

WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTY-SIXTH LEGISLATURE
REGULAR SESSION, 2024
FIFTY-SEVENTH DAY

Charleston, West Virginia, Wednesday, March 6, 2024

The Senate met at 11:19 a.m.

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

Prayer was offered by the Honorable Mark R. Maynard, a senator from the sixth district.

The Senate was then led in recitation of the Pledge of Allegiance by the Honorable Rupie Phillips, a senator from the seventh district.

Pending the reading of the Journal of Tuesday, March 5, 2024,

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

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

The Senate then proceeded to the third order of business.

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

Eng. Com. Sub. for Senate Bill 504, Relating to felony offense of sexual intercourse, intrusion, or contact with student.

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

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

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

ARTICLE 8B. SEXUAL OFFENSES.

§61-8B-11b. Prohibiting sexual intercourse, sexual intrusion, or sexual contact, or ~~intrusion~~ against students by school employees; exception; penalties.

(a) Any teacher, principal, counselor, coach, other employee, volunteer, or school resource officer of any private or public elementary or secondary school who engages in sexual intercourse, sexual intrusion, or sexual contact, as those terms are defined in §61-8B-1 of this code, with any student enrolled in ~~the school~~ any private or public elementary or secondary school regardless of the age of the student is guilty of a felony and upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than five years or fined not more than \$5,000 or both imprisoned and fined. The fact that the student may have consented to ~~such an~~ the act or that the act did not occur on school property or during a school function is not a defense.

(b) For purposes of this section:

~~(1) A private elementary or secondary school means any school enrolling students who are exempt from compulsory school attendance under either §18-8-1(b) of this code or §18-8-1(k) of this code; and~~

(1) A private elementary or secondary school means any private school or other entity authorized to provide an elementary or secondary education to students who are exempt from compulsory school attendance pursuant to §18-8-1 of this code; and

(2) A public elementary or secondary school means any school under the general supervision of the West Virginia Board of Education pursuant to section two, article XII of the West Virginia Constitution.

(c) Any student under the age of 18 years currently enrolled in a secondary school and engaged in a wage-earning registered youth apprenticeship program, as authorized under §18A-3-1 of this code or approved by the state board, may not be prosecuted for a violation of subsection (a) of this section, including those secondary school students under the age of 18 years participating in the Grow Your Own teacher pathway or any Career Technical Education school service personnel training programs.

~~(e)~~ (d) This is a separate and distinct criminal offense from any other applicable offense under this code. The penalties set forth in this section are in addition to any other penalties for any other applicable offense.

~~(d)~~ (e) A final conviction under this section shall cause the permanent forfeiture of any teaching or other certificate issued pursuant to §18A-3-2a of this code.;

And,

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

Eng. Com. Sub. for Senate Bill 504—A Bill to amend and reenact §61-8B-11b of the Code of West Virginia, 1931, as amended, relating to felony offense involving sexual intercourse, intrusion, or contact with a student; clarifying that the offense applies to a school resource officer; clarifying that the offense applies to a student of any private or public elementary or secondary school; clarifying the definition of private elementary or secondary school; providing an exception for certain secondary school students participating in wage-earning registered youth apprenticeship programs; and creating criminal penalties.

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

Engrossed Committee Substitute for Senate Bill 504, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, 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. 504) 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 613, WV Residential Mortgage Lender, Broker and Servicer Act.

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 623, Requiring DMV to provide images of certain individuals to Secretary of State for voter identification purposes.

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 2. REGISTRATION OF VOTERS.

§3-2-11. Registration in conjunction with driver licensing.

(a) The Division of Motor Vehicles or other division or department that may be established by law to perform motor vehicle driver licensing services, shall obtain as an integral and simultaneous part of every process of application for the issuance, renewal, or change of address of a motor vehicle driver's license, or official identification card pursuant to the provisions of §17B-2-1 *et seq.* of this code, when the division's regional offices are open for regular business, the following information from each qualified registrant:

- (1) Full name, including first, middle, last, and any premarital names;
- (2) Date of birth;
- (3) Residence address and mailing address, if different;

- (4) The applicant's electronic signature and photograph;
- (5) Telephone number, if available;
- (6) Email address, if available;
- (7) Political party membership, if any;
- (8) Driver's license number and last four digits of Social Security number;
- (9) A notation that the applicant has attested that he or she meets all voter eligibility requirements;
- (10) United States citizenship status;
- (11) Whether the applicant affirmatively declined to become registered to vote during the transaction with the Division of Motor Vehicles;
- (12) Date of application; and
- (13) Any other information specified in rules adopted to implement this section.

(b) Unless the applicant affirmatively declines to become registered to vote or update ~~their~~ his or her voter registration during the transaction with the Division of Motor Vehicles, the Division of Motor Vehicles shall release all of the information obtained pursuant to subsection (a) of this section to the Secretary of State, who shall forward the information to the county clerk for the relevant county to process the newly registered voter or updated information for the already-registered voter pursuant to law. The Division of Motor Vehicles shall notify the applicant that by submitting his or her signature, the applicant grants written consent for the submission of the information obtained and required to be submitted to the Secretary of State pursuant to this section.

~~(c) By no later than January 1, 2020, the Division of Motor Vehicles shall create a regular process that allows the Secretary of State to fulfill his or her duties as provided by §3-2-3 of this code to confirm that persons who are noncitizens of the United States have not and cannot register to vote via the Online Voter Registration portal.~~

(c) As soon as practicable, but no later than 90 days following the effective date of amendments made during the 2024 Regular Legislative Session, the Division of Motor Vehicles shall create a regular process, including but not limited to the requirements of §3-2-11(p) of this code, that ensures the Secretary of State can fulfill his or her duties as provided by §3-2-3 of this code to confirm that any applicant to register to vote in West Virginia through the Division of Motor Vehicles is in fact a U.S. citizen eligible to vote in West Virginia and to ensure that persons who are noncitizens of the United States have not and cannot register to vote in West Virginia.

(d) Information regarding a person's failure to sign the voter registration application is confidential and may not be used for any purpose other than to determine voter registration.

(e) A qualified voter who submits the required information or update to his or her voter registration, pursuant to the provisions of subsection (a) of this section, in person at a driver licensing facility at the time of applying for, obtaining, renewing, or transferring his or her driver's

license or official identification card, and who presents identification and proof of age at that time, is not required to make his or her first vote in person or to again present identification in order to make that registration valid.

(f) A qualified voter, who submits, by mail or by delivery by a third party, an application for registration on the form used in conjunction with driver licensing, is required to make his or her first vote in person and present identification as required for other mail registration in accordance with ~~the provisions of~~ §3-2-10(g) of this code. If the applicant has been previously registered in the jurisdiction and the application is for a change of address, change of name, change of political party affiliation, or other correction, the presentation of identification and first vote in person is not required.

(g) An application for voter registration submitted pursuant to the provisions of this section updates a previous voter registration by the applicant and authorizes the cancellation of registration in any other county or state in which the applicant was previously registered.

(h) A change of address from one residence to another within the same county which is submitted for driver licensing or nonoperator's identification purposes in accordance with applicable law, serves as a notice of change of address for voter registration purposes if requested by the applicant after notice and written consent of the applicant.

(i) Completed applications for voter registration or change of address for voting purposes received by an office providing driver licensing services shall be forwarded to the Secretary of State within five days of receipt unless other means are available for a more expedited transmission. The Secretary of State shall remove and file any forms which have not been signed by the applicant and shall forward completed, signed applications to the clerk of the appropriate county commission within five days of receipt.

(j) Voter registration application forms containing voter information which are returned to a driver licensing office unsigned shall be collected by the Division of Motor Vehicles, submitted to the Secretary of State, and maintained by the Secretary of State's office according to the retention policy adopted by the Secretary of State.

(k) The Secretary of State shall establish procedures to protect the confidentiality of the information obtained from the Division of Motor Vehicles, including any information otherwise required to be confidential by other provisions of this code.

(l) A person registered to vote pursuant to this section may cancel his or her voter registration at any time by any method available to any other registered voter.

(m) This section does not require the Division of Motor Vehicles to determine eligibility for voter registration and voting.

(n) Except for the changes made to subsection (b) of this section during the 2017 regular legislative session, the changes made to this section during the 2016 regular legislative session become effective on July 1, 2021, and any costs associated therewith shall be paid by the Division of Motor Vehicles. The Commissioner of the Division of Motor Vehicles, the Secretary of the Department of Transportation, and the Secretary of State shall each appear before the Joint Committee on Government and Finance and the Joint Standing Committee on the Judiciary, during the first interim meetings of such committees occurring after September 1, 2019, to present written reports containing a full and complete list of any infrastructure each agency requires to

achieve the purposes of this section. Along with the report required by this subsection, the Division of Motor Vehicles shall submit a written schedule to both committees outlining how the division will implement the requirements of this section by July 1, 2021.

(o) The Secretary of State shall propose rules for legislative approval in accordance with ~~the provisions of §29A-3-1 et seq.~~ of this code to implement the requirements of this section.

(p) Notwithstanding any other provisions of this Code to the contrary, the Division of Motor Vehicles shall expeditiously and comprehensively release and forward all information obtained pursuant to subsection (a) of this section purporting to document an applicant's status as a U.S. citizen to the Secretary of State of any applicant attempting to register to vote in West Virginia. This information shall be used for the express purpose of expediting the Secretary of State's fulfillment of his or her duties pursuant to §3-2-11(c) and §3-2-3 of this code requiring the Secretary of State to confirm that persons who are noncitizens of the United States have not and cannot register to vote in the state of West Virginia.

(q) The amendments to this section enacted by the Legislature in the 2024 Regular Session are effective upon passage.

On motion of Senator Takubo, the following amendments to the House of Delegates amendment to the bill (Eng. Com. Sub. for S. B. 623) were reported by the Clerk, considered simultaneously, and adopted:

On page 4, subsection (q), by striking out the words "upon passage" and inserting in lieu thereof the words "January 1, 2025";

And,

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

Eng. Com. Sub. for Senate Bill 623—A Bill to amend and reenact §3-2-11 of the Code of West Virginia, 1931, as amended, relating to requiring Division of Motor Vehicles to provide images of persons issued any identification or license to the Secretary of State for voter identification purposes; requiring Division of Motor Vehicles to create regular process; requiring Division of Motor Vehicles to release and forward certain information; and providing an internal effective date for the amendments to this section.

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

Engrossed Committee Substitute for Senate Bill 623, as amended, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: Caputo—1.

Absent: None.

So, a majority of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 623) passed with its Senate amended title.

Senator Takubo moved that the bill take effect January 1, 2025.

On this question, the yeas were: Azinger, Barrett, Boley, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: Caputo—1.

Absent: None.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for S. B. 623) takes effect January 1, 2025.

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

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

Eng. Senate Bill 650, Supplementing and amending appropriations to Higher Education Policy Commission, Fairmont State University.

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 701, Supplementing and amending appropriations to Department of Education, School Construction Fund.

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 714, Transferring duties and licensing from Board of Osteopathic Medicine to Board of Medicine.

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 3, §30-3-4, line 3, after the words "Accredited osteopathic" by striking out the word "college" and inserting in lieu thereof the words "medical school".

On page 3, §30-3-4, line 3, after the words "college of" by striking out the word "osteopathy" and inserting in lieu thereof the words "osteopathic medicine".

On page 3, §30-3-4, line 5, after the words "or by the" by striking out the words "college accrediting agency of the American Osteopathic Association" and inserting in lieu thereof the words "Commission on Osteopathic College Accreditation (COCA)".

On page 3, §30-3-4, line 8, after the words "established by the" by striking out the words "American Osteopathic Association" and inserting in lieu thereof the word "COCA".

On page 5, §30-3-4, line 38, by striking out the words

""Osteopathy" means a system of healing arts which places the chief emphasis on the structural integrity of the body mechanism as being the most important single factor in maintaining the well-being of the organism in health and disease" and inserting in lieu thereof the words

""Osteopathic medicine and surgery" means a complete system of medical care with a philosophy that combines the needs of the patient with the current practice of medicine, surgery, and obstetrics; that emphasizes the concept of body unity, the interrelationship between structure and function; and that has an appreciation of the body's ability to heal itself".

On page 8, §30-3-5, line 64, after the words "at least" by striking out the remainder of the sentence and inserting in lieu thereof the words "five of which shall be allopathic physicians and at least five of which shall be osteopathic physicians".

On page 13, §30-3-7, line 28, after the words "§5A-3-1 *et seq.*" by striking out the words "and §5A-6-1 *et seq.*".

On page 24, §30-3-10b, line 4, after the word "allopathic" by inserting the words "or osteopathic".

On page 24, §30-3-10b, line 19, after the words "medical school" by inserting the words "or accredited osteopathic college".

On page 24, §30-3-10b, line 22, after the words "practice allopathic" by inserting the words "or osteopathic".

On page 24, §30-3-10b, line 23, after the words "medical school" by inserting the words "or accredited osteopathic college".

On page 36, §30-3-13, line 70, after the word "band" by striking out the words "member, cheerleader, mascot" and inserting in lieu thereof the words "members, cheerleaders, mascots".

On page 49, §30-3-16, line 43, after the word "allopathic" by inserting the words "and osteopathic".

On page 50, §30-3-22, line 1, after the word "funds" by striking out the words "as expended pursuant to the authority granted under" and inserting in lieu thereof the words "provided in".

On page 58, §30-3G-8, line 17, by striking out the word "provide" and inserting in lieu thereof the word "providing".

On page 63, §30-3G-11, line 10, by striking out the words "moral turpitude".;

And,

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

Eng. Com. Sub. for Senate Bill 714—A Bill to amend and reenact §30-1D-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §30-3-1, §30-3-2, §30-3-4, §30-3-5, §30-3-6, §30-3-7, §30-3-8, §30-3-9, §30-3-10, §30-3-11, §30-3-11a, §30-3-12, §30-3-13, §30-3-13a, §30-3-15, §30-3-16, §30-3-17, and §30-3-18 of said code; to amend said code by adding thereto three new sections, designated §30-3-10b, §30-3-21, and §30-3-22; to repeal §30-3-7a, §30-3-11b, and §30-3-11c of said code; to amend said code by adding thereto a new article, designated §30-3G-1, §30-3G-2, §30-3G-3, §30-3G-4, §30-3G-5, §30-3G-6, §30-3G-7, §30-3G-8, §30-3G-9, §30-3G-10, §30-3G-11, and §30-3G-12; to amend and reenact §30-14-3 of said code; and to amend said code by adding thereto two new sections, designated §30-14-18 and §30-14-19, all relating to professionals to be licensed by the West Virginia Board of Medicine; requiring criminal background checks of any applicant for a license to engage in genetic counseling; making legislative findings; including osteopathic physicians within the purpose of a certain article; defining terms; providing that the West Virginia Board of Medicine (Board) will be reconstituted effective January 1, 2025; providing that the Board is to assume, carry on, and succeed to all of the duties, rights, powers, obligations, and liabilities previously belonging to, or exercised by, the West Virginia Board of Osteopathic Medicine effective January 1, 2025; stating the powers and duties of the Board; providing for Board membership; providing that the Board may call emergency meetings; exempting the Board from certain Purchasing Division requirements; repealing certain provisions pertaining to radiologist assistants; providing for certain use of electronic signatures; providing for the creation of a complaint file that is separate from and in addition to a licensee's historical record; providing requirements for licensure to practice medicine and surgery; providing for certain special license types; providing that certain endorsement and temporary-license requirements also apply to osteopathic physicians; providing for a license to practice administrative medicine; repealing certain provisions relating to the practice of medicine and surgery in certain nursing homes; repealing certain provisions pertaining to administrative medicine licenses; providing for the renewal of physician licenses; prohibiting certain practices; clarifying that osteopathic physicians may also practice telemedicine; providing that a medical corporation formed outside of this state for the purpose of engaging in medical acts through one or more licensed physician assistants may receive a certificate of authorization; providing for the issuance of educational permits; providing that certain provisions shall not apply to the practice of osteopathic medicine and surgery prior to January 1, 2025; requiring the development of a transition plan; providing for the transfer of certain special revenue funds; providing for the Board's special revenue fund; requiring persons to possess a valid license prior to practicing genetic counseling; providing licensure requirements for genetic counseling; stating the duties and powers of the Board with regard to genetic counseling; providing for the practice of ACS and ABGC permittees; authorizing the Board to promulgate rules for legislative approval; providing for the expiration, renewal, and reinstatement of licenses to practice genetic counseling; setting certain continuing-education requirements; setting a genetic counselor's scope of practice; providing for disciplinary proceedings involving genetic counselors; authorizing the Board or the Attorney General to seek certain injunctive relief; requiring certain reports from health care facilities; prohibiting any genetic counselor or ACS permittee to represent that he or she is a licensed physician and providing that any person who violates that prohibition is guilty of a felony and, upon conviction, shall be imprisoned for not less than one nor more than two years, or be fined not more than \$2,000, or both fined and imprisoned; allowing members of the current West Virginia Board of Osteopathic Medicine to serve three consecutive terms; terminating the West Virginia Board of Osteopathic Medicine effective December 31, 2024; providing that the West Virginia Board of Osteopathic Medicine shall transfer any and all of its remaining functions to the Board effective January 1, 2025; setting forth additional provisions pertaining to the transfer; and requiring the development and implementation of a transition plan.

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

Following discussion,

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

Engrossed Committee Substitute for Senate Bill 714, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Barrett, Boley, Caputo, Clements, Deeds, Grady, Jeffries, Maroney, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Stuart, Swope, Takubo, Tarr, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—23.

The nays were: Azinger, Chapman, Hamilton, Hunt, Karnes, Martin, Maynard, Rucker, Smith, Stover, and Taylor—11.

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. 714) passed with its House of Delegates amended title.

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

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

Eng. Senate Bill 827, Providing for regional distribution and dismantling centers.

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 2, section 2, beginning on line 20, after with word "defined" by inserting the words "in this section" and striking the remainder of the sentence;

And,

On page 6, section 4, on line 74, by striking the word "licensed" and inserting in lieu thereof the word "permitted".

