318" and inserting in lieu thereof "51,648,318";

And,

On page one hundred three, item one hundred seventy-five, line three, by striking out "1,780,000" and inserting in lieu thereof "51,780,000".

Following discussion,

The question being on the adoption of the amendments offered by Senators Plymale, Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Lindsay, Romano, Stollings, Unger, and Woelfel to the bill, the same was put and prevailed.

On motions of Senators Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, Stollings, Unger, and Woelfel, the following amendment to the bill (Com. Sub. for S. B. 125) was next reported by the Clerk:

On page one hundred fifty-nine, item three hundred one, by striking out all of item three hundred one and inserting in lieu thereof a new item three hundred one to read as follows:

301 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 3587 FY 2022 Org 0439

| | | |
|--|-------|---------------|
| Personal Services and Employee Benefits..... | 00100 | \$ 3,312,092 |
| Current Expenses..... | 13000 | 120,146 |
| Mountain Stage..... | 24900 | 300,000 |
| Capital Outlay and Maintenance (R)..... | 75500 | 50,000 |
| BRIM Premium..... | 91300 | <u>48,453</u> |
| Total..... | | \$ 3,830,691 |

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 3587, appropriation 75500) at the close of fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

Following discussion,

The question being on the adoption of the amendments offered by Senators Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, Stollings, Unger, and Woelfel to the bill, and on this question, Senator Romano demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, Stollings, Unger, and Woelfel—11.

The nays were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—23.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared the amendment offered by Senators Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, Stollings, Unger, and Woelfel to the bill rejected.

On motions of Senators Trump, Weld, Nelson, Takubo, and Maroney, the following amendments to the bill (Com. Sub. for S. B. 125) were next reported by the Clerk and considered simultaneously:

On page forty-three, item fifty-two, line one, by striking out "\$0" and inserting in lieu thereof "\$3,312,092";

On page forty-three, item fifty-two, line four, by striking "\$0" and inserting in lieu thereof "\$120,146";

On page forty-three, item fifty-two, line five, by striking out "\$0" and inserting in lieu thereof "\$300,000";

On page forty-three, item fifty-two, line six, by striking "\$0" and inserting in lieu thereof "\$50,000";

On page forty-three, item fifty-two, line seven, by striking "\$0" and inserting in lieu thereof "\$48,453";

On page forty-three, item fifty-two, line eight, by striking out "\$0" and inserting in lieu thereof "\$3,830,691";

On page seventy-two, item ninety-six, line one, by striking "\$85,017,960" and inserting in lieu thereof "\$97,017,960";

On page seventy-two, item ninety-six, line seven, by striking out "\$98,742,558" and inserting in lieu thereof "\$110,742,558";

On page seventy-three, item ninety-eight, line one, by striking out "\$40,761,199" and inserting in lieu thereof "\$46,761,199";

And,

On page seventy-three, item ninety-eight, line seven, by striking out "\$43,282,632" and inserting in lieu thereof "\$49,282,632".

At the request of Senator Trump, unanimous consent being granted, the amendments offered by Senators Trump, Weld, Nelson, Takubo, and Maroney to the bill were withdrawn.

On motions of Senators Beach, Baldwin, Caputo, Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, Stollings, Unger and Woelfel, the following amendments to the bill (Com. Sub. for S. B. 125) were next reported by the Clerk and considered simultaneously:

On page forty-two, item fifty-one, line one, by striking out “1,070,613” and inserting in lieu thereof “1,202,744”;

And,

On page forty-three, item fifty-one, line eight, by striking out “1,508,659” and inserting in lieu thereof “1,640,790”.

Following discussion,

The question being on the adoption of the amendments offered by Senators Beach, Baldwin, Caputo, Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, Stollings, Unger and Woelfel to the bill, and on this question, Senator Beach demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, Stollings, Sypolt, Unger, and Woelfel—12.

The nays were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Roberts, Rucker, Smith, Stover, Swope, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—22.

Absent: None.

So, a majority of those present and voting not having voted in the affirmative, the President declared the amendments offered by Senators Beach, Baldwin, Caputo, Ihlenfeld, Jeffries, Lindsay, Plymale, Romano, Stollings, Unger and Woelfel to the bill rejected.