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

Engrossed Senate Bill 827, as amended by the House of Delegates, was then put upon its passage.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson,

Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, 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. 827) 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 5458—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 Higher Education Policy Commission, Higher Education Policy Commission – Administration – Control Account, fund 0589, fiscal year 2024, organization 0441, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024.

Referred to the Committee on Finance.

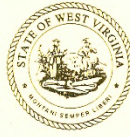
A message from the Clerk of the House of Delegates announced the passage by that body, to take effect from passage, and requested the concurrence of the Senate in the passage of

Eng. House Bill 5699—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 Arts, Culture, and History, Division of Culture and History, fund 0293, fiscal year 2024, organization 0432, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024.

Referred to the Committee on Finance.

Executive Communications

The following communication from His Excellency, the Governor, was reported by the Clerk:



Jim Justice
Governor of West Virginia

March 5, 2024

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

The Honorable Roger Hanshaw
Speaker of the House of Delegates
State Capitol, Building 1, Room 228-M
Charleston, West Virginia 25305

Dear President Blair and Speaker Hanshaw:

After submission of my recommended FY 2025 Executive Budget on January 10, 2024, there are areas that require adjustment.

Therefore, pursuant to Section 51, Article VI of the Constitution of the State of West Virginia, I submit revisions to the FY 2025 Budget Bill for the following sections:

TITLE II - APPROPRIATIONS.

Section 1. Appropriations from general revenue.

Department of Administration

Office of Technology - WV Office of Technology, Fund 0204, Fiscal Year 2025, Org 0231

(To add a new item of appropriation.)

30a - Office of Technology

(W.V. Code Chapter 5A)

Fund 0204 FY 2025 Org 0231

Directed Transfer..... 70000 \$ 5,000,000

The above appropriation for Directed Transfer (fund 0204, appropriation 70000) shall be transferred to the Information Services and Communication Fund (fund 2220).

Committee for the Purchase of Commodities and Services from the Handicapped, Fund 0233, Fiscal Year 2025, Org 0224

(To strike language.)

The Honorable Craig Blair, President
 The Honorable Roger Hanshaw, Speaker
 March 5, 2024
 Page 2

- On page 27, line 1, strike in its entirety "The Division of Highways, Division of Motor Vehicles, Public Service Commission, and other departments, bureaus, divisions, or commissions operating from special revenue funds and/or federal funds shall pay their proportionate share of the public employees health insurance cost for their respective divisions."

Department of Tourism

Department of Tourism – Office of the Secretary, Fund 0246, Fiscal Year 2025, Org 0304

(To increase Tourism - Brand Promotion (R) and decrease Tourism - Events and Sponsorships (R).)

- Decrease "Tourism-Events and Sponsorships" (fund 0246, appropriation 61805) by \$8,000,000.
- Increase "Tourism-Brand Promotion" (fund 0246, appropriation 61803) by \$8,000,000.

Department of Education

Department of Education - State Department of Education, Fund 0313, Fiscal Year 2025, Org 0402

(To decrease Teacher Retirement Savings Realized appropriation per CPRB actuary calculation and to correct language.)

- Decrease "Teachers Retirement Savings Realized" (fund 0313, appropriation 09500) by \$19,094,000.
- On page 38, Line 50, after "Hope Scholarship Program (fund", strike "313," and replace with "0313".

Department of Education - State Aid to Schools Fund, Fund 0317, Fiscal Year 2025, Org 0402

(To adjust School Aid Formula based on the actuarial requirement from the CPRB.)

- Decrease "Teachers' Retirement System" (fund 0317, appropriation 01900) by \$3,415,958.
- Increase "Retirement Systems-Unfunded Liability" (fund 0317, appropriation 77500) by \$779,958.

Department of Health

Department of Health - Central Office, Fund 0407, Fiscal Year 2025, Org 0506

(To adjust appropriations.)

- Decrease "Office of Drug Control Policy" (fund 0407, appropriation 35401) by \$4,773.
- Increase "Current Expenses" (fund 0407, appropriation 13000) by \$650,000.

Department of Human Services

Division of Human Services, Fund 0403, Fiscal Year 2025, Org 0511

(To adjust appropriations.)

- Increase "Office of Drug Control Policy" (fund 0403, appropriation 35401) by \$4,773.

Department of Health Facilities

Health Facilities - Hopemont Hospital, Fund 0408, Fiscal Year 2025, Org 0512

(To add clarifying language.)

- On page 53, line 16, after "BRIM Premium (fund 0408, appropriation 91300)," insert "at the close of the fiscal year 2024".

Health Facilities - Lakin Hospital, Fund 0409, Fiscal Year 2025, Org 0512

(To add clarifying language.)

- On page 54, line 16, after "BRIM Premium (fund 0408, appropriation 91300)," insert "at the close of the fiscal year 2024".

Health Facilities - John Manchin Senior Healthcare Center, Fund 0410, Fiscal Year 2025, Org 0512

(To add clarifying language.)

- On page 55, line 16, after "BRIM Premium (fund 0408, appropriation 91300)," insert "at the close of the fiscal year 2024".

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Health Facilities - Jackie Withrow Hospital, Fund 0411, Fiscal Year 2025, Org 0512

(To add clarifying language.)

- On page 55, line 16, after "BRIM Premium (fund 0408, appropriation 91300)," insert "at the close of the fiscal year 2024".

Health Facilities - Health Facilities - Welch Community Hospital, Fund 0412, Fiscal Year 2025, Org 0512

(To add clarifying language.)

- On page 57, line 16, after "BRIM Premium (fund 0408, appropriation 91300)," insert "at the close of the fiscal year 2024".

Health Facilities - William R. Sharpe Jr. Hospital, Fund 0413, Fiscal Year 2025, Org 0512

(To add clarifying language.)

- On page 58, line 16, after "BRIM Premium (fund 0408, appropriation 91300)," insert "at the close of the fiscal year 2024".

Health Facilities - Mildred Mitchell-Bateman Hospital, Fund 0414, Fiscal Year 2025, Org 0512

(To add clarifying language.)

- On page 59, line 16, after "BRIM Premium (fund 0408, appropriation 91300)," insert "at the close of the fiscal year 2024".

Health Facilities - William Sharpe - Transitional Living Facility, Fund 0415, Fiscal Year 2025, Org 0512

(To add clarifying language.)

- On page 60, line 16, after "BRIM Premium (fund 0408, appropriation 91300)," insert "at the close of the fiscal year 2024".

Department of Homeland Security

Department of Homeland Security - Office of The Secretary, Fund 0430, Fiscal Year 2025, Org 0601

(To add reappropriation language.)

- After "Unclassified (fund 0430, appropriation 09900)," insert "Current Expenses - Surplus (fund 0430, appropriation 13099),".

West Virginia State Police, Fund 0453, Fiscal Year 2025, Org 0612

(To increase pension contribution per CPRB actuary calculation.)

- Increase "Retirement Systems-Unfunded Liability" (fund 0453, appropriation 77500) by \$7,000.

Division of Administrative Services - Criminal Justice Fund, Fund 0546, Fiscal Year 2025, Org 0623

(To add reappropriation language.)

- Before "Child Advocacy Centers (fund 0546, appropriation 45800)," insert "Victims of Crime Act (fund 0546, appropriation 21601),".

Department of Transportation

Division of Multimodal Transportation Facilities - Public Transit General, Fund 0510, Fiscal Year 2025, Org 0810

(To add language.)

- On page 72, after line 9, insert a new paragraph with the text: "From the above appropriation for Current Expenses (fund 0510, appropriation 13000), \$30,000 shall be used to support the Sistersville Ferry."

Department of Veterans' Assistance

Veterans' Home, Fund 0460, Fiscal Year 2025, Org 0618

(To add reappropriation language.)

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- After "Current Expenses (fund 0460, appropriation 13000)" insert "and Capital Outlay, Repairs and Equipment - Surplus (fund 0460, appropriation 67700) are hereby reappropriated for expenditure during the fiscal year 2025."

Council for Community and Technical College Education

New River Community and Technical College, Fund 0600, Fiscal Year 2025, Org 0445

(To correct an appropriation amount.)

- Decrease "New River Community and Technical College" (fund 0600, appropriation 35800) by \$50,000.

Higher Education Policy Commission

Higher Education Policy Commission - Administration - Control Account, Fund 0589, Fiscal Year 2025, Org 0441

(To add reappropriation language.)

- After "Dual Enrollment Program (fund 0589, appropriation 42201)," insert "Underwood-Smith Scholarship Program - Student Awards - Surplus (Fund 0589, appropriation 16799), Nursing Program Expansion Support (fund 0589, appropriation 42202), Nursing Program Expansion Support - Surplus (fund 0589, appropriation 42299),".

Shepherd University, Fund 0366, Fiscal Year 2025, Org 0486

(To correct an appropriation amount.)

- Increase "Shepherd University" (fund 0366, appropriation 43200) by \$348,730.

Miscellaneous Boards and Commissions

Adjutant General - State Militia, Fund 0433, Fiscal Year 2025, Org 0603

(To add reappropriation language.)

- After "Unclassified (fund 0433, appropriation 09900)," insert "Capital Outlay, Repairs and Equipment - Surplus (fund 0433, appropriation 67700),".

Sec. 3. Appropriations from other funds

Department of Administration

Office of the Secretary - Employee Pension and Health Care Benefit Fund, Fund 2044, Fiscal Year 2025, Org 0201

(To align appropriation with amount transferred from fund 0313 appropriation 09500 for FY 2025.)

- Decrease "Current Expenses" (fund 2044, appropriation 13000) by \$19,094,000.

Department of Environmental Protection

Division of Environmental Protection - Environmental Laboratory Certification Fund, Fund 3340, Fiscal Year 2025, Org 0313

(To correct a transposed number.)

- On page 121, line 1, after appropriation 00100, strike and replace "389,641" with "389,614".

Department of Revenue

Racing Commission - Advance Deposit Wagering Account, Fund 7309, Fiscal Year 2025, Org 0707

(To correct the fund name.)

- On page 141, after item "270 - Racing Commission -", strike and replace the fund name with "Advance Deposit Wagering Account".

Bureau of Senior Services

Bureau of Senior Services - Community Based Service Fund, Fund 5409, Fiscal Year 2025, Org 0508

(To correct a foot total.)

- On page 145, line 5, after Total, strike and replace "\$14,529,966" with "\$14,589,966".

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Sec. 4. Appropriations from lottery net profits.

Higher Education Policy Commission

Higher Education Policy Commission - Lottery Education - Higher Education Policy Commission - Control Account, Fund 4925, Fiscal Year 2025, Org 0441

(To update appropriation name.)

- On page 160, line 6, change the name of "Minority Doctoral Fellowship (R)" to "State Doctoral Scholars Program (R)".
- On page 161, line 15, strike "Minority Doctoral Fellowship" and replace with "State Doctoral Scholars Program".

Sec. 6. Appropriations of federal revenue.

Department of Human Services

Department of Human Services, Fund 8722, Fiscal Year 2025, Org 0511

(To correct appropriation amounts.)

- On page 183, line 6, strike and replace "6,753,105" with "4,151,432,776".
- On page 183, line 8, strike and replace "4,570,485" with "6,753,105".

Miscellaneous Boards and Commissions

Economic Development Authority, Fund 8893, Fiscal Year 2025, Org 0944

(To correct a letter added to the section total.)

- On page 190, line 2, remove the "s" added to the section total for Federal Funds.

Sec 9. Appropriations from general revenue fund surplus accrued.

Department of Environmental Protection

Division of Environmental Protection, Fund 0273, Fiscal Year 2025, Org 0313

(To correct code section cited and add two new items of appropriation.)

407 - Division of Environmental Protection

(W.V. Code Chapter 22)

Fund 0273 FY 2025 Org 0313

Capital Outlay, Repairs and Equipment-Surplus.....	67700	\$	1,500,000
Directed Transfer - Surplus.....	70099	\$	2,268,230

The above appropriation for Directed Transfer - Surplus (fund 0273, appropriation 70099), \$2,268,230 shall be transferred to the Voluntary Remediation Administrative Fund (fund 3347).

Department of Economic Development

Department of Economic Development - Office of the Secretary, Fund 0256, Fiscal Year 2025, Org 0307

(To add a new item of appropriation for WV Jobs Investment Trust.)

408a - Department of Economic Development -

Office of the Secretary

(W.V. Code Chapter 5B)

Fund 0256 FY 2025 Org 0307

Directed Transfer - Surplus.....	70099	\$	10,000,000
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The above appropriation for Directed Transfer - Surplus (fund 0256, appropriation) shall be transferred to the Economic Development Authority, WV Jobs Investment Trust (fund 9071).

The Honorable Craig Blair, President
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Higher Education Policy Commission

Higher Education Policy Commission - Administration - Control Account, Fund 0589, Fiscal Year 2025, Org 0441

(To strike a surplus item that was incorrectly placed under HEPC.)

- Strike Item 408 in its entirety

Executive

Governor's Office - Civil Contingent Fund, Fund 0105, Fiscal Year 2025, Org 0100

(To insert a new surplus item under the Civil Contingent Fund.)

408a - Governor's Office -

Civil Contingent Fund

(W.V. Code Chapter 5)

Fund 0105 FY 2025 Org 0100

Fire and EMS Training Program Support – Surplus	XXXXX	\$	10,000,000
Fire and EMS Training Program Equipment – Surplus.....	XXXXX		<u>10,000,000</u>
Total	\$		20,000,000

Department of Transportation

Division of Multimodal Transportation Facilities - State Rail Authority, Fund 0506, Fiscal Year 2025, Org 0810

(To insert a surplus item of appropriation.)

412a - Division of Multimodal Transportation Facilities -

State Rail Authority

(W.V. Code Chapter 17)

Fund 0506 FY 2025 Org 0810

Other Assets-Surplus.....	23699	\$	1,100,000
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Executive

West Virginia Conservation Agency, Fund 0132, Fiscal Year 2025, Org 1400

(To add a new item of appropriation.)

412b - West Virginia Conservation Agency

(W.V. Code Chapter 19)

Fund 0132 FY 2025 Org 1400

Soil Conservation Projects - Surplus.....	26900	\$	1,549,450
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Thank you for your prompt attention to this matter. Your cooperation is always appreciated. Should you have any questions or require additional information, please call me at any time.

The Honorable Craig Blair, President
The Honorable Roger Hanshaw, Speaker
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Sincerely,



Jim Justice
Governor

The Honorable Eric Tarr, Senate Finance Chairman
The Honorable Vernon Criss, House of Delegates Finance Chairman
State Budget Office
cc:

In compliance with Article VI, Section 51 of the Constitution, the Senate consented to receive the foregoing amendments to the Budget Bill, which were referred to the Committee on Finance.

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



Jim Justice
Governor of West Virginia

March 6, 2024

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, is the following bill:

Senate Bill No. Six Hundred Fifty-eight (658), which was presented to me on February 29, 2024.

You will note that I approved this bill on March 6, 2024.

Sincerely,

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

Jim Justice
Governor

JJ: mmp

cc: The Honorable Stephen J. Harrison

State Capitol | 1900 Kanawha Blvd., East, Charleston, WV 25305 | (304) 558-2000

The Senate proceeded to the fourth order of business.

Senator Weld, 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 4297, Law Enforcement Officers Safety Act.

And has amended same.

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

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4297) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Woodrum, 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 4350, Relating to appointment of candidates after filing period.

And has amended same.

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

Respectfully submitted,

Jack David Woodrum,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4350) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Weld, 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 4837, Clarifying the duty of banks to retain and procure records.

With amendments from the Committee on Banking and Insurance pending;

And has also amended same.

And reports the same back with the recommendation that it do pass as amended by the Committee on Banking and Insurance to which the bill was first referred; and as last amended by the Committee on the Judiciary.

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4837) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Education has had under consideration

Eng. Com. Sub. for House Bill 5158, Relating to making technical corrections to the special education code.

And has amended same.

And,

Eng. Com. Sub. for House Bill 5162, Establish a program to promote creation and expansion of registered apprenticeship programs.

And has amended same.

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

Respectfully submitted,

Amy N. Grady,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bills (Eng. Com. Sub. for H. B. 5158 and 5162) contained in the preceding report from the Committee on Education were each taken up for immediate consideration, read a first time, and ordered to second reading.

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 5262, Relating generally to teacher's bill of rights.

With amendments from the Committee on Education pending;

And has also amended same.

Now on second reading, having been read a first time and referred to the Committee on Finance on March 4, 2024;

And reports the same back with the recommendation that it do pass as amended by the Committee on Education to which the bill was first referred; and as last amended by the Committee on Finance.

Respectfully submitted,

Eric J. Tarr,
Chair.

Senator Weld, 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 5430, Relating to per diem compensation and expenses of newly elected or appointed judicial officers receiving education and training prior to taking the oath of office.

And has amended same.

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

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 5430) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Weld, 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 5561, Relating to permitting the electronic execution of trusts.

And has amended same.

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

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 5561) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Education has had under consideration

House Concurrent Resolution 24, To create a study resolution to examine the school aid formula.

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

Respectfully submitted,

Amy N. Grady,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the resolution (H. C. R. 24) contained in the foregoing report from the Committee on Education was then referred to the Committee on Rules.

The Senate proceeded to the sixth order of business.

Senator Takubo offered the following resolution:

Senate Resolution 68—Designating March 7, 2024, as Recovery Community Day at the Legislature.

Which, under the rules, lies over one day.

Senator Rucker offered the following resolution:

Senate Resolution 69—Recognizing the month of March as National Social Work Awareness Month.

Which, under the rules, lies over one day.

The Senate proceeded to the seventh order of business.

Senate Concurrent Resolution 35, Requesting study on efficiency and accountability of county boards of education.

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

At the request of Senator Takubo, unanimous consent being granted, the resolution was referred to the Committee on Rules.

Senate Resolution 67, Designating March 6, 2024, as Suicide Prevention Awareness Day.

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

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

The Senate proceeded to the eighth order of business.

Eng. Com. Sub. for Senate Bill 644, Supplementing and amending appropriations to Department of Commerce, Division of Forestry, and Geological and Economic Survey.

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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, 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. 644) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, 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 S. B. 644) takes effect from passage.

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

Eng. Com. Sub. for Senate Bill 656, Supplementing and amending appropriations to DHHR, Division of Human 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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, 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. 656) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips,

Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, 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 S. B. 656) takes effect from passage.

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

Eng. Com. Sub. for Senate Bill 665, Supplementing and amending appropriations to DHHR, Division of Health.

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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, 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. 665) passed with its title.

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, 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 S. B. 665) takes effect from passage.

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 4709, Relating to vocational and technical education programs.

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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, 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. 4709) 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 4971, Relating to Critical Materials Manufacturing Tax.

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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, 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. 4971) passed.

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

Eng. Com. Sub. for House Bill 4971—A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-6M-1, §11-6M-2, and §11-6M-3 all relating to limiting property tax on silicon and silicon carbide manufacturing property; providing for property tax treatment of silicon and silicon carbide manufacturing property as its salvage value; providing for rule making authority and administration by the Tax Commissioner; providing an effective date for assessments on or after July 1, 2025; and providing a sunset date.

Senator Takubo moved that the bill take effect July 1, 2025.

On this question, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, 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. 4971) takes effect July 1, 2025.

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 4986, Relating to computer science and cybersecurity instruction for adult learners.

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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, 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. 4986) 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 5013, Relating to Timber Management.

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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, 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. 5013) passed.

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

Eng. Com. Sub. for House Bill 5013—A Bill to amend and reenact §11-1C-2 of the Code of West Virginia, 1931, as amended, relating to amending the definition of managed timberland to be more inclusive of certain real estate by removing an exception to the program concerning subdivisions and planning ordinances; clarifying the definition an exception to the program concerning property precluded from development; and allowing land subject to, or that may become subject, to a conservation or preservation easement to enter into a timberland management agreement.

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

Eng. House Bill 5014, Supplementing and amending appropriations to West Virginia University General Administration Fund.

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

Senator Takubo requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate as he is an Executive Vice President for West Virginia University Medicine.

The Chair replied that any impact on Senator Takubo 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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, 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. H. B. 5014) passed.

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

Eng. House Bill 5014—A Bill supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated balance in the State Fund, General Revenue, to the Governor's Office – Civil Contingent Fund, fund 0105, fiscal year 2024, organization 0100, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024.

Whereas, The Governor submitted an Executive Message to the Legislature on January 10, 2024, which included a Statement of the State Fund, General Revenue, setting forth therein the cash balance as of July 1, 2023, and further included the estimate of revenue for the fiscal year 2024, less net appropriation balances forwarded and regular and surplus appropriations for the fiscal year 2024, and further included recommended expirations to the unappropriated balance of the State Fund, General Revenue; and

Whereas, It appears from the Governor's Statement of the State Fund, General Revenue, there now remains an unappropriated balance in the Treasury which is available for appropriation during the fiscal year ending June 30, 2024; therefore

Senator Takubo moved that the bill take effect from passage.

On this question, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips,

Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, 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. 5014) takes effect from passage.

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 5024, Relating to exempting non-grantor trusts administered in this state from the personal income tax.

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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, 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. 5024) passed.

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

Eng. Com. Sub. for House Bill 5024—A Bill to amend and reenact §11-21-3, §11-21-4g, §11-21-18, §11-21-30, §11-21-40, §11-21-51, and §11-21-71a of the Code of West Virginia, 1931, as amended, all relating to the personal income tax by exempting non-grantor trusts administered by licensed private trust companies in this state from the personal income tax.

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

Eng. House Bill 5056, Relating to substitute service personnel positions.

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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, 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. 5056) 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 5082, Exempt those with 25 years holding an insurance license from attaining additional CEUs.

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

Senators Oliverio and Hamilton, respectively, requested rulings from the Chair as to whether they should be excused from voting under Rule 43 of the Rules of the Senate.

The Chair replied that any impact on Senators Oliverio and Hamilton would be as members of a class of persons and that they would be required to vote.

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Phillips, Plymale, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—32.

The nays were: Oliverio and Queen—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. 5082) passed.

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

Eng. Com. Sub. for House Bill 5082—A Bill to amend and reenact §33-12-8 of the Code of West Virginia, 1931, as amended, relating to reducing the continuing education requirement for individual insurance producer who have been licensed as such for 25 years or more.

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

Eng. House Bill 5170, Increasing the size of matching grants for local economic development from \$30,000 to \$50,000.

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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, 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. 5170) passed with its title.

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

Eng. House Bill 5213, To allow Gold Star spouses to receive one free Gold Star vehicle registration for personal use.

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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, 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. 5213) passed.

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

Eng. House Bill 5213—A Bill to amend and reenact §17-3-14b, the Code of West Virginia, 1931, as amended, relating to providing for one free Gold Star Family license plate to a Gold Star spouse.

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 5223, To create the Southern Coalfield Resiliency and Revitalization Program.

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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, 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. 5223) passed with its title.

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

Eng. Com. Sub. for House Bill 5294, Revising state law regulating farm wineries.

On third reading, coming up in regular order, with the Judiciary committee amendment pending, and with the right having been granted on March 4, 2024, for further amendments to be received on third reading, was read a third time.

At the request of Senator Trump, as chair of the Committee on the Judiciary, and by unanimous consent, the Judiciary committee amendment to the bill (*shown in the Senate Journal of Monday, March 4, 2024, pages 23 to 70, inclusive*) was withdrawn.

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

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

CHAPTER 11. TAXATION.

ARTICLE 16. NONINTOXICATING BEER.

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

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

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

(c) ~~Complimentary samples~~ Samples. — A licensed brewer or resident brewer with its principal place of business and manufacture located in the State of West Virginia may only offer complimentary samples of nonintoxicating beer or nonintoxicating craft beer brewed at the brewer's or resident brewer's principal place of business and manufacture located in the State of West Virginia. The complimentary samples may be no greater than two ounces per sample per patron, and a sampling shall not exceed 10 complimentary two-ounce samples per patron per

day. A licensed brewer or resident brewer providing ~~complimentary~~ samples shall provide complimentary food items to the patron consuming the ~~complimentary~~ samples; and prior to any sampling, verify, using proper identification, that the patron ~~sampling~~ consuming the samples is 21 years of age or over and that the patron is not visibly intoxicated.

(d) *Retail sales.* — Every licensed brewer or resident brewer under this section shall comply with all the provisions of this article as applicable to nonintoxicating beer retailers when conducting sales of nonintoxicating beer or nonintoxicating craft beer and ~~shall be~~ is subject to all applicable requirements and penalties in this article. In the interest of promoting tourism throughout the state, every licensed brewer or resident brewer manufacturing nonintoxicating beer or nonintoxicating craft beer in this state is authorized, with a limited off-site retail privilege at private ~~fair~~ fairs and festivals, for on-premises consumption sales and off-premises consumption sales of only the brewer or resident brewer's ~~sealed~~ nonintoxicating beer or nonintoxicating craft beer. At least five days prior to an approved private fair and festival, an authorized brewer or resident brewer shall provide a copy of a written agreement to sell only nonintoxicating beer or nonintoxicating craft beer manufactured by the brewer or resident brewer at the private fair and festival's licensed premises. If approved, an authorized brewer or resident brewer may conduct on-premises and off-premises consumption sales of their nonintoxicating beer or nonintoxicating craft beer from a designated booth at the private fair and festival as set forth in §60-7-8a of this code. All authorized and approved brewers or resident brewers conducting the on-premises and off-premises consumption sales shall comply with all retail requirements in §11-16-1 *et seq.* of this code, and specifically with respect to all markups, taxes, and fees. Additionally, an authorized brewer or resident brewer may provide, sell, and serve its nonintoxicating beer or nonintoxicating craft beer ~~complimentary~~ samples in the amount set forth in subsection (c) of this section and its nonintoxicating beer or nonintoxicating craft beer by the glass or drink, or by the bottle or can for on-premises consumption when licensed as set forth in this article to patrons who are 21 years of age or over and who are not intoxicated in the amounts set forth in subsection (c).

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

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

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

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

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

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

(k) *Limitations on licensees.* — To be authorized under this section, a licensed brewer or resident brewer may not produce more than 25,000 barrels per calendar year at the brewer's or resident brewer's principal place of business and manufacture located in the State of West Virginia. No more than one brewer or resident brewer license may be issued to a single person or entity and no person may hold both a brewer and a resident brewer license. A licensed brewer or resident brewer under this section may only conduct tours, give ~~complimentary~~ samples, and sell growlers during the hours of operation set forth in §11-16-18(a)(1) of this code. A licensed brewer or resident brewer authorized under this section ~~shall be~~ is subject to the applicable penalties under §11-16-23 of this code for violations of this section.

(l) (1) ~~Contract Brewing Services~~ Alternating Proprietorship Agreements. - A licensed brewer or resident brewer may enter into ~~contract brewing services~~ alternating proprietorship agreements with another licensed brewer or resident brewer with its principal place of business and manufacture located in the State of West Virginia for purposes of sharing brewing equipment or facilities as part of the manufacture of nonintoxicating beer or nonintoxicating craft beer. Any such ~~contract brewing services~~ alternating proprietorship agreement shall be provided to the West Virginia Alcohol Beverage and Control Administration and set forth the following terms and conditions:

(A) The licensed brewer or resident brewer serving as the brewer of record and retaining ownership, rights, title, and interest in the nonintoxicating beer or nonintoxicating craft beer recipe and brand;

(B) The licensed brewer or resident brewer who will be responsible for executing any brew of nonintoxicating beer or nonintoxicating craft beer;

(C) The location of the facilities to be ~~utilized~~ used for the manufacture of the nonintoxicating beer or nonintoxicating craft beer;

(D) Specifications regarding the packaging of all nonintoxicating beer or nonintoxicating craft beer manufactured under the contract brewing services agreement; and

(E) The manner of payment of any and all federal and state excise taxes associated with the manufactured nonintoxicating beer or nonintoxicating craft beer.

(2) The licensed brewer or resident brewer serving as the brewer of record is responsible for the transportation of the finished and packaged product to ~~their~~ its licensed facility, where it must come to rest ~~be~~ tax determined. Any nonintoxicating beer or nonintoxicating craft beer manufactured pursuant to ~~a contract brewing services~~ an alternating proprietorship agreement shall be credited to the specified brewer of record for purposes of the barrel limitations set forth in §11-16-6a(k) of this code, and not the licensed brewer or resident brewer responsible for executing any brew on behalf of the brewer of record.

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

§11-16-11a. Nonintoxicating beer sampling.

(a) Notwithstanding any provision of this code to the contrary, a Class A retail licensee or Class B retail licensee may, with the written approval of the commissioner, conduct a nonintoxicating beer sampling event on a designated nonintoxicating beer sampling day.

(b) At least five business days prior to the nonintoxicating beer sampling, the Class A retail licensee or Class B retail licensee shall submit a written proposal to the commissioner requesting to hold a nonintoxicating beer sampling event, including:

(1) The day of the event;

(2) The location of the event;

(3) The times for the event;

(4) The names of up to three specific brands, types, and flavors, if any, of the nonintoxicating beer to be sampled; and

(5) A statement indicating that all the nonintoxicating beer brands have been registered and approved for sale in the state by the commissioner.

(c) Upon approval by the commissioner, a Class A retail licensee or Class B retail licensee may serve the complimentary nonintoxicating beer samples of the approved brands, types, and flavors that are purchased by the Class A retail licensee or Class B retail licensee, with all taxes paid, from its inventory.

(d) The complimentary nonintoxicating beer sample on any nonintoxicating beer sampling day shall not exceed:

(1) ~~One~~ Three separate and individual sample servings per brand, type, and flavor per customer verified to be 21 years of age or older; and

(2) ~~Two~~ Four ounces in total volume per brand, type, and flavor.

(e) Servers at the nonintoxicating beer sampling event shall:

(1) Be employees of the Class A retail licensee or Class B retail licensee;

(2) Be at least 21 years of age or older; and

(3) Have specific knowledge of the nonintoxicating beer being sampled to convey to the customer.

(f) All servers at the nonintoxicating beer sampling event shall verify the age of the customer sampling nonintoxicating beer by requiring and reviewing proper forms of identification. Servers at the nonintoxicating beer event may not serve any person who is:

(1) Under the age of 21 years; or

(2) Intoxicated.

(g) A nonintoxicating beer sampling event shall:

(1) Occur only inside the Class A retail licensee's or Class B retail licensee's licensed premises; and

(2) Cease on or before 9:00 p.m. on any approved nonintoxicating beer sampling day.

(h) Any nonintoxicating beer bottle or can used for sampling must be from the inventory of the licensee, and clearly and conspicuously labeled "SAMPLE, NOT FOR RESALE". If the seal is broken on any nonintoxicating beer bottle or can, or if any nonintoxicating beer bottle or can is opened, then that nonintoxicating beer bottle or can must be removed from the licensed premises immediately following the event.

(i) Violations of this section are subject to the civil and criminal penalties set forth in §11-16-18, §11-16-19, §11-16-20, §11-16-22, §11-16-23, §11-16-24 and §11-16-25 of this code.

(j) To implement the provisions of this section, the commissioner may promulgate emergency rules pursuant to the provisions of §29a-3-1 of this code or propose rules for legislative approval in accordance with the provisions of §29a -3-1 *et seq.* of this code.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 3A. SALES BY RETAIL LIQUOR LICENSEES

§60-3A-3a. Liquor sampling.

(a) Notwithstanding any provision of this code to the contrary, a Class A retail licensee or Class B retail licensee may conduct a liquor sampling event on a designated sampling day.

(b) At least five business days prior to the liquor sampling, the Class A retail licensee or Class B retail licensee shall submit a written proposal to the commissioner informing the Commissioner that the Class A licensee or Class B retail licensee will hold a liquor sampling event, including:

(1) The day of the event;

(2) The location of the event;

(3) The times for the event; and

(4) The specific brand and flavor of the West Virginia product to be sampled.

(c) Upon approval by the commissioner, a Class A retail licensee or Class B retail licensee may serve a complimentary liquor sample of the approved brand and flavor of the West Virginia product that is purchased by the Class A retail licensee, Class B retail licensee, or from the commissioner. Alternatively, a licensed representative may purchase a sealed bottle of West Virginia product at retail in West Virginia from the Class A retail licensee or Class B retail licensee for use at the licensee's liquor sampling event on an approved sampling day. The licensed representative must submit a promotions form and receive approval prior to purchasing and furnishing a sealed bottle of West Virginia product at retail in West Virginia for a Class A retail licensee or Class B retail licensee. The licensed representative may, upon approval of the licensee, serve the complimentary samples subject to the requirements of this section. Any licensed representative that participates in purchasing sealed bottles of West Virginia product for licensees must make this same or equivalent sampling opportunity available to any Class A retail licensee or Class B retail licensee upon request by the licensee.

(d) The complimentary liquor samples on any sampling day shall not exceed:

(1) ~~Three~~ four separate and individual half ounce samples ~~serving~~ per customer verified to be 21 years of age or older; and totaling not more than two ounces of liquor.

(2) ~~One and one-half ounces in total volume.~~ Samples may be mixed with each other or with non-alcoholic liquids as long as the total amount of the liquor sampled does not exceed ~~one and one-half~~ two ounces.

(e) Servers at the liquor sampling event shall:

(1) Be employees of the Class A retail licensee, or Class B retail licensee; and

(2) Be at least 21 years of age or older.

(f) All servers at the liquor sampling event shall verify the age of the customer sampling liquor by requiring and reviewing proper forms of identification. Servers at the liquor sampling event may not serve any person who is:

(1) Under the age of 21 years;

(2) Intoxicated.

(g) A liquor sampling event shall:

(1) Occur only inside the Class A retail licensee's licensed premises or Class B retail licensee's restricted area on the licensed premises; and

(2) Cease on or before 9:00 p.m. on any approved sampling day.

(h) Any liquor bottle used for sampling must be from the inventory of the licensee, and clearly and conspicuously labeled "SAMPLE, NOT FOR RESALE". If the seal is broken on any liquor bottle or if any liquor bottle is opened, then that liquor bottle must be removed from the licensed premises immediately following the event.

(i) Violations of this section are subject to the civil and criminal penalties set forth in §60-3A-24, §60-3A-25a, §60-3A-26, and §60-3A-27 of this code;

ARTICLE 4. LICENSES.

§60-4-3a. Distillery, mini-distillery, and micro-distillery license to manufacture and sell.

(a) Sales of liquor. — An operator of a distillery, mini-distillery, or micro-distillery may offer liquor for retail sale to customers from the distillery, mini-distillery, or micro-distillery for consumption off-premises only. Except for ~~complimentary~~ samples offered pursuant to §60-6-1 of this code, customers may not consume any liquor on the premises of the distillery, mini-distillery, or micro-distillery, ~~and~~ except for a distillery, mini-distillery, or micro-distillery that obtains a private manufacturer club license set forth in §60-7-1 *et seq.* of this code, and a Class A retail dealer license set forth in §11-16-1 *et seq.* of the code: *Provided*, That a licensed distillery, mini-distillery, or micro-distillery may offer ~~complimentary~~ samples of alcoholic liquors as authorized by this subsection when alcoholic liquors are manufactured by that licensed distillery, mini-distillery, or micro-distillery for consumption on the licensed premises. Notwithstanding any other provision of law to the contrary, a licensed distillery, mini-distillery, or micro-distillery may sell, furnish, and serve alcoholic liquors when licensed accordingly beginning at 6:00 a.m. unless otherwise determined by the residents of the county pursuant to §7-1-3ss of this code.