On motions of Senators Tarr and Trump, the following amendments to the bill (Com. Sub. for S. B. 125) were next reported by the Clerk and considered simultaneously:

On page forty-one, item 50, line nine, by striking out “300,000” and inserting in lieu thereof “0”;

On page forty-three, item 52, by striking out all of item 52 and inserting in lieu thereof a new item 52, to read as follows:

52 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 0300 FY 2022 Org 0439

| | | | |
|---|-------|----|-----------|
| Personal Services and Employee Benefits | 00100 | \$ | 3,144,106 |
| Salary and Benefits of Cabinet Secretary and | | | |
| Agency Heads | 00201 | | 120,106 |
| Current Expenses | 13000 | | 118,344 |

| | | |
|---|-------|---------------|
| Mountain Stage..... | 24900 | 295,500 |
| Capital Outlay and Maintenance (R)..... | 75500 | 49,250 |
| BRIM Premium..... | 91300 | <u>47,727</u> |
| Total | | \$ 3,775,033 |

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 0300, appropriation 75500) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.;

On pages seventy-one and seventy-two, item 96, line one, by striking out “85,017,960” and inserting in lieu thereof “95,562,690”;

And;

On page seventy-three, item 98, line one, by striking out “40,761,199” and inserting in lieu thereof “46,059,781”.

Following discussion,

The question being on the adoption of the amendments offered by Senators Tarr and Trump to the bill, and on this question, Senator Smith demanded the yeas and nays.

The roll being taken, the yeas were: Baldwin, Beach, Boley, Caputo, Clements, Grady, Hamilton, Ihlenfeld, Jeffries, Lindsay, Maroney, Maynard, Nelson, Phillips, Plymale, Roberts, Romano, Rucker, Stollings, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Unger, Weld, Woelfel, Woodrum, and Blair (Mr. President)—30.

The nays were: Azinger, Karnes, Martin, and Smith—4.

Absent: None.

So, a majority of those present and voting having voted in the affirmative, the President declared the amendments offered by Senators Tarr and Trump to the bill adopted.

There being no further amendments offered,

The bill (Com. Sub. for S. B. 125), as just amended, was ordered to engrossment.

At the request of Senator Takubo, unanimous consent being granted, the bill was laid over one day, retaining its place on the calendar.

Consideration of Engrossed Committee Substitute for Senate Bill 125 having been concluded, the Senate proceeded to the consideration of

Eng. Com. Sub. for House Bill 2022, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution.

On third reading, coming up in deferred order, with the right having been granted on yesterday, Tuesday, April 6, 2021, for amendments to be received on third reading, was reported by the Clerk.

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

By striking out everything after the enacting clause and inserting in lieu thereof the provisions of Engrossed Committee Substitute for Senate Bill 125.

There being no further amendments offered,

(Senator Sypolt in the Chair.)

Having been engrossed, the bill (Eng. Com. Sub. for H. B. 2022), as just amended, was then read a third time and put upon its passage.

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

On the passage of the bill, the yeas were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—24.

The nays were: Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Lindsay, Romano, Stollings, Unger, and Woelfel—10.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2022) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Boley, Clements, Grady, Hamilton, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stover, Swope, Sypolt, Takubo, Tarr, Trump, Weld, Woodrum, and Blair (Mr. President)—24.

The nays were: Baldwin, Beach, Caputo, Ihlenfeld, Jeffries, Lindsay, Romano, Stollings, Unger, and Woelfel—10.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 2022) takes effect from passage.

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 senator was removed as a co-sponsor of the following resolutions on April 6, 2021:

Senate Concurrent Resolution 63: Senator Roberts;

Senate Concurrent Resolution 64: Senator Roberts;

And,

Senate Concurrent Resolution 65: Senator Roberts.

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 April 6, 2021:

Senate Concurrent Resolution 55: Senator Martin;

Senate Resolution 41: Senators Stollings and Lindsay;

And,

Senate Resolution 42: Senators Stollings and Lindsay.

Pending announcement of a meeting of a standing committee of the Senate,

On motion of Senator Takubo, at 9:30 p.m., the Senate adjourned until tomorrow, Thursday, April 8, 2021, at 10 a.m.