(b) Retail on-premises and off-premises consumption sales. — Every licensed distillery, mini-distillery, or micro-distillery shall comply with the provisions of §60-3A-9, §60-3A-11, §60-3A-13, §60-3A-16, §60-3A-17, §60-3A-18, §60-3A-19, §60-3A-22, §60-3A-23, §60-3A-24, §60-3A-25, and §60-3A-26 of this code, and the provisions of §60-3-1 *et seq.*, ~~and §60-4-1 *et seq.* and §60-7-1 *et seq.*~~ of this code, applicable to liquor retailers, and distillers. In the interest of promoting tourism throughout the state, every licensed distillery, mini-distillery, or micro-distillery manufacturing liquor in this state is authorized, with a limited off-site retail privilege at private ~~fair~~ fairs and festivals, for on-premises consumption sales served by the drink or glass, off-premises consumption sales by the bottle of only the licensed distillery, mini-distillery, or micro-distillery's sealed liquor. At least five days prior to an approved private fair and festival, an authorized distillery, mini-distillery, or micro-distillery shall provide a copy of a written agreement to sell only liquor manufactured by the licensed distillery, mini-distillery, or micro-distillery at the private fair and festival's licensed premises. If approved, an authorized distillery, mini-distillery, or micro-distillery may conduct on-premises and off-premises consumption sales of ~~their~~ its liquor from a designated booth at the private fair and festival as set forth in §60-7-8a of this code. All authorized and approved distilleries, mini-distilleries, and micro-distilleries' off-premises consumption sales shall comply with all retail requirements in §60-3A-1 *et seq.* of this code, and specifically §60-3A-17 of this code with respect to all markups, taxes, and fees and also all retail requirements of §60-7-1 *et seq.* of this code when applicable. Additionally, every authorized distillery, mini-distillery, and micro-distillery may provide ~~complimentary~~ samples to patrons who are 21 years of age and older and who are not intoxicated. The ~~complimentary~~ liquor samples of the licensed distillery, mini-distillery, or micro-distillery's product on any sampling day shall not exceed:

(1) Three separate and individual ~~samples~~ sample servings per customer verified to be 21 years of age or older; and

(2) ~~One and one-half~~ Six ounces in total volume. Samples may be mixed with each other or with non-alcoholic liquids as long as the total amount of the liquor sampled does not exceed ~~one and one-half~~ six ounces.

(c) Payment of taxes and fees. — The distillery, mini-distillery, or micro-distillery shall pay all taxes and fees required of licensed retailers and meet applicable licensing provisions as required by this chapter and by rule of the commissioner, except for payments of the wholesale markup

percentage and the handling fee provided by rule of the commissioner: *Provided*, That all liquor for sale to customers from the distillery, mini-distillery, or micro-distillery for off-premises consumption is subject of a five percent wholesale markup fee and an 80 cents per case bailment fee to be paid to the commissioner: *Provided, however*, That liquor sold by the distillery, mini-distillery, or micro-distillery shall not be priced less than the price set by the commissioner pursuant §60-3A-17 of this code.

(d) Payments to market zone retailers. — Each distillery, mini-distillery, or micro-distillery shall submit to the commissioner two percent of the gross sales price of each retail liquor sale for the value of all sales at the distillery, mini-distillery, or micro-distillery each month. Any sales by a distillery, mini-distillery, or micro-distillery at a private fair and festival are treated as occurring on their licensed premises for purposes of this market zone calculation. This collection shall be distributed by the commissioner, at least quarterly, to each market zone retailer located in the distillery, mini-distillery, or micro-distillery's market zone, proportionate to each market zone retailer's annual gross prior years pretax value sales. The maximum amount of market zone payments that a distillery, mini-distillery, or micro-distillery shall submit to the commissioner is \$15,000 per annum.

(e) Limitations on licensees. — A distillery, mini-distillery, or micro-distillery may not produce more than 50,000 gallons per calendar year. The commissioner may issue more than one distillery, mini-distillery, or micro-distillery license to a single person or entity and a person may hold both a distillery and a mini-distillery license. The owners of a licensed distillery, mini-distillery, or micro-distillery may operate a winery, farm winery, brewery, or as a resident brewer as otherwise specified in the code.

(f) Building code and tax classification. — Notwithstanding any provision of this code to the contrary, the mere addition of a distillery, mini-distillery, or micro-distillery licensed under this article on a property does not change the nature or use of the property which otherwise qualifies as agricultural use for building code and property tax classification purposes.

(g) A political subdivision of this state may not regulate any of the following activities of a distillery, mini-distillery, or micro-distillery licensed and operating in accordance with this section:

(1) The on-premises sale, tasting, or consumption of liquor during business hours set forth in §60-7-12 of this code;

(2) The storage, warehousing, and wholesaling of liquor in accordance with the rules of the commissioner and federal law or regulations; or

(3) The sale of liquor related items including but not limited to the sale of pre-packaged food not requiring kitchen preparation that are incidental to the sale of liquor and on-premises consumption.

§60-4-3b. Winery and farm winery license to manufacture and sell.

(a) An operator of a winery or farm winery may offer wine produced by the winery, farm winery, or a farm entity authorized by §60-1-5c of this code, for retail sale to customers from the winery or farm winery for consumption on-premises or off the off-premises only. Customers may consume wine ~~on the on-premises~~ by the glass or drink or by the bottle when consumed by the glass when an operator of a winery or farm winery offers ~~complimentary~~ samples pursuant to this section and §60-6-1 of this code, and when the winery or farm winery is licensed as a private wine

restaurant, or the winery or farm winery is licensed as a private manufacturer club. Customers may not consume any wine on the licensed premises of the winery, farm winery, or a farm entity authorized by §60-1-5c of this code, unless the winery, farm winery, or farm entity has obtained a multi-capacity winery or farm winery license: *Provided*, That under this subsection, a licensed winery or farm winery may offer ~~complimentary~~ samples of wine manufactured by that licensed winery or farm winery for consumption ~~on the on-premises only on Sundays beginning at 6:00 a.m. in any county in which the same has been approved as provided in §7-1-3ss~~ during the hours of operation set forth in §60-8-34 of this code. Notwithstanding any other provision of law to the contrary, a licensed winery or farm winery may sell, serve, and furnish wine, for on-premises consumption when licensed accordingly, ~~beginning at 6:00 a.m., and for off-premises consumption beginning at 6:00 a.m. on any day of the week,~~ during the hours of operation set forth in §60-8-34 of this code unless otherwise determined by the residents of the county pursuant to §7-1-3ss of this code.

(b) Restriction by a political subdivision upon activities and events of farm wineries licensed in accordance with §60-4-3b of the code, to market and sell their products shall be reasonable and shall take into account the economic impact on the farm winery of such restriction, the agricultural nature of such activities and events, and whether such activities and events are usual and customary for farm wineries throughout the state of West Virginia and adjacent states. Usual and customary activities and events at farm wineries shall be permitted without local regulation unless there is a substantial impact on the health, safety, or welfare of the public. No local ordinance regulating noise, other than outdoor amplified music, arising from activities and events at farm wineries shall be more restrictive than that in the general noise ordinance. In authorizing outdoor amplified music at a farm winery, the political subdivision shall consider the effect on adjacent property owners and nearby residents.

~~(b)~~ (c) A political subdivision may not regulate any of the following activities of a farm winery licensed and operating in accordance with this section:

(1) The production and harvesting of fruit and other agricultural products and the manufacturing of wine;

(2) The on-premises sale, tasting, or consumption of wine during business hours set forth in §60-8-34 of this code;

(3) The direct sale and shipment of wine by common carrier to consumers in accordance with the requirements of §60-8-6 and §60-8-6a of this code and the rules of the West Virginia Alcohol Beverage Control Commissioner;

(4) The storage, warehousing, and wholesaling of wine in accordance with the rules of the West Virginia and federal law or regulations; or

(5) The sale of wine-related items, including, but not limited, to the sale of pre-packaged food not requiring kitchen preparation, that are incidental to the sale of wine and on-premises consumption.

(6) To serve and sell wine by the glass or drink and by the bottle when consumed by the glass for consumption on- premises consumption, without the requirement to serve prepared food with the wine or application of any local health department limitations for food service in the area in which the wine is served.

(d) No political subdivision may treat private personal gatherings held by the owner of a licensed farm winery who resides at the farm winery or on property adjacent thereto that is owned or controlled by such owner at which gatherings wine is not sold or marketed and for which no consideration is received by the farm winery or its agents differently from private personal gatherings by other citizens.

~~(b) Complimentary samples~~ (e) Samples allowed by the provisions of this section may not exceed ~~two~~ three fluid ounces and no more than ~~three~~ six samples may be given to a patron in any one day.

~~(c) Complimentary samples~~ (f) Samples may be provided only for on-premises consumption.

~~(d) (g)~~ (g) A winery, farm winery, or farm entity, pursuant to §60-1-5c of this code, may offer for retail sale from ~~their~~ its licensed premises sealed original container bottles of wine for off-premises consumption ~~only~~.

~~(e) (h)~~ (h) A winery, farm winery, or farm entity licensed pursuant to §60-1-5c of this code, holding a multi-capacity license and a private wine restaurant license or private manufacturer club license may offer for sale wine by the drink or glass ~~in a private wine restaurant located~~ or wine by the bottle when consumed by the glass on the property of the winery, farm winery, or farm entity licensed pursuant to §60-1-5c of this code.

~~(f) (i)~~ (i) Every licensed winery or farm winery shall comply with the provisions of §60-3-1 *et seq.*, §60-4-1 *et seq.*, and §60-8-1 *et seq.* of this code as applicable to wine retailers, wineries, and suppliers when properly licensed in such capacities.

~~(g) (j)~~ (j) (1) The winery or farm winery shall pay all taxes and fees required of licensed wine retailers and meet applicable licensing provisions as required by this chapter and by rules promulgated by the commissioner.

(2) Each winery or farm winery acting as its own supplier shall submit to the Tax Commissioner the liter tax for all sales at the winery or farm winery each month, as provided in §60-8-1 *et seq.* of this code.

(3) The five percent wine excise tax, levied pursuant to §60-3-9d of this code, or pursuant to §8-13-7 of this code, may not be imposed or collected on purchases of wine in the original sealed package for the purpose of resale in the original sealed package, if the final purchase of the wine is subject to the excise tax or if the purchase is delivered outside this state.

(4) A liter tax shall not be collected on wine sold in the original sealed package for the purpose of resale in the original sealed package if a subsequent sale of the wine is subject to the liter tax.

(5) This section shall not be interpreted to authorize a purchase for resale exemption in contravention of §11-15-9a of this code.

~~(h) (k)~~ (k) A winery or farm winery may advertise a particular brand or brands of wine produced by it. The price of the wine is subject to federal requirements or restrictions.

~~(i) (l)~~ (l) A winery or farm winery shall maintain separate winery or farm winery supplier, retailer, and direct shipper licenses when acting in one or more of those capacities and shall pay all associated license fees, unless the winery or farm winery holds a license issued pursuant to the

provisions of §60-8-3(b)(12) of this code. A winery or farm winery, if holding the appropriate licenses or a multi-capacity winery or farm winery license, may act as its own supplier; retailer for off-premises consumption of its wine as specified in §60-6-2 of this code; private wine restaurant; ~~and~~ or direct shipper for wine produced by the winery or farm winery. A winery or farm winery that has applied, paid all fees, and met all requirements may obtain a private manufacturer club license subject to the requirements of §60-7-1 *et seq.* of this code, and a Class A retail dealer license subject to the requirements of §11-16-1 *et seq.* of this code. All wineries shall use a distributor to distribute and sell their wine in the state, except for farm wineries. Wineries or farm wineries may enter into alternating wine proprietorship agreements, pursuant to §60-1-5c of this code.

(j) ~~(m)~~ The owners of a licensed winery or farm winery may operate a distillery, mini-distillery, or micro-distillery, brewery, or as a resident brewer, as otherwise specified in the code.

~~(k)~~ ~~(n)~~ For purposes of this section, terms have the same meaning as provided in §8-13-7 of this code.

(h) ~~(o)~~ Building code and tax classification. — Notwithstanding any provision of this code to the contrary, the mere addition of a winery or farm winery licensed under this article on a property does not change the nature or use of the property which otherwise qualifies as agricultural use for building code and property tax classification purposes.

~~(m)~~ ~~(p)~~ In the interest of promoting tourism throughout the state, every licensed winery or farm winery manufacturing wine in this state is authorized, with a limited off-site retail privilege at private fair ~~fairs~~ and festivals, for on-premises consumption sales and off-premises consumption sales of only the winery or farm winery's ~~sealed~~ wine. At least five days prior to an approved private fair and festival, an authorized winery or farm winery shall provide a copy of a written agreement to sell only wine manufactured by the licensed winery or farm winery at the private fair and festival's licensed premises. If approved, an authorized licensed winery or farm winery may conduct on-premises and off-premises consumption sales of ~~their~~ its wine from a designated booth at the private fair and festival as set forth in §60-7-8a of this code. All authorized and approved wineries and farm wineries' on-premises and off-premises consumption sales shall comply with all retail requirements in §60-8-1 *et seq.* of this code, and specifically with respect to all markups, taxes, and fees. Additionally, an authorized winery, farm winery, or unlicensed winery, as referenced in §60-8-3 of this code ~~or~~ may provide, sell, and serve complimentary wine samples of its wine in the amounts set forth in subsection (b) of this section, wine by the glass or drink, or drinks wine by the bottle, or when consumed by the glass, for on-premises consumption to patrons who are 21 years of age and older and who are not intoxicated in the amounts set forth in subsection (b).

(q) Farm Wineries. – A farm winery is permitted to serve and sell wine as authorized by this section without the requirement to serve prepared food or the application of any local health department requirements for food service. Prior to the sale, the licensee shall verify, using proper identification, that any patron purchasing wine is 21 years of age or over and that the patron is not visibly intoxicated.

(r) All Farm Wineries may serve and sell wine at any fair or festival in the state of West Virginia consistent with the requirements of §60-8-3 and §60-8-8 of this code.

ARTICLE 6. MISCELLANEOUS PROVISIONS.

§60-6-1. When lawful to possess, use or serve alcoholic liquors.

The provisions of this chapter may not prevent:

(1) A person from keeping and possessing alcoholic liquors in his or her residence for the personal use of himself or herself, his or her family, his or her employee, or his or her guests if the alcoholic liquors have been lawfully acquired by him or her;

(2) A person, his or her family, or employee from giving or serving such alcoholic liquors to guests in the residence, when the gift or service is not for the purpose of evading the provisions of this chapter;

(3) The holder of a winery or a farm winery license from serving ~~complimentary~~ samples of its wine ~~in moderate quantities for tasting~~ on the winery or the farm winery premises; and

(4) The holder of a distillery, mini-distillery, or a micro-distillery license from serving ~~complimentary~~ samples of its alcoholic liquor ~~in moderate quantities for tasting~~ on the distillery, mini-distillery, or micro-distillery premises.

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-2. Definitions; authorizations; requirements for certain licenses.

Unless the context in which used clearly requires a different meaning, as used in this article:

(1) "Applicant" means a private club applying for a license under the provisions of this article.

(2) "Code" means the official Code of West Virginia, 1931, as amended.

(3) "Commissioner" means the West Virginia Alcohol Beverage Control Commissioner.

(4) "Licensee" means the holder of a license to operate a private club granted under this article, which remains unexpired, unsuspended, and unrevoked.

(5) "Private club" means any corporation or unincorporated association which either:

(A) Belongs to or is affiliated with a nationally recognized fraternal or veterans' organization which is operated exclusively for the benefit of its members, which pays no part of its income to its shareholders or individual members, which owns or leases a building or other premises to which ~~club~~ are admitted only duly-elected or approved dues-paying members in good standing of the corporation or association and their guests while in the company of a member and to which club the general public is not admitted, and which maintains in the building or on the premises a suitable kitchen and dining facility with related equipment for serving food to members and their guests;

(B) Is a nonprofit social club, which is operated exclusively for the benefit of its members, which pays no part of its income to its shareholders or individual members, which owns or leases a building or other premises to which ~~club~~ are admitted only duly-elected or approved dues-paying members in good standing of the corporation or association and their guests while in the company of a member and to which club the general public is not admitted, and which maintains in the building or on the premises a suitable kitchen and dining facility with related equipment for serving food to members and their guests;

(C) Is organized and operated for legitimate purposes which has at least 100 duly- elected or approved dues-paying members in good standing, which owns or leases a building or other premises, including any vessel licensed or approved by any federal agency to carry or accommodate passengers on navigable waters of this state, to which ~~club~~ are admitted only duly-elected or approved dues-paying members in good standing of the corporation or association and their guests while in the company of a member and to which ~~club~~ the general public is not admitted, and which club maintains in the building or on the premises a suitable kitchen and dining facility with related equipment and employs a sufficient number of persons for serving meals to members and their guests; or

(D) Is organized for legitimate purposes and owns or leases a building or other delimited premises in any state, county, or municipal park, or at any airport, in which ~~building or premises~~ a club has been established, to which ~~club~~ are admitted only duly-elected and approved dues-paying members in good standing and their guests while in the company of a member and to which the general public is not admitted, and which maintains in connection with the club a suitable kitchen and dining facility and related equipment and employs a sufficient number of persons for serving meals in the club to the members and their guests.