SENATE CALENDAR

**Thursday, April 08, 2021
10:00 AM**

SPECIAL ORDER OF BUSINESS

Saturday, April 10, 2021 – 1:00 PM

Consideration of executive nominations

THIRD READING

Eng. Com. Sub. for S. B. 125 - Budget Bill

Eng. Com. Sub. for H. B. 2002 - Relating to Broadband

Eng. Com. Sub. for H. B. 2005 - Relating to health care costs

Eng. Com. Sub. for H. B. 2017 - Rewriting the Criminal Code - (Com. title amend. pending)

Eng. H. B. 2379 - Make criminal invasion of privacy a felony - (Com. amend. pending) - (With right to amend)

Eng. Com. Sub. for H. B. 2507 - Remove the limitations on advertising and promotional activities by limited video lottery retailers - (Com. amend. pending) - (With right to amend)

Eng. H. B. 2730 - Relating to persons filing federal bankruptcy petition to exempt certain property of the estate - (Com. amend. and title amend. pending) - (With right to amend)

Eng. Com. Sub. for H. B. 2760 - Relating to economic development incentive tax credits (original similar to SB447)

Eng. Com. Sub. for H. B. 2773 - Permitting DNR to issue up to 100 permits for boats greater than 10 horsepower on Upper Mud River Lake

Eng. H. B. 2830 - Relating generally to sex trafficking - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 2842 - Preventing cities from banning utility companies in city limits - (Com. amend. and title amend. pending) - (With right to amend)

Eng. H. B. 2915 - Relating to public records management and preservation

Eng. H. B. 2918 - Relating to Family Drug Treatment Court

Eng. Com. Sub. for H. B. 3254 - Authorizing members of development authorities to accept federally authorized reimbursement for services which the members rendered on

a voluntary basis - (Com. amend. and title amend. pending) - (With right to amend)

Eng. H. B. 3286 - Making a supplementary appropriation to the Division of Human Services – Child Care and Development

Eng. H. B. 3287 - Making a supplementary appropriation to the Department of Homeland Security

Eng. H. B. 3288 - Supplementing and amending appropriations by decreasing and increasing existing items of appropriation in the DHHR

Eng. H. B. 3289 - Supplementary appropriation to the Department of Commerce, Geological and Economic Survey

Eng. H. B. 3291 - Making a supplementary appropriation to the Department of Homeland Security, Division of Administrative Services

Eng. H. B. 3292 - Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health

Eng. Com. Sub. for H. B. 3293 - Relating to single-sex participation in interscholastic athletic events

Eng. Com. Sub. for H. B. 3295 - Making a supplemental appropriation to Division of Human Services and Division of Health Central Office

Eng. Com. Sub. for H. B. 3297 - Making a supplemental appropriation to the Department of Veterans' Assistance - Veterans Home

Eng. H. B. 3310 - Relating to the jurisdiction of the Public Service Commission - (Com. title amend. pending)

Eng. Com. Sub. for H. J. R. 1 - Education Accountability Amendment - (Com. amend. and title amend. pending) - (With right to amend)

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 - (With right to amend)

SECOND READING

Eng. H. B. 2029 - Relating to teacher preparation clinical experience programs - (Com. amend. pending)

Eng. Com. Sub. for H. B. 2145 - Relating to student aide class titles - (Com. amend. pending)

Eng. Com. Sub. for H. B. 2221 - Relating to the establishment of an insurance innovation process - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2266 - Relating to expanding certain insurance coverages for pregnant women - (Com. amend. pending)

Eng. H. B. 2500 - Create an act for Statewide Uniformity for Auxiliary Container Regulations - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2573 - Relating generally to the transparency and accountability of state grants to reduce waste, fraud, and abuse - (Com. amend. pending)

Eng. Com. Sub. for H. B. 2674 - Relating to the administration of anesthetics - (Com. amend. pending)

Eng. Com. Sub. for H. B. 2720 - Creating a Merit-Based Personnel System within DOT - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2794 - To extend the Neighborhood Investment Program Act to July 1, 2026

Eng. Com. Sub. for H. B. 2884 - To make changes to the FOIA law to protect public utility customer databases from disclosure, with exceptions

Eng. Com. Sub. for H. B. 2927 - Adding Caregiving expenses to campaign finance expense - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2953 - To clarify that counties can hire fire fighters as paid staff and to modify the existing procedures to include a procedure of public hearing to commission a vote - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 2962 - Relating generally to dental practice

Eng. Com. Sub. for H. B. 3002 - Update road abandonment process - (Com. amend. and title amend. pending)

Eng. H. B. 3078 - Relating to powers and duties of the parole board - (Com. amend. and title amend. pending)

Eng. H. B. 3107 - Declaring that Post Traumatic Stress Disorder diagnosed by a licensed psychiatrist is a compensable occupational disease for first responders - (Com. amend. pending)

Eng. H. B. 3129 - Relating to the Consumer Price Index rate increase - (Com. title amend. pending)

Eng. H. B. 3132 - Relating to motor carrier inspectors

Eng. H. B. 3133 - Relating to motor carrier rates - (Com. title amend. pending)

Eng. H. B. 3177 - Removing expired, outdated, inoperative and antiquated provisions and report requirements in education - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 3215 - Amending the requirements to become an elected prosecutor - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 3266 - Providing for termination of extracurricular contact upon retirement

Eng. H. B. 3299 - Authorizing Higher Education Rules - (Com. amend. pending)

Eng. H. B. 3301 - Relating generally to property tax increment financing districts - (Com. amend. and title amend. pending)

Eng. H. B. 3304 - Authorizing the Division of Corrections and Rehabilitation to establish a Reentry and Transitional Housing Program - (Com. amend. and title amend. pending)

Eng. H. B. 3308 - Relating to increasing number of limited video lottery terminals

Eng. H. B. 3311 - Relating to the cost of medical records

Eng. Com. Sub. for H. J. R. 3 - Property Tax Modernization Amendment - (Com. amend. and title amend. pending)

FIRST READING

Eng. Com. Sub. for H. B. 2025 - Provide liquor, wine, and beer licensees with some new concepts developed during the State of Emergency utilizing new technology to provide greater freedom to operate in a safe and responsible manner - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2195 - Relating to motor vehicle crash reports - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2368 - Mylissa Smith's Law, creating patient visitation privileges - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2370 - Provide that Public Service Districts cannot charge sewer rates for filling a swimming pool - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2581 - Providing for the valuation of natural resources property and an alternate method of appeal of proposed valuation of natural resources property - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2667 - To create a cost saving program for state buildings regarding energy efficiency

Eng. Com. Sub. for H. B. 2671 - Relating to financial exploitation of elderly persons, protected persons or incapacitated adults - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2688 - Allow county political parties to have building funds in a similar manner that state parties are allowed

Eng. Com. Sub. for H. B. 2694 - Create the 2nd Amendment Preservation Act - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2747 - Transferring the Parole Board to the Office of Administrative Hearings - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2891 - Creating minimum statutory standards for law-enforcement officers - (Com. amend. and title amend. pending)

Eng. H. B. 2895 - Supplementing and amending the appropriations of public moneys to the Department of Veterans' Assistance

Eng. H. B. 2900 - Expiring funds to the balance of the Department of Education – State Board of Education – School Building Authority – School Construction Fund

Eng. Com. Sub. for H. B. 2933 - Anti-Discrimination Against Israel Act - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 2982 - Relating to the Second Chances at Life Act of 2021 - (Com. amend. pending) (original similar to SB609)

Eng. H. B. 2997 - 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 - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 3072 - Sunset the Board of Forestry - (Com. amend. pending)

Eng. Com. Sub. for H. B. 3106 - To change the hearing requirement for misdemeanors to 10 days - (Com. amend. and title amend. pending)

Eng. H. B. 3128 - Relating to carrier fees on 911 fee revenues - (Com. amend. and title amend. pending)

Eng. H. B. 3313 - Making supplemental appropriation to the Division of Motor Vehicles

Eng. H. B. 3314 - Making supplemental appropriation to West Virginia State Police

Eng. H. B. 3315 - Making supplemental appropriation to Division of Environmental Protection - Oil and Gas Reclamation Fund

Eng. H. B. 3316 - Supplemental appropriation to the Department of Education, State Board of Education

NO COMMITTEE MEETING ANNOUNCEMENTS