(6) "Private bakery" means an applicant for a private club or licensed private club license that has a primary function of operating a food preparation business that produces baked goods, including brownies, cookies, cupcakes, confections, muffins, breads, cakes, wedding cakes, and other baked goods where the applicant or licensee desires to sell baked goods infused with liquor, wine, or nonintoxicating beer or nonintoxicating craft beer, ~~either:~~ included: (A) In the icing, syrup, drizzle, or some other topping; (B) as an infusion where the alcohol is not processed or cooked out of the baked goods; or (C) ~~the alcohol can be added by the purchaser~~ from an infusion packet containing alcohol no greater than 10 milliliters where the purchaser adds the alcohol. This applicant or licensee may not sell liquor, wine, or nonintoxicating beer or nonintoxicating craft beer for ~~on~~ on-premises or off-premises consumption. The applicant or licensee may sell the baked goods with alcohol added as authorized for on-premises and off-premises consumption. Further, the applicant or licensee shall:

(i) Have at least 50 members;

(ii) Operate a kitchen that produces baked goods, as specified in this subdivision, including at least: (I) A baking oven and a four-burner range or hot plate; (II) a sink with hot and cold running water; (III) a 17 cubic foot refrigerator or freezer, or some combination of a refrigerator and freezer which is not used for alcohol cold storage; (IV) baking utensils and pans, kitchen utensils, and other food consumption apparatus as determined by the commissioner; and (V) food fit for human consumption available to be served during all hours of operation on the licensed premises;

(iii) Maintain, at any one time, a food inventory capable of being prepared in the private bakery's kitchen. In calculating the food inventory, the commissioner shall include television dinners, bags of chips or similar products, microwavable food or meals, frozen meals, pre-packaged foods, baking items such as flour, sugar, icing, and other confectionary items, or canned prepared foods;

(iv) Use an age verification system approved by the commissioner for the purpose of verifying that persons under the age of 21 who are in the private bakery are not sold items containing alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer, or wine. A person under 21 years of age may enter the shop and purchase other items not containing alcoholic liquors; and

(v) Meet and be subject to all other private club requirements.

(7) "Private cigar shop" means an applicant for a private club or licensed private club licensee that has a primary function of operating a cigar shop for sales of premium cigars for consumption on or off the licensed premises. Where permitted by law, indoor on-premises cigar consumption is permitted with a limited food menu, which may be met by using a private caterer, for members and guests while the private club applicant or licensee is selling and serving liquor, wine, or nonintoxicating beer or nonintoxicating craft beer for on-premises consumption. Further, the applicant or licensee ~~shall~~ shall:

(A) Have at least 50 members;

(B) Operate a cigar shop and bar with a kitchen, including at least: (i) A two-burner hot plate, air fryer, or microwave oven; (ii) a sink with hot and cold running water; (iii) a 17 cubic foot refrigerator or freezer, or some combination of a refrigerator and freezer which is not used for alcohol cold storage; (iv) kitchen utensils and other food consumption apparatus as determined by the commissioner; and (v) food fit for human consumption available to be served during all hours of operation on the licensed premises;

(C) Maintain, at any one time, not less than a food inventory capable of being prepared in the private club bar's kitchen or have on hand at least \$150 in food provided by a private caterer. In calculating the food inventory, the commissioner shall include television dinners, bags of chips or similar products, microwavable food or meals, frozen meals, pre-packaged foods, or canned prepared foods;

(D) Use an age verification system approved by the commissioner for the purpose of verifying that persons under the age of 21 who are in the private club bar are accompanied by a parent or legal guardian, and if a person under 21 years of age is not accompanied by a parent or legal guardian, that person may not be admitted as a guest; and

(E) Meet and is subject to all other private club requirements.

(8) "Private caterer" means a licensed private club restaurant, private hotel, or private resort hotel authorized by the commissioner to cater and serve food and sell and serve alcoholic liquors, or non-intoxicating beer or non-intoxicating craft beer. A private caterer shall purchase wine sold or served at a catering event from a wine distributor. A private caterer shall purchase nonintoxicating beer and nonintoxicating craft beer sold or served at the catering event from a licensed beer distributor. A private caterer shall purchase liquor from a retail liquor outlet authorized to sell in the market zone, where the catering event is held. The private caterer or the persons or entity holding the catering event shall:

(A) Have at least 10 members and guests attending the catering event;

(B) Have obtained an open container waiver or have otherwise been approved by a municipality or county in which the event is being held;

(C) Operate a private club restaurant on a daily operating basis;

(D) Only use its employees, independent contractors, or volunteers to sell and serve alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer who have received certified training

in verifying the legal identification, the age of a purchasing person, and the signs of visible, noticeable, and physical intoxication;

(E) Provide to the commissioner, at least seven days before the event is to take place:

(i) The name and business address of the unlicensed private venue where the private caterer is to provide food and alcohol for a catering event;

(ii) The name of the owner or operator of the unlicensed private venue;

(iii) A copy of the contract or contracts between the private caterer, the person contracting with the caterer, and the unlicensed private venue;

(iv) A floorplan of the unlicensed private venue to comprise the private catering premises, which shall only include spaces in buildings or rooms of an unlicensed private venue where the private caterer has control of the space for a set time period and where the space safely accounts for the ingress and egress of the stated members and guests who will be attending the private catering event at the catering premises. The unlicensed private venue's floorplan during the set time period as stated in the contract shall comprise the private caterer's licensed premises, which is authorized for the lawful sale, service, and consumption of alcoholic liquors, nonintoxicating beer and nonintoxicating craft beer, and wine throughout the licensed private catering premises: *Provided*, That the unlicensed private venue shall: (I) Be inside a building or structure; (II) have other facilities to prepare and serve food and alcohol; (III) have adequate restrooms and sufficient building facilities for the number of members and guests expected to attend the private catering event; and (IV) otherwise be in compliance with health, fire, safety, and zoning requirements;

(F) Not hold more than 15 private catering events per calendar year. Upon reaching the 16th event, the unlicensed venue shall obtain its own private club license;

(G) Submit to the commissioner, evidence that any noncontiguous area of an unlicensed venue is within 150 feet of the private caterer's submitted floorplan and may submit a floorplan extension for authorization to permit alcohol and food at an outdoor event;

(H) Meet and be subject to all other private club requirements; and

(I) Use an age verification system approved by the commissioner.

(9) "Private club bar" means an applicant for a private club or licensed private club licensee that has a primary function for the use of the licensed premises as a bar for the sale and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer and wine when licensed for those sales, while providing a limited food menu for members and guests, and meeting the criteria set forth in this subdivision which:

(A) Has at least 100 members;

(B) Operates a bar with a kitchen, including at least: (i) A two-burner hot plate, air fryer, or microwave oven; (ii) a sink with hot and cold running water; (iii) a 17 cubic foot refrigerator or freezer, or some combination of a refrigerator and freezer which is not used for alcohol cold storage; (iv) kitchen utensils and other food consumption apparatus as determined by the commissioner; and (v) food fit for human consumption available to be served during all hours of operation on the licensed premises;

(C) Maintains, at any one time, a food inventory capable of being prepared in the private club bar's kitchen. In calculating the food inventory, the commissioner shall include television dinners, bags of chips or similar products, microwavable food or meals, frozen meals, prepackaged foods, or canned prepared foods;

(D) Uses an age verification system approved by the commissioner for the purpose of verifying that persons under the age of 18 who are in the private club bar are accompanied by a parent or legal guardian. If a person under 18 years of age is not accompanied by a parent or legal guardian that person may not be admitted as a guest; and

(E) Meets and is subject to all other private club requirements.

(10) "Private food truck" means an applicant for a private club, licensed private club licensee, or licensed private manufacturer's club licensee that has a primary function of operating a food preparation business using an industrial truck, van, or trailer to prepare food and meals for sale at various locations within the state while using a propane or electric generator powered kitchen. The private food truck applicant shall obtain county or municipal approval to operate for food and liquor, wine, hard cider, and nonintoxicating beer or nonintoxicating craft beer sales and service, while providing a food menu for members and guests. The private food truck applicant shall:

(A) Have at least 10 members;

(B) Operate with a kitchen, including at least: (i) A two-burner hot plate, air fryer, or microwave oven; (ii) a sink with hot and cold running water; (iii) at least a 10 cubic foot refrigerator or freezer, or some combination of a refrigerator and freezer which is not used for alcohol cold storage; and (iv) plastic or metal kitchen utensils and other food consumption apparatus as determined by the commissioner;

(C) Maintain, at any one time, not less than \$200 of food inventory that is fit for human consumption and capable of being prepared and served from the private food truck's kitchen during all hours of operation;

(D) Is sponsored, endorsed, or approved by the governing body or its designee of the county or municipality in which the private food truck is to be located and operated. Each location shall have a bounded and defined area and set hours for private food truck operations, sales, and consumption of alcohol that are not greater than a private club's hours of operation;

(E) Provide the commissioner with a list of all locations, including a main business location, where the private food truck operates, and is approved for sales pursuant to ~~subsection~~ paragraph (D) of this section, and immediately update the commissioner when new locations are approved by a county or municipality;

(F) Require all nonintoxicating beer and nonintoxicating craft beer sold, furnished, tendered, or served pursuant to the license created by this section to be purchased from the licensed distributor where the private food truck has its home location or from a resident brewer acting in a limited capacity as a distributor, all in accordance with §11-16-1 *et seq.* of this code.

(G) Require wine or hard cider sold, furnished, tendered, or served pursuant to the license created by this section to be purchased from a licensed distributor, winery, or farm winery in accordance with §60-8-1 *et seq.* of this code.

(H) Require liquor sold, furnished, tendered, or served pursuant to the license created by this section shall be purchased from a licensed retail liquor outlet in the market zone or contiguous market zone where the private food truck has its main business location, all in accordance with §60-3A-1 *et seq.* of this code.

(I) A licensee authorized by this section shall use bona fide employees to sell, furnish, tender, or serve the nonintoxicating beer or nonintoxicating craft beer, wine, or liquor.

(J) A brewer, resident brewer, winery, farm winery, distillery, mini-distillery, or micro-distillery may obtain a private food truck license;

(K) Licensed representatives of a brewer, resident brewer, beer distributor, wine distributor, wine supplier, winery, farm winery, distillery, mini-distillery, micro-distillery, and liquor broker representatives may attend a location where a private food truck is located and discuss their respective products but may not engage in the selling, furnishing, tendering, or serving of any nonintoxicating beer or nonintoxicating craft beer, wine, or liquor.

(L) Use an age verification system approved by the commissioner for the purpose of verifying that persons under the age of 21 who are in the private club bar are not permitted to be served any alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer, or wine but may be permitted to purchase food or other items;

(M) Obtain all permits required by §60-6-12 of this code; and

(N) Meet and be subject to all other applicable private club requirements.

(11) "Private club restaurant" means an applicant for a private club or licensed private club licensee that has a primary function of using the licensed premises as a restaurant for serving freshly prepared meals and dining in the restaurant area. The private club restaurant may have a bar area separate from or commingled ~~with~~ within the restaurant where seating requirements for members and guests ~~shall be~~ are met by including the restaurant area. The applicant for a private club restaurant license is an applicant which:

(A) Has at least 100 members;

(B) Operate a restaurant and full kitchen with at least: (i) Ovens and four-burner ranges; (ii) refrigerators or freezers, or some combination of refrigerators and freezers greater than 50 cubic feet, or a walk-in refrigerator or freezer; (iii) other kitchen utensils and apparatus as determined by the commissioner; and (iv) freshly prepared food fit for human consumption available to be served during all hours of operation on the licensed premises;

(C) Maintains, at any one time, fresh food capable of being prepared in the private club restaurant's full kitchen. In calculating the food inventory, the commissioner may not include television dinners, bags of chips or similar products, microwavable meals, frozen meals, pre-packaged foods, or canned prepared foods;

(D) Uses an age verification system approved by the commissioner for the purpose of verifying that persons under 18 years of age who are in the bar area of a private club restaurant are accompanied by a parent or legal guardian. The licensee may not seat a person in the bar area who is under the age of 18 years and who is not accompanied by a parent or legal guardian, but

may allow that person, as a guest, to dine for food and nonalcoholic beverage purposes in the restaurant area of a private club restaurant:

(E) May uncork and serve members and guests up to two bottles of wine that a member purchased from a wine retailer, wine specialty shop, an applicable winery or farm winery when licensed for retail sales, or a licensed wine direct shipper when the purchase is for personal use and, not for resale. The licensee may charge a corkage fee of up to \$10 dollars per bottle. In no event may a member or a group of members and guests exceed two sealed bottles or containers of wine to carry onto the licensed premises for uncorking and serving by the private club restaurant and for personal consumption by the member and guests. A member or guest may cork and reseal any unconsumed wine bottles as provided in §60-8-3 (j) of this code and the legislative rules for carrying unconsumed wine off the licensed premises;

(F) Has at least two restrooms for members and their guests: *Provided*, That this requirement may be waived by the local health department upon supplying a written waiver of the requirement to the commissioner: *Provided, however*, That the requirement may also be waived for a historic building by written waiver supplied to commissioner of the requirement from the historic association or district with jurisdiction over a historic building: *Provided, further* That in no event may a private club restaurant have less than one restroom; and

(G) Meets and is subject to all other private club requirements.

(12) "Private manufacturer club" means an applicant for a private club or licensed private club licensee which is also licensed as a distillery, mini-distillery, micro-distillery, winery, farm winery, brewery, or resident brewery that manufactures liquor, wine, nonintoxicating beer or nonintoxicating craft beer, which may be sold, served, and furnished to members and guests for on-premises consumption at the licensee's licensed premises and in the area or areas denoted on the licensee's floorplan, and which:

(A) Has at least 100 members;

(B) Offers tours, may offer complimentary samples, and may offer space as a conference center or for meetings;

(C) Operates a restaurant and full kitchen with ovens, four-burner ranges, a refrigerator, or freezer, or some combination of a refrigerator and freezer, and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and serves ~~freshly prepared food at least 15 hours per week~~: *Provided*, That a licensee required by the provisions of this code to serve food on premises in order to lawfully serve alcoholic liquors, ~~beer~~ nonintoxicating beer or nonintoxicating craft beer, wine, or hard cider may meet the requirement of having on-premises food preparation facilities by, during all hours alcoholic liquors, beer, wine, and hard cider are offered for sale or sampling, having on-site an operating food truck or other portable kitchen: *Provided, however*, That the approval of the commissioner and the appropriate health department is required to operate as allowed by subsection (a) of this section;

(D) Maintains, at any one time fresh food capable of being prepared in the private manufacturer club's full kitchen. In calculating the food inventory, the commissioner may ~~not~~ include television dinners, bags of chips or similar products, microwavable meals, frozen meals, pre-packaged foods, or canned prepared foods;

(E) Owns or leases, controls, operates, and uses space which is contiguous, bounded, or fenced real property sufficient to safely operate the licensed premises that would be listed on the licensee's floorplan and may be used for large events such as weddings, reunions, conferences, meetings, and sporting or recreational events;

(F) Lists the entire property from paragraph (E) of this subdivision and all adjoining buildings and structures on the private manufacturer club's floorplan that would comprise the licensed premises, which would be authorized for the lawful sale, service, and consumption of alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer, and wine throughout the licensed premises, whether these activities were conducted in a building or structure or outdoors while on the private manufacturer club's licensed premises, and as noted on the private manufacturer club's floorplan;

(G) Identifies a person, persons, an entity, or entities who or which have the right, title, and ownership or lease interest in the real property, buildings, and structures located on the proposed licensed premises;

(H) Uses an age verification system approved by the commissioner; and

(I) Meets and is subject to all other private club requirements.

(13) "Private fair and festival" means an applicant for a private club or a licensed private club licensee meeting the requirements of §60-7-8a of this code for a temporary event, and the criteria set forth in this subdivision which:

(A) Has at least 100 members;

(B) Has been sponsored, endorsed, or approved, in writing, by the governing body, or its duly elected or appointed officers, of either the municipality or of the county in which the festival, fair, or other event is to be conducted;

(C) Prepares, provides, or engages a food vendor to provide adequate freshly prepared food or meals to serve its stated members and guests who will be attending the temporary festival, fair, or other event, and further shall provide any documentation or agreements to the commissioner prior to approval;

(D) Does not use third-party entities or individuals to purchase, sell, furnish, or serve alcoholic liquors, nonintoxicating beer or nonintoxicating craft beer;

(E) Provides adequate restroom facilities, whether permanent or portable, to serve the stated members and guests who will be attending the festival, fair, or other event;

(F) Provides a floorplan for the proposed premises with a defined and bounded area to safely account for the ingress and egress of stated members and guests who will be attending the festival, fair, or other event;

(G) Uses an age verification system approved by the commissioner; and

(H) Meets and is subject to all other private club requirements.

(14) "Private hotel" means an applicant for a private club or licensed private club licensee meeting the criteria set forth in this subsection which:

(A) Has at least 2,000 members;

(B) Offers short-term, daily rate accommodations or lodging for members and their guests amounting to at least 30 separate bedrooms, and also offers a conference center for meetings;

(C) Operates a restaurant and full kitchen with ovens, four-burner ranges, walk-in freezers, and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and serves freshly prepared food at least 20 hours per week;

(D) Maintains, at any one time, fresh food capable of being prepared in the private hotel's full kitchen. In calculating the food inventory, the commissioner may not include microwavable, frozen, or canned foods;

(E) Owns or leases, controls, operates, and uses acreage amounting to more than one acre but fewer than three acres, which are contiguous acres of bounded or fenced real property which would be listed on the licensee's floorplan and would be used for hotel and conferences and large contracted-for group-type events such as weddings, reunions, conferences, meetings, and sporting or recreational events;

(F) Lists the entire property from paragraph (E) of this subdivision and all adjoining buildings and structures on the private hotel's floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private hotel's licensed premises and as noted on the private hotel's floorplan;

(G) Has an identified person, persons, or entity that has right, title, and ownership or lease interest in the real property buildings and structures located on the proposed licensed premises;

(H) Uses an age verification system approved by the commissioner;

(I) Meets and is subject to all other private club requirements; and

(J) May provide members and guests who are verified by proper form of identification to be 21 years of age or older to have secure access via key or key card to an in-room mini-bar in their rented short-term accommodation; the mini-bar may be a small refrigerator not in excess of 1.6 cubic feet for the sale of nonintoxicating beer or nonintoxicating craft beer, wine, hard cider, and liquor sold from the original sealed container, and the refrigerator may contain: (i) Any combination of 12 fluid ounce cans or bottles not exceeding 72 fluid ounces of nonintoxicating beer or nonintoxicating craft beer; (ii) any combination of cans or bottles of wine or hard cider not exceeding 750 ml of wine or hard cider; (iii) liquor in bottles sized from 50 ml, 100 ml, and 200 ml, with any combination of those liquor bottles not exceeding 750 ml; and (iv) any combination of canned or packaged food valued at least \$50. All markups, fees, and taxes shall be charged on the sale of nonintoxicating beer, nonintoxicating craft beer, wine, liquor, and hard cider. All nonintoxicating beer or nonintoxicating craft beer available for sale shall be purchased from the licensed distributor in the area where licensed. All wine or hard cider available for sale shall be purchased from a licensed wine distributor or authorized farm winery. All liquor available for sale shall be purchased from the licensed retail liquor outlet in the market zone of the licensed

premises. The mini-bar shall be checked daily and replenished as needed to benefit the member and guest.

(15) "Private resort hotel" means an applicant for a private club or licensed private club licensee which:

(A) Has at least 5,000 members;

(B) Offers short term, daily rate accommodations or lodging for members and their guests amounting to at least 50 separate bedrooms;

(C) Operates a restaurant and full kitchen with ovens, six-burner ranges, walk-in freezers, and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and serves freshly prepared food at least 25 hours per week;

(D) Maintains, at any one time, fresh food capable of being prepared in the private resort hotel's full kitchen. In calculating the food inventory, the commissioner may not include microwavable, frozen, or canned foods;

(E) Owns or leases, controls, operates, and uses acreage amounting to at least 10 contiguous acres of bounded or fenced real property which would be listed on the licensee's floorplan and would be used for destination, resort, and large contracted-for group-type events such as weddings, reunions, conferences, meetings, and sporting or recreational events;

(F) Lists the entire property from paragraph (E) of this subdivision and all adjoining buildings and structures on the private resort hotel's floorplan comprising the licensed premises which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private resort hotel's licensed premises;

(G) Has an identified person, persons, or entity that has right, title, and ownership or lease interest in the real property, buildings, and structures located on the proposed licensed premises;

(H) Uses an age verification system approved by the commissioner;

(I) Meets and is subject to all other private club requirements;

(J) May have a separately licensed resident brewer with a brewpub license inner-connected via a walkway, doorway, or entryway, all as determined and approved by the commissioner, for limited access during permitted hours of operation for tours and ~~complimentary~~ samples at the resident brewery; and

(K) May provide members and guests who are verified by proper form of identification to be 21 years of age or older to have access via key or key card to an in-room mini-bar in their rented short-term accommodation. The mini-bar may be a small refrigerator not in excess of 3.2 cubic feet for the sale of nonintoxicating beer, nonintoxicating craft beer, wine, hard cider, and liquor sold from the original sealed container, and the refrigerator may contain: (i) Any combination of 12 fluid ounce cans or bottles not exceeding 144 fluid ounces of nonintoxicating beer or nonintoxicating craft beer; (ii) any combination of cans or bottles of wine or hard cider not exceeding one and a half liters of wine or hard cider; (iii) liquor in bottles sized from 50 ml, 100

ml, 200 ml, and 375 ml with any combination of such liquor bottles not exceeding one and a half liters; and (iv) any combination of canned or packaged food valued at least \$100. All markups, fees, and taxes shall be charged on the sale of nonintoxicating beer, nonintoxicating craft beer, hard cider, wine, and liquor. All nonintoxicating beer or nonintoxicating craft beer available for sale shall be purchased from the licensed distributor in the area where licensed. All wine or hard cider available for sale shall be purchased from a licensed wine distributor or authorized farm winery. All liquor available for sale shall be purchased from the licensed retail liquor outlet in the market zone of the licensed premises. The mini-bar shall be checked daily and replenished as needed to benefit the member and guest.

(16) "Private golf club" means an applicant for a private club or licensed private club licensee which:

(A) Has at least 100 members;

(B) Maintains at least one 18-hole golf course with separate and distinct golf playing holes, not reusing nine golf playing holes to comprise the 18 golf playing holes, and a clubhouse;

(C) Operates a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and serves freshly prepared food at least 15 hours per week;

(D) Owns or leases, controls, operates, and uses acreage amounting to at least 80 contiguous acres of bounded or fenced real property which would be listed on the private golf club's floorplan and could be used for golfing events and large contracted-for group-type events such as weddings, reunions, conferences, meetings, and sporting or recreational events;

(E) Lists the entire property from paragraph (D) of this subsection and all adjoining buildings and structures on the private golf club's floorplan comprising the licensed premises which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private golf club's licensed premises;

(F) Has an identified person, persons, or entity that has right, title, and ownership interest in the real property, buildings, and structures located on the proposed licensed premises;

(G) Uses an age verification system approved by the commissioner; and

(H) Meets and is subject to all other private club requirements.

(17) "Private nine-hole golf course" means an applicant for a private club or licensed private club licensee which:

(A) Has at least 50 members;

(B) Maintains at least one nine-hole golf course with separate and distinct golf playing holes;

(C) Operates a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and serves freshly prepared food at least 15 hours per week;

(D) Owns or leases, controls, operates, and uses acreage amounting to at least 30 contiguous acres of bounded or fenced real property which would be listed on the private nine-hole golf course's floorplan and could be used for golfing events and large contracted for group-type events such as weddings, reunions, conferences, meetings, and sporting or recreational events;

(E) Lists the entire property from paragraph (D) of this subdivision and all adjoining buildings and structures on the private nine-hole golf course's floorplan comprising the licensed premises which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private nine-hole golf course's licensed premises;

(F) Has an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

(G) Uses an age verification system approved by the commissioner; and

(H) Meets and is subject to all other private club requirements.

(18) "Private tennis club" means an applicant for a private club or licensed private club licensee which:

(A) Has at least 100 members;

(B) Maintains at least four separate and distinct tennis courts, either indoor or outdoor, and a clubhouse or similar facility;

(C) Has a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises which is capable of serving freshly prepared food;

(D) Owns or leases, controls, operates, and uses acreage amounting to at least two contiguous acres of bounded or fenced real property which would be listed on the private tennis club's floorplan and could be used for tennis events and large events such as weddings, reunions, conferences, tournaments, meetings, and sporting or recreational events;

(E) Lists the entire property from paragraph (D) of this subdivision and all adjoining buildings and structures on the private tennis club's floorplan comprising the licensed premises which would be authorized for the lawful sales, service, and consumption of alcoholic liquors throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private tennis club's licensed premises;

(F) Has identified a person, persons, an entity, or entities who or which has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

(G) Meets and is subject to all other private club requirements; and

(H) Uses an age verification system approved by the commissioner.

(19) "Private college sports stadium" means an applicant for a private club or licensed private club licensee that operates a college or university stadium or coliseum for Division I, II, or III sports

and ~~what~~ that involves a college public or private or university that is a member of the National Collegiate Athletic Association, or its successor, and uses the facility for football, basketball, baseball, soccer, or other Division I, II, or III sports, reserved weddings, reunions, conferences, meetings, or other special events and does not maintain daily or regular operating hours as a bar or restaurant. The licensee may sell alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer when conducting or temporarily hosting non-collegiate sporting events. This license may be issued in the name of the National Collegiate Athletic Association Division I, II, or III college or university or the name of the primary food and beverage vendor under contract with that college or university. All alcohol sales shall take place within the confines of the college or university stadium: *Provided*, That any outside area approved for alcohol sales and nonintoxicating beer or nonintoxicating craft beer shall be surrounded by a fence or other barrier prohibiting entry except upon the college or university's express permission, and under the conditions and restrictions established by the college or university, so that the alcohol sales area is closed in order to prevent entry and access by the general public. Further the applicant shall:

(A) Have at least 100 members;

(B) Maintain an open-air or enclosed stadium or coliseum venue primarily used for sporting events, such as football, basketball, baseball, soccer, or other Division I, II, or III sports, and also weddings, reunions, conferences, meetings, or other events where parties shall reserve the college stadium venue in advance of the event;

(C) Operate a restaurant and full kitchen with ovens and equipment that is equivalent or greater than a private club restaurant, as determined by the commissioner, on the licensed premises that is capable of serving freshly prepared food or meals to its stated members, guests, and patrons who will be attending the event at the private college sports stadium;

(D) Own or lease, control, operate, and use acreage amounting to at least two contiguous acres of bounded or fenced real property, as determined by the commissioner, which would be listed on the private college stadium's floorplan and could be used for contracted-for temporary non-collegiate sporting events, group-type weddings, reunions, conferences, meetings, or other events;

(E) List the entire property from paragraph (D) of this subdivision and all adjoining buildings and structures on the private college sports stadium's floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private college sports stadium's licensed premises and as noted on the private college sports stadium's floorplan;

(F) Have an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

(G) Meet and be subject to all other private club requirements; and

(H) Use an age verification system approved by the commissioner.

(20) "Private professional sports stadium" means an applicant for a private club or licensed private club licensee that is only open for professional sporting events when the events are affiliated with or sponsored by a professional sporting association, reserved weddings, reunions,

conferences, meetings, or other special events and does not maintain daily or regular operating hours as a bar or restaurant. The licensee may not sell alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer when conducting or hosting non-professional sporting events, and further the applicant shall:

(A) Have at least 1,000 members;

(B) Maintain an open-air or enclosed stadium venue primarily used for sporting events, such as football, baseball, soccer, auto racing, or other professional sports, and also weddings, reunions, conferences, meetings, or other events where parties reserve the stadium venue in advance of the event;

(C) Operate a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises which is capable of serving freshly prepared food or meals to serve its stated members, guests, and patrons who will be attending the event at the private professional sports stadium;

(D) Own or lease, control, operate, and use acreage amounting to at least three contiguous acres of bounded or fenced real property, as determined by the commissioner, which would be listed on the professional sports stadium's floorplan and could be used for contracted- for professional sporting events, group-type weddings, reunions, conferences, meetings, or other events;

(E) List the entire property from paragraph (D) of this subdivision and all adjoining buildings and structures on the private professional sports stadium's floorplan comprising the licensed premises which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private professional sports stadium's licensed premises;

(F) Have an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

(G) Meet and be subject to all other private club requirements; and

(H) Use an age verification system approved by the commissioner.

(21) "Private farmers market" means an applicant for a private club or licensed private club licensee that operates as an association of bars, restaurants, and retailers who sell West Virginia-made products among other products, and other stores who open primarily during daytime hours of 6:00 a.m. to 6:00 p.m., but may operate in the day or evenings for special events where the sale of food and alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer may occur for on-premises consumption, such as reserved weddings, reserved dinners, pairing events, tasting events, reunions, conferences, meetings, or other special events and does not maintain daily or regular operating hours as a bar or restaurant. All businesses that are members of the association shall agree in writing to be liable and responsible for all sales, service, furnishing, tendering, and consumption of alcoholic liquors, nonintoxicating beer, nonintoxicating craft beer, wine, and hard cider occurring on the entire licensed premises of the private farmer's market, including indoor and outdoor bounded areas, and further the applicant shall:

(A) Have at least 100 members;

(B) Have one or more members operating a private club restaurant and full kitchen with ovens, four-burner ranges, a refrigerator or freezer or some combination of a refrigerator and freezer, and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and serve freshly prepared food at least 15 hours per week;

(C) Have one or more members operating a private club restaurant who maintain, at any one time, fresh food capable of being prepared for events conducted at the private farmers market in the private club restaurant's full kitchen. In calculating the food inventory, the commissioner may not include television dinners, bags of chips or similar products, microwavable meals, frozen meals, pre-packaged foods, or canned prepared foods;

(D) Have an association that owns or leases, controls, operates, and uses acreage amounting to more than one acre, which is contiguous acreage of bounded or fenced real property which would be listed on the licensee's floorplan and would be used for large contracted-for reserved weddings, reserved dinners, pairing events, tasting events, reunions, conferences, meetings, or other special events;

(E) Have an association that lists in the application for licensure the entire property and all adjoining buildings and structures on the private farmers market's floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private farmers market's licensed premises and as noted on the private farmers market's floorplan;

(F) Have an identified person, persons, or entity that has right, title, and ownership or lease interest in the real property buildings and structures located on the proposed licensed premises;

(G) Have at least two separate and unrelated vendors applying for the license and certifying that all vendors in the association have agreed to the liability responsibility associated with a private farmers market license;

(H) Only use its employees, independent contractors, or volunteers to purchase, sell, furnish, or serve liquor, wine, nonintoxicating beer or nonintoxicating craft beer;

(I) Provide adequate restroom facilities, whether permanent or portable, to serve the stated members and guests who will be attending the private farmers market;

(J) Provide a copy of a written agreement between all the vendors of the association that is executed by all vendors stating that each vendor is jointly and severally liable for any violations of this chapter committed during the event;

(K) Provide a security plan indicating all vendor points of service, entrances, and exits in order to verify members', patrons', and guests' ages, to verify whether a member, patron, or guest is intoxicated, and to provide for the public health and safety of members, patrons, and guests;

(L) Use an age verification system approved by the commissioner; and

(M) Meet and be subject to all other private club requirements.

(22) "Private wedding venue or barn" means an applicant for a private club or licensed private club licensee that is only open for reserved weddings, reunions, conferences, meetings, or other events and does not maintain daily or regular operating hours, and which:

(A) Has at least 25 members;

(B) Maintains a venue, facility, barn, or pavilion primarily used for weddings, reunions, conferences, meetings, or other events where parties reserve or contract for the venue, facility, barn, or pavilion in advance of the event;

(C) Operates a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises that is capable of serving freshly prepared food, or engages a food caterer to provide adequate freshly prepared food or meals to serve its stated members, guests, and patrons who will be attending the event at the private wedding venue or barn. The applicant or licensee shall provide written documentation including a list of food caterers or written agreements regarding any food catering operations to the commissioner prior to approval of a food catering event;

(D) Owns or leases, controls, operates, and uses space sufficient to safely operate the licensed premises. The applicant or licensee shall verify that, the property is not less than two acres and is remotely located, subject to the commissioner's approval. The bounded or fenced real property may be listed on the private wedding venue's or barn's floorplan and may be used for large events such as weddings, reunions, conferences, meetings, or other events;

(E) Lists the entire property from paragraph (D) of this subdivision and all adjoining buildings and structures on the private wedding venue or barn's floorplan that would comprise the licensed premises which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private wedding venue or barn's licensed premises;

(F) Has an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

(G) Meets and is subject to all other private club requirements; and

(H) Uses an age verification system approved by the commissioner.

(23) "Private multi-sport complex" means an applicant for a private club or licensed private club licensee that is open for multiple sports events to be played at the complex facilities, reserved weddings, concerts, reunions, conferences, meetings, or other special events, and which:

(A) Has at least 100 members;

(B) Maintains an open-air multi-sport complex primarily for use for sporting events, such as baseball, soccer, basketball, tennis, frisbee, or other sports, but may also conduct weddings, concerts, reunions, conferences, meetings, or other events where parties reserve the parts of the sports complex in advance of the sporting or other event;

(C) Operates a restaurant and full kitchen with ovens in the licensee's main facility, as determined by the commissioner, on the licensed premises which is capable of serving freshly

prepared food, or meals to serve its stated members, guests, and patrons who will be attending the event at the private multi-sport complex. A licensee may contract with temporary food vendors or food trucks for food sales only, but not on a permanent basis, in areas of the multi-sport complex not readily accessible by the main facility;

(D) Maintains, at any one time, fresh food capable of being prepared in the private multi-sport complex's full kitchen. In calculating the food inventory, the commissioner may not include television dinners, bags of chips or similar products, microwavable meals, frozen meals, prepackaged foods, or canned prepared foods;

(E) Owns or leases, controls, operates, and uses acreage amounting to at least 50 contiguous acres of bounded or fenced real property, as determined by the commissioner, which would be listed on the private multi-sport complex's floorplan and could be used for contracted-for sporting events, group-type weddings, concerts, reunions, conferences, meetings, or other events;

(F) Lists the entire property from paragraph (E) of this subdivision and all adjoining buildings and structures on the private multi-sport complex's floorplan which would comprise the licensed premises, which would be authorized for the lawful sales, service, and consumption of alcoholic liquors, nonintoxicating beer, nonintoxicating craft beer, and hard cider throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on the private multi-sport complex's licensed premises and as noted on the private multi-sport complex's floorplan. The licensee may sell alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer from a golf cart or food truck owned or leased by the licensee and also operated by the licensee when the golf cart or food truck is located on the private multi-sport complex's licensed premises;

(G) Has an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

(H) Meets and is subject to all other private club requirements; and

(I) Uses an age verification system approved by the commissioner.

(24) "Private coliseum or center" means an applicant for a private club or licensed private club licensee that is open for various events including, but not limited to, musical concerts, bands, sporting events, monster trucks, sports entertainment events, circuses, expos, hobby events, tradeshows, health events, reserved weddings, reunions, retreats, conventions, conferences, meetings, or other special events. The licensee may not sell alcoholic liquors, nonintoxicating beer or wine when conducting or hosting events focused on patrons who are less than 21 years of age, and further the applicant shall:

(A) Have at least 5,000 members;

(B) Maintain an enclosed coliseum or center venue with at least 80,000 square feet of event space primarily used for events ~~as noted above~~, where parties reserve the coliseum or center venue in advance of the event;

(C) Operate a restaurant and full kitchen with ovens, as determined by the commissioner, on the licensed premises and be capable of serving freshly prepared food or meals to its stated members, guests, and patrons who will be attending events at the private coliseum or center;

(D) Own or lease, control, operate, and use acreage amounting to at least two contiguous acres of bounded or fenced real property, as determined by the commissioner, which would be listed on the private coliseum or center's floorplan and could be used for contracted-for events, ~~as noted above~~, or a private fair and festival, as authorized by the commissioner per dual licensing requirements as set forth in §60-7-2a of this code;

(E) List the entire property from paragraph (D) of this subdivision and all adjoining buildings and structures on the private coliseum or center's floorplan comprising the licensed premises which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer throughout the licensed premises whether these activities were conducted in a building or structure or outdoors while on private coliseum or center's licensed premises;

(F) Have an identified person, persons, or entity that has right, title, and ownership interest in the real property buildings and structures located on the proposed licensed premises;

(G) Meet and be subject to all other private club requirements; and

(H) Use an age verification system approved by the commissioner.

(25) "Private food court" means an applicant who qualifies for a private club restaurant or licensed private club restaurant licensee that operates in a facility within a licensed premises with one licensed floorplan that includes an association of other inter-connected licensed private club restaurants or unlicensed restaurants that operate legally without alcohol sales, where all businesses that are licensed members of the association have agreed in writing to be liable and responsible for all sales, service, furnishing, tendering, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer occurring on the entire licensed premises of the private food court, and further the applicant shall:

(A) Have at least 100 members;

(B) Have at least one member of its association who qualifies for a private club restaurant containing a full kitchen with ovens, four-burner ranges, a refrigerator or freezer or some combination of a refrigerator and freezer, and other kitchen utensils and apparatus as determined by the commissioner on the licensed premises and be capable of serving freshly prepared food at least 15 hours per week in the private food court;

(C) Have at least one member of its association who qualifies for a private club restaurant who maintains, at any one time, fresh food capable of being prepared in the private club restaurant's full kitchen, and in calculating the food inventory the commissioner may not include television dinners, bags of chips or similar products, microwavable meals, frozen meals, pre-packaged foods, or canned prepared foods;

(D) Have an association that owns or leases, controls, operates, and uses a facility that meets requirements of this article, and the entire facility is listed on the licensee's floorplan as its licensed premises;

(E) Have an association that lists in the application for licensure the entire facility and any inter-connected and adjoining structures on the private food court's floorplan which would compromise the licensed premises, and which would be authorized for the lawful sales, service, and consumption of alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer

throughout the licensed premises whether these activities were conducted in a building or structure while on the private food court's licensed premises and as noted on the private food court's licensed floorplan;

(F) Have an identified person, persons, or entity that has right, title, and ownership or lease interest in the real property buildings and structures located on the proposed licensed premises;

(G) Have at least one separate and unrelated business applying for the license and certifying that all licensed businesses in the association have agreed to the liability responsibility associated with a private food court license;

(H) Only use its employees, independent contractors, or volunteers to purchase, sell, furnish, or serve liquor, wine, nonintoxicating beer or nonintoxicating craft beer;

(I) Provide adequate restroom facilities, whether permanent or portable, to serve the stated members and guests who will be attending the private food court;

(J) Provide a copy of a written agreement between all the vendors of the association that is executed by all businesses stating that each licensed vendor is jointly and severally liable for any violations of this chapter committed on the licensed premises;

(K) Provide a security plan indicating all businesses who will be selling and serving alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer, list non-licensees who will be selling and serving food, list all entrances, and list all exits, provide a plan to verify the ages of members, patrons, and guests, a plan to verify whether a member, patron, or guest is intoxicated, and a plan to provide for the public health and safety of members, patrons, and guests;

(L) Use an age verification system approved by the commissioner; and

(M) Meet and be subject to all other private club requirements.

The ~~Department~~ Division of Natural Resources, the authority governing any county or municipal park, or any county commission, municipality, other governmental entity, public corporation, or public authority operating any park or airport may lease, as lessor, a building or portion thereof or other limited premises in any park or airport to any corporation or unincorporated association for the establishment of a private club pursuant to this article.

§60-7-8a. Special license for a private fair and festival; licensee fee and application; license fee; license subject to provisions of article; exception.

(a) There is hereby created a special license designated Class S2 private fair and festival license for the retail sale of alcoholic liquors and nonintoxicating beer, and nonintoxicating craft beer for on-premises consumption.

(b) To be eligible for the license authorized by subsection (a) of this section, the private fair and festival or other event shall:

(1) Be sponsored, endorsed, or approved by the governing body or its designee of the county or municipality in which the private fair and festival or other event is located;

(2) Make application with the commissioner at least 15 days prior to the private fair, festival, or other event;

(3) Pay a nonrefundable non-prorated license fee of \$500; and

(4) Be approved by the commissioner to operate the private fair, festival, or other event.

(c) A private fair and festival license under this section shall be for a duration of no more than 10 consecutive days.

(d) Nonintoxicating beer and nonintoxicating craft beer sold, furnished, tendered, or served for on-premises consumption by the private fair and festival pursuant to the license created by this section shall be purchased from licensed distributors that service the area in which the private fair and festival is held or from a resident brewer acting in a limited capacity as a distributor, all in accordance with §11-16-1 *et seq.* of this code. ~~Sealed containers of nonintoxicating~~ Nonintoxicating beer or nonintoxicating craft beer may be sold and served for by the drink or glass, or by the bottle or can for on-premises consumption and in sealed bottles or cans for off-premises consumption if the nonintoxicating beer and nonintoxicating craft beer is being sold by an authorized brewer or resident brewer, as set forth in §11-16-6a(d) of this code, who manufactures the nonintoxicating beer or nonintoxicating craft beer in this state. The on-premises and off-premises consumption sales shall be made pursuant to a written agreement between the private fair and festival and an authorized brewer or resident brewer. Prior to the start of the private fair or festival, an authorized brewer or resident brewer who agrees to offer on-premises and off-premises consumption sales of their nonintoxicating beer or nonintoxicating craft beer from a booth or other facility on the private fair and festival's licensed premises must meet the requirements of §11-16-6a(d) of this code. The written agreement with each authorized brewer or resident brewer shall account for lawful sales of nonintoxicating beer and nonintoxicating craft beer sold for off-premises consumption as set forth in §11-16-1 et seq. of this code. The authorized and approved brewer, resident brewer, or its licensed representatives may give or sell approved promotional items to private fair and festival members and guests, but not to the private fair and festival's volunteers, independent contractors, or employees.

(e) Wine or hard cider sold, furnished, tendered, or served for on-premises consumption by the private fair and festival pursuant to the license created by this section shall be purchased from a licensed wine or hard cider distributor or farm winery in accordance with §60-8-1 *et seq.* of this code and §60-8A-1 *et seq.* of this code, as applicable. ~~Sealed containers of wine~~ Wine or hard cider may be sold and served for on-premises consumption by the drink or glass, or by the bottle when consumed by the glass and by the sealed bottle for off-premises consumption by the sealed bottle if the wine or hard cider is being sold by an authorized winery or farm winery, as set forth in §60-4-3b(m) and §60-8A-5(e) of this code, who manufactures that wine or hard cider in this state. The on-premises and off-premises consumption sales shall be made pursuant to a written agreement between the private fair and festival and an authorized winery or farm winery. An authorized winery or farm winery who which agrees to offer for sale and service their its wine or hard cider for on-premises consumption by the drink or glass, or by the bottle when consumed by the glass pursuant to §60-7-1 et seq. of this code and for off-premises consumption sealed bottle sales from a booth or other facility on the private fair and festival's licensed premises prior to the start of the private fair or festival shall meet the requirements of §60-4-3b(m) and §60-8A-5(e) of this code, as applicable. The written agreement with each authorized winery or farm winery shall account for lawful sales of wine or hard cider sold for on premises or off-premises consumption as set forth in §60-8-1 et seq. of this code and §60-8A-1 et seq. of this code, as applicable. The authorized and approved winery, farm winery or its licensed representatives may give or sell

approved promotional items to private fair and festival members and guests, but not to the private fair and festival's volunteers, independent contractors, or employees.

(f) Liquor sold, furnished, tendered, or served for on-premises consumption by the private fair and festival pursuant to the license created by this section shall be purchased from a licensed retail liquor outlet in the market zone or contiguous market zone where the private fair or festival is occurring, all in accordance with §60-3A-1 *et seq.* of this code. ~~Sealed containers of liquor~~ Liquor may be sold and served for on-premises consumption by the drink off-premises consumption by the sealed bottle if the liquor is being sold by an authorized distillery, mini-distillery, or micro-distillery, as set forth in §60-4-3a of this code, who manufactures ~~their~~ its liquor in this state. Off-premises consumption sales shall comply with §60-3A-17 of this code and §60-4-3a(c) of this code shall not apply to these sales. The on-premises and off-premises consumption sales shall be made pursuant to a written agreement between the private fair and festival and an authorized distillery, mini-distillery, or micro-distillery. An authorized licensed distillery, mini-distillery, or micro-distillery who agrees to offer off-premises consumption sales of their manufactured liquor by the bottle from a booth or other facility on the private fair and festival's licensed premises prior to the start of the private fair, festival, or other event must meet the requirements as set forth in §60-4-3a of this code. An authorized licensed distillery, mini-distillery, or micro-distillery which agrees to offer on-premises consumption sales of its manufactured liquor by the drink or glass from a booth or other facility on the premises of the licensed fair and festival must meet the requirements set forth and in §60-7-1 et seq. of this code. The written agreement with each authorized distillery, mini-distillery, or micro-distillery shall account for lawful sales of liquor sold for off-premises consumption as set forth in §60-3A-1 *et seq.* of this code. An authorized and approved distillery, mini-distillery, micro-distillery or its licensed representatives may give or sell approved promotional items to private fair and festival members and guests, but not to the private fair and festival's volunteers, independent contractors, or employees.

(g) A licensee authorized by this section may use bona fide employees, volunteers, or in limited circumstances licensed representatives to sell, furnish, tender, or serve the nonintoxicating beer, nonintoxicating craft beer, wine, liquor, or hard cider.

(h) Licensed representatives of an authorized and approved brewer, resident brewer, beer distributor, wine distributor, wine supplier, winery, farm winery, distillery, mini-distillery, micro-distillery, and liquor broker representatives may attend a private fair and festival and discuss their respective products ~~but shall not~~ and may engage in the selling, furnishing, tendering, or serving of any nonintoxicating beer, nonintoxicating craft beer, wine, hard cider, or liquor. However, licensed representatives of a brewer, resident brewer, winery, farm winery, distillery, mini-distillery, or micro-distillery that has agreed in writing to conduct sampling, ~~and on-premises consumption sales,~~ and off-premises consumption sales of their respective licensee's products at the private fair and festival, may discuss their respective products and engage in ~~the limited giving of complimentary samples~~ sampling in accordance with §11-16-6a (c) and (d), §60-4-3a (a) and (b), and §60-4-3b (b) ~~and (m)~~ of this code; and the selling of ~~sealed bottles or cans~~ of their respective nonintoxicating beer, nonintoxicating craft beer, wine, hard cider, or liquor products for on-premises consumption or off-premises consumption as specified in this section. All taxes and fees must be paid on lawful sales.

(i) A license issued under this section and the licensee are subject to all other provisions of this article and the rules and orders of the commissioner: *Provided*, That the commissioner may by rule or order allow certain waivers or exceptions with respect to those provisions, rules, or orders as the circumstances of each private fair and festival require, including without limitation, the right to revoke or suspend immediately any license issued under this section prior to any

notice or hearing, notwithstanding §60-7-13a of this code: *Provided, however,* That under no circumstances may the provisions of §60-7-12 of this code be waived or an exception granted with respect thereto;

(j) Dual licensing is permitted for private fairs and festivals pursuant to §60-7-2a of this code, including but not limited to a dual licensing simultaneous to any other qualified permit holders as defined in §60-7-1, et seq. of this code.

(k) A private fair and festival licensee who executes a written agreement with a licensed brewer, resident brewer, winery, farm winery, distillery, mini-distillery, micro-distillery, or ~~their~~ its licensed representatives is jointly liable and responsible for any violations of this article.

(l) A private fair and festival licensee who executes a written agreement with a licensed brewer, resident brewer, winery, farm winery, distillery, mini-distillery, or micro-distillery to conduct limited on-premises and off-premises consumption sales shall not have any pecuniary interest, share, or percentage in any sales of sealed nonintoxicating beer, nonintoxicating craft beer, wine, hard cider, or liquor.

(m) A private fair and festival licensee who executes a written agreement with a licensed brewer, resident brewer, winery, farm winery, distillery, mini-distillery, or micro-distillery to conduct limited on-premises and off-premises consumption sales may charge them a flat booth rental fee.

(n) A private fair and festival licensee, licensed brewer, resident brewer, winery, farm winery, distillery, mini-distillery, micro-distillery, or ~~their~~ licensed representatives who ~~permits~~ permit members or guests to consume, on the private fair and festival's licensed premises, any nonintoxicating beer, nonintoxicating craft beer, wine, hard cider, or liquor, that was purchased as an off-premises consumption sale, shall have ~~their~~ its respective license immediately suspended, and that conduct is grounds for revocation of ~~their~~ license.

§60-7-8d. Where private clubs may sell and serve alcoholic liquors and nonintoxicating beer or nonintoxicating craft beer.

(a) With prior approval of the commissioner a private club licensee may sell, serve, and furnish alcoholic liquor and, if also licensed to sell, serve, and furnish nonintoxicating beer or nonintoxicating craft beer to be consumed on premises in a legally demarcated area which may include a temporary private outdoor dining area or temporary private outdoor street dining area. A temporary private outdoor street dining area shall be approved by the municipal government or county commission in which the licensee operates. The commissioner shall develop and make available an application form to facilitate the purposes of this subsection.

(b) The private club licensee shall submit to the commissioner: (1) the municipal or county approval of the private outdoor dining area or private outdoor street dining area; and, (2) a revised floorplan requesting to sell alcoholic liquors, and when licensed for nonintoxicating beer or nonintoxicating craft beer, then nonintoxicating beer or nonintoxicating craft beer, subject to the commissioner's requirements, in an approved and bounded outdoor area. The approved and bounded area need not be adjacent to the licensee's licensed premises, but in close proximity, for private outdoor street dining or private outdoor dining. For purposes of this subsection, "close proximity" means an available area within ~~450~~ 300 feet of a licensee's licensed premises and under the licensee's control and with right of ingress and egress.

(c) This private outdoor dining or private outdoor street dining may be operated in conjunction with a private wine outdoor dining or private wine outdoor street dining area set forth in §60-8-32a of this code and nonintoxicating beer or nonintoxicating craft beer outdoor dining or outdoor street dining set forth in §11-16-9 of this code.

(d) For purposes of this section, private outdoor dining and private outdoor street dining include dining areas that are:

(1) Outside and not served by an HVAC system for air handling services and use outside air;

(2) Open to the air; and

(3) Not enclosed by fixed or temporary walls; however, the commissioner may seasonally approve a partial enclosure with up to three temporary or fixed walls.

Any area where seating is incorporated inside a permanent building with ambient air through HVAC is not considered outdoor dining pursuant to this subsection.

(e) A private club restaurant or a private manufacturer club licensed for craft cocktail growler sales must provide food or a meal along with sealed craft cocktail growler sales as set forth in this article to a patron who is in-person or in-vehicle while picking up food or a meal, and a sealed craft cocktail growler order-to-go, subject to verification that the purchasing person is 21 years of age or older, and not visibly, or noticeably intoxicated, and as otherwise specified in this article.

ARTICLE 8. SALE OF WINES.

§60-8-2. Definitions.

Unless the context in which used clearly requires a different meaning, as used in this article:

"Commissioner" or "commission" means the West Virginia Alcohol Beverage Control Commissioner.

"Distributor" means any person whose principal place of business is within the State of West Virginia who makes purchases from a supplier to sell or distribute wine to retailers, grocery stores, private wine bed and breakfasts, private wine restaurants, private wine spas, private clubs, or wine specialty shops and that sells or distributes nonfortified dessert wine, port, sherry, and Madeira wines to wine specialty shops, private wine restaurants, private clubs, or retailers under authority of this article and maintains a warehouse in this state for the distribution of wine. For the purpose of a distributor only, the term "person" means and includes an individual, firm, trust, partnership, limited partnership, limited liability company, association, or corporation. Any trust licensed as a distributor or any trust that is an owner of a distributor licensee, and the trustee or other persons in active control of the activities of the trust relating to the distributor license, is liable for acts of the trust or its beneficiaries relating to the distributor license that are unlawful acts or violations of this article, notwithstanding the liability of trustees in §44D-10-1 *et seq.* of this code.

"Fortified wine" means any wine to which brandy or other alcohol has been added where the alcohol content by volume does not exceed 24 percent, and includes nonfortified dessert wines where the alcohol content by volume is greater than 17 percent and does not exceed 24 percent.

"Grocery store" means any retail establishment, commonly known as a grocery store, supermarket, delicatessen, caterer, or party supply store, where food, food products, and supplies for the table are sold for consumption off the premises with average monthly sales (exclusive of sales of wine) of not less than \$500 and an average monthly inventory (exclusive of inventory of wine) of not less than \$500. The term "grocery store" also includes and means a separate and segregated portion of any other retail store which is dedicated solely to the sale of food, food products, and supplies for the table for consumption off the premises with average monthly sales with respect to the separate or segregated portion, exclusive of sales of wine, of not less than \$500 and an average monthly inventory, exclusive of inventory of wine, of not less than \$500.

"Hard Cider" means a type of wine that is derived primarily from the fermentation of apples, pears, peaches, honey, or another fruit, or from apple, pear, peach, or another fruit juice concentrate and water; contains no more than 0.64 grams of carbon dioxide per 100 milliliters; contains at least one half of one percent and less than 12 and one-half percent alcohol by volume; and is advertised, labeled, offered for sale, or sold, as hard cider or cider containing alcohol, and not as wine, wine product, or as a substitute for wine.

"Hard Cider Distributor" means any person whose principal place of business is within the State of West Virginia who makes purchases from a supplier to sell or distribute hard cider, but not other types of wine, to retailers, grocery stores, private wine bed and breakfasts, private wine restaurants, private wine spas, private clubs, or wine specialty shops under authority of this code and maintains a warehouse in this state for the distribution of hard cider, but not other types of wine. For the purpose of a hard cider distributor, the term "person" means and includes an individual, firm, trust, partnership, limited partnership, limited liability company, association, or corporation. Any trust licensed as a distributor or any trust that is an owner of a distributor licensee, and the trustee, or any other person or persons in active control of the activities of the trust relating to the distributor license, is liable for acts of the trust or its beneficiaries relating to the distributor license that are unlawful acts or violations of this article, notwithstanding the liability of trustees in §44D-10-1 *et seq.* of this code.

"Licensee" means the holder of a license granted under the provisions of this article.

"Nonfortified dessert wine" means a wine that is a dessert wine to which brandy or other alcohol has not been added, and which has an alcohol content by volume of at least 15.6 percent and less than or equal to 17 percent.

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

"Private wine bed and breakfast" means any business with the sole purpose of providing, in a residential or country setting, a hotel, motel, inn, or other such establishment properly zoned as to its municipality or local ordinances, lodging and meals to its customers in the course of their stay at the establishment, which business also: (1) Is a partnership, limited partnership, corporation, unincorporated association, or other business entity which as part of its general business purpose provides meals on its premises to its members and their guests; (2) is licensed under the provisions of this article as to all of its premises or as to a separate segregated portion of its premises to serve wine to its members and their guests when the sale accompanies the serving of food or meals; and (3) admits only duly elected and approved dues-paying members and their guests while in the company of a member and does not admit the general public.

"Private wine restaurant" means a restaurant which: (1) Is a partnership, limited partnership, corporation, unincorporated association, or other business entity which has, as its principal purpose, the business of serving meals on its premises to its members and their guests; (2) is licensed under the provisions of this article as to all of its premises or as to a separate segregated portion of its premises to serve wine to its members and their guests when the sale accompanies the serving of food or meals; and (3) admits only duly elected and approved dues-paying members and their guests while in the company of a member and does not admit the general public. Private clubs that meet the private wine restaurant requirements ~~numbered (1), (2), and (3)~~ in this definition shall be considered private wine restaurants: *Provided*, That, a private wine restaurant shall have at least two restrooms: *Provided, however*, That the two restroom requirement may be waived by a written waiver provided from a local health department to the commissioner: *And provided further*, That a private wine restaurant located in an historic building may also be relieved of the two restroom requirement if a historic association or district with jurisdiction over a historic building provides a written waiver of the requirement to the commissioner: *And provided further*, That in no event shall a private wine restaurant have less than one restroom. *And provided further*, That a winery or farm winery holding a private wine restaurant license or a multi-capacity winery or farm winery license is not subject to the food service requirements of this subdivision.

"Private wine spa" means any business with the sole purpose of providing commercial facilities devoted especially to health, fitness, weight loss, beauty, therapeutic services, and relaxation, and may also be a licensed massage parlor or a salon with licensed beauticians or stylists, which business also: (1) Is a partnership, limited partnership, corporation, unincorporated association, or other business entity which as part of its general business purpose provides meals on its premises to its members and their guests; (2) is licensed under the provisions of this article as to all of its premises or as to a separate segregated portion of its premises to serve up to two glasses of wine to its members and their guests when the sale accompanies the serving of food or meals; and (3) admits only duly elected and approved dues-paying members and their guests while in the company of a member, and does not admit the general public.

"Retailer" means any person licensed to sell wine at retail to the public at his or her established place of business for off-premises consumption and who is licensed to do so under authority of this article.

"Supplier" means any manufacturer, producer, processor, winery, farm winery, national distributor, or other supplier of wine who sells or offers to sell or solicits or negotiates the sale of wine to any licensed West Virginia distributor.

"Table wine" means a wine with an alcohol content by volume between 0.5 percent and 15.5 percent.

"Tax" includes within its meaning interest, additions to tax, and penalties.

"Taxpayer" means any person liable for any tax, interest, additions to tax, or penalty under the provisions of this article, and any person claiming a refund of tax.

"Varietal wine" means any wine labeled according to the grape variety from which the wine is made.

"Vintage wine" or "vintage-dated wine" means wines from which the grapes used to produce the wine are harvested during a particular year, or wines produced from the grapes of a particular harvest in a particular region of production.

"Wine" means any alcoholic beverage obtained by the natural fermentation of the natural content of grapes, other fruits, or honey or other agricultural products containing sugar to which no alcohol has been added and includes table wine, hard cider, nonfortified dessert wine, wine coolers, and other similar wine-based beverages. Fortified wine and any product defined as or contained within the definition of nonintoxicating beer under the provisions of §11-16-1 *et seq.*, of this code are excluded from this definition of wine.

"Wine specialty shop" means a retailer who deals principally in the sale of table wine, nonfortified dessert wines, wine accessories, and food or foodstuffs normally associated with wine and: (1) Who maintains a representative number of wines for sale in his or her inventory which are designated by label as varietal wine, vintage, generic, and/or according to region of production and the inventory shall contain not less than 15 percent vintage or vintage-dated wine by actual bottle count; and (2) who, any other provisions of this code to the contrary notwithstanding, may maintain an inventory of port, sherry, and Madeira wines having an alcoholic content of not more than 22 percent alcohol by volume and which have been matured in wooden barrels or casks. All wine available for sale shall be for off-premises consumption except where wine tasting or wine sampling is separately authorized by this code.

§60-8-3. Licenses; fees; general restrictions.

(a) No person may engage in business in the capacity of a winery, farm winery, supplier, distributor, retailer, private wine bed and breakfast, private wine restaurant, private wine spa, or wine specialty shop without first obtaining a license from the commissioner, nor shall a person continue to engage in any activity after his or her license has expired, been suspended, or revoked. No person may be licensed simultaneously as a distributor and a retailer. No person, except for a winery or farm winery, may be licensed simultaneously as a supplier and a retailer. No person except for a winery or farm winery holding a multi-capacity winery or farm winery license may be licensed simultaneously as a supplier and a private wine bed and breakfast, private wine restaurant, or a private wine spa. No person may be licensed simultaneously as a distributor and a private wine bed and breakfast, a private wine restaurant, or a private wine spa. No person except for a winery or farm winery or holding a multi-capacity winery or farm winery license may be licensed simultaneously as a retailer and a private wine bed and breakfast, a private wine restaurant, or a private wine spa. Any person who is licensed to engage in any business concerning the manufacture, sale, or distribution of wine may also engage in the manufacture, sale, or distribution of hard cider without obtaining a separate hard cider license.

(b) The commissioner shall collect an annual fee for licenses issued under this article as follows:

(1) One hundred fifty dollars per year for a supplier's license;

(2) Two thousand five hundred dollars per year for a distributor's license and each separate warehouse or other facility from which a distributor sells, transfers, or delivers wine shall be separately licensed and there shall be collected with respect to each location, the annual license fee of \$2,500 as provided in this subdivision;

(3) One hundred fifty dollars per year for a retailer's license;

(4) Two hundred fifty dollars per year for a wine specialty shop license, in addition to any other licensing fees paid by a winery or retailer holding a license. Except for the amount of the license fee and the restriction to sales of winery or farm winery wines, a winery, or farm winery acting as

a wine specialty shop retailer is subject to all other provisions of this article which are applicable to a wine specialty shop retailer as defined in §60-8-2 of this code;

(5) One hundred fifty dollars per year for a wine tasting license;

(6) One hundred fifty dollars per year for a private wine bed and breakfast license. Each separate bed and breakfast from which a licensee sells wine shall be separately licensed and there shall be collected with respect to each location the annual license fee of \$150 as provided in this subdivision;

(7) Two hundred fifty dollars per year for a private wine restaurant license. Each separate restaurant from which a licensee sells wine shall be separately licensed and there shall be collected with respect to each location the annual license fee of \$250 as provided in this subdivision;

(8) One hundred fifty dollars per year for a private wine spa license. Each separate private wine spa from which a licensee sells wine shall be separately licensed and there shall be collected with respect to each location the annual license fee of \$150 as provided in this subdivision;

(9) One hundred fifty dollars per year for a wine sampling license issued for a wine specialty shop under subsection (n) of this section;

(10) No fee for a special one-day license under subsection (p) of this section or for a heritage fair and festival license under subsection (q) of this section;

(11) One hundred fifty dollars per year for a direct shipper's license for a licensee who sells and ships only wine and \$250 per year for a direct shipper's license who ships and sells wine, nonfortified dessert wine, port, sherry, or Madeira wines;

(12) Three hundred fifty dollars per year for a multi-capacity winery or farm winery license which enables the holder to operate as a retailer, wine specialty shop, supplier, and direct shipper without obtaining an individual license for each capacity; and

(13) Two hundred fifty dollars per year for a hard cider distributor's license. Each separate warehouse or other facility from which a distributor sells, transfers, or delivers hard cider shall be separately licensed and there shall be collected with respect to each location the annual license fee of \$250 as provided in this subdivision: *Provided*, That if a licensee is licensed as a nonintoxicating beer or nonintoxicating beer distributor, then there is no additional license fee to distribute hard cider.

(c) The license period begins on July 1 of each year and ends on June 30 of the following year and if granted for a less period, the ~~same~~ fee shall be computed semiannually in proportion to the remainder of the fiscal year.

(d) No retailer may be licensed as a private club as provided by §60-7-1 *et seq.* of this code, except as provided by subsection (k) of this section.

(e) No retailer may be licensed as a Class A retail dealer in nonintoxicating beer as provided by §11-16-1 *et seq.* of this code: *Provided*, That a delicatessen, a caterer, or party supply store, which is a grocery store as defined in §60-8-2 of this code, and which is licensed as a Class A retail dealer in nonintoxicating beer may be a retailer under this article: *Provided, however*, That

any delicatessen, caterer, or party supply store licensed in both capacities shall maintain average monthly sales exclusive of sales of wine and nonintoxicating beer which exceed the average monthly sales of nonintoxicating beer.

(f) A wine specialty shop under this article may also hold a wine tasting license authorizing the retailer to serve complimentary samples of wine in moderate quantities for tasting. The wine specialty shop shall organize a wine taster's club, which has at least 50 duly elected or approved dues-paying members in good standing. The club shall meet on the wine specialty shop's premises not more than one time per week and shall either meet at a time when the premises are closed to the general public, or meet in a separate segregated facility on the premises to which the general public is not admitted. Attendance at tastings shall be limited to duly elected or approved dues-paying members and their guests.

(g) A retailer who has more than one place of retail business shall obtain a license for each separate retail establishment. A retailer's license may be issued only to the proprietor or owner of a bona fide grocery store or wine specialty shop.

(h)(1) The commissioner may issue a license for the retail sale of wine at any ~~festival or fair~~ fair or festival which is endorsed or sponsored by the governing body of a municipality or a county commission. The license shall be issued for a term of no longer than 10 consecutive days and the fee for the license is \$250 regardless of the term of the license. The application for the license shall contain information required by the commissioner and shall be submitted to the commissioner at least 30 days prior to the first day when wine is to be sold at the any ~~festival or fair~~ fair or festival.

(2) Notwithstanding subdivision (1) of this subsection, if the applicant for the ~~festival or fair~~ fair or festival license is the manufacturer of the wine, a winery, or a farm winery as defined in §60-1-5a of this code, and the event is located on the premises of a winery or a farm winery, then the license fee is \$50 per ~~festival or fair~~ fair or festival.

(3) A licensed winery or a farm winery, which has the ~~festival or fair~~ fair or festival licensee's written authorization and approval from the commissioner, may, in addition to, or in conjunction with the ~~festival and fair~~ fair and festival licensee, exhibit, conduct complimentary tastings, or sell samples not to exceed ~~three six, two three~~ three fluid ounce, tastings or samples per patron, or serve wine by the glass for consumption on the premises during the operation of a ~~festival or fair~~ fair or festival only; and may sell wine by the bottle for on-premises consumption, when consumed by the glass, and sealed bottles of wine for off-premises consumption ~~only~~: *Provided*, That for licensed wineries or farm wineries at a licensed ~~festival or fair~~ fair or festival; tastings, samples, on-premises sales, and off-premises sales shall occur under the hours of operation as required in this article, except on Sunday, tastings, samples, and off-premises sales are unlawful between the hours of 2:00 a.m. and 6:00 a.m.

(4) A ~~festival or fair~~ fair or festival license may be issued to a "wine club" as defined in this subdivision for a license fee of \$250. The festival or fair committee or the governing body shall designate a person to organize a club under a name which includes the name of the ~~festival or fair~~ fair or festival and the words "wine club". The license shall be issued in the name of the wine club. A licensee may not sell wine as provided in this subdivision until the wine club has at least 50 dues-paying members who have been enrolled, and to whom membership cards have been issued. Thereafter, new members may be enrolled and issued membership cards at any time during the period for which the license is issued. A wine club licensed under the provisions of this subdivision may sell wine only to its members, and in portions not to exceed eight ounces per

selling. The sales shall take place on-premises or in an area cordoned or segregated so as to be closed to the general public, and the general public shall not be admitted to the premises or area. A wine club licensee under the provisions of this subdivision may serve complimentary samples of wine in moderate quantities for tasting. A wine club may not make wine purchases from a direct shipper where the wine may be consumed on the licensed premises of any Class A private wine retail ~~license~~ licensee or private club licensee. A wine club which violates the provisions of this subdivision is subject to the penalties in this article.

(5) A licensed winery or farm winery approved to participate in a ~~festival or fair~~ fair or festival under the provisions of this section and the licensee holding the license, or the licensed winery or farm winery approved to attend a licensed ~~festival or fair~~ fair or festival, is subject to all other provisions of this article and the rules and orders of the commissioner relating to the license: *Provided*, That the commissioner may by rule or order provide for certain waivers or exceptions with respect to the provisions, rules, or orders required by the circumstances of each ~~festival or fair~~ fair or festival, including, without limitation, the right to revoke or suspend any license issued pursuant to this section prior to any notice or hearing notwithstanding the provisions §60-8-27 and §60-8-28 of this code: *Provided, however*, That under no circumstances shall the provisions of §60-8-20(c) or §60-8-20(d) of this code, be waived nor shall any exception be granted with respect to those subsections.

(6) A license issued under the provisions of this section and the licensee holding the license are not subject to the provisions of subsection (g) of this section.

(7) An unlicensed winery temporarily licensed and meeting the requirements set forth in subsection (q) of this section may conduct the same sampling and sales set forth in subsection (q) of this section at a licensed fair and festival upon approval of the licensee holding the fair and festival license and temporary and limited licensure by the commissioner. An unlicensed winery is subject to the same limits, fees, requirements, restrictions, and penalties set forth in subsection (q) of this section: *Provided*, That the commissioner may by rule or order provide for certain waivers or exceptions with respect to the provisions, rules, or orders required by the circumstances of each ~~festival or fair~~ fair or festival. The commissioner may revoke or suspend any license issued pursuant to this section prior to any notice or hearing notwithstanding the provisions §60-8-27 and §60-8-28 of this code: *Provided, however*, That under no circumstances shall the provisions of §60-8-20(c) or §60-8-20(d) of this code be waived nor shall any exception be granted with respect to those subsections.

(i)(1) The commissioner may issue a special license for the retail sale of wine in a professional baseball stadium. A license to sell wine granted pursuant to this subsection entitles the licensee to sell and serve wine for consumption in a professional baseball stadium. For the purpose of this subsection, "professional baseball stadium" means a facility constructed primarily for the use of a major or minor league baseball franchisee affiliated with the National Association of Professional Baseball Leagues, Inc., or its successor, and used as a major or minor league baseball park. Any special license issued pursuant to this subsection shall be for a term beginning on the date of issuance and ending on the next following June 30, and its fee is \$250 regardless of the length of the term of the license. The application for the special license shall contain information required by the commissioner and must be submitted to the commissioner at least 30 days prior to the first day when wine is to be sold at the professional baseball stadium. The special license may be issued in the name of the baseball franchisee or the name of the primary food and beverage vendor under contract with the baseball franchisee. These sales must take place within the confines of the professional baseball stadium. The exterior of the area where wine sales may occur shall be surrounded by a fence or other barrier prohibiting entry except upon the

franchisee's express permission, and under the conditions and restrictions established by the franchisee, so that the wine sales area is closed to free and unrestricted entry by the general public.

(2) A license issued under this subsection and the licensee holding the license are subject to all other provisions of this article and the rules and orders of the commissioner relating to the special license: *Provided*, That the commissioner may by rule or order grant certain waivers or exceptions to those rules or orders required by the circumstances of each professional baseball stadium. The commissioner may revoke or suspend any license issued pursuant to this section prior to any notice or hearing notwithstanding §60-8-27 and §60-8-28 of this code: *Provided, however*, That under no circumstances may §60-8-20(c) or §60-8-20(d) of this code be waived nor shall any exception be granted concerning those subsections.

(3) The commissioner may propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code to implement this subsection.

(j) A license to sell wine granted to a private wine bed and breakfast, private wine restaurant, private wine spa, or a private club under the provisions of this article entitles the operator to sell and serve wine, for consumption on the premises of the licensee, when the sale accompanies the serving of food or a meal to its members and their guests in accordance with the provisions of this article: *Provided*, That a licensed private wine bed and breakfast, private wine restaurant, private wine spa, or a private club may permit a person over 21 years of age to purchase wine, consume wine, and recork or reseal, using a tamper resistant cork or seal, up to two separate bottles of unconsumed wine in conjunction with the serving of food or a meal to its members and their guests in accordance with the provisions of this article and in accordance with rules promulgated by the commissioner for the purpose of consumption of the wine off premises: *Provided, however*, That a licensed private wine restaurant or a private club may offer for sale, for consumption ~~off the~~ off-premises, sealed bottles of wine to its customers provided that no more than one bottle is sold per each person over 21 years of age, as verified by the private wine restaurant or private club, for consumption ~~off the~~ off-premises. The licensees may keep and maintain on ~~their~~ its premises a supply of wine in quantities appropriate for the conduct of operations thereof. Any sale of wine is subject to all restrictions set forth in §60-8-20 of this code. A private wine restaurant may also be licensed as a Class A retail dealer in nonintoxicating beer as provided by §11-16-1 *et seq.* of this code.

(k) With respect to subsections (h), (i), (j), (o), and (p) of this section, the commissioner shall propose legislative rules for promulgation in accordance with §29A-1-1 *et seq.* of this code, including, but not limited to, the form of the applications and the suitability of both the applicant and location of the licensed premises.

(l) The commissioner shall propose legislative rules for promulgation in accordance with the provisions of §29A-1-1 *et seq.* of this code to allow restaurants to serve wine with meals and to sell wine by the bottle for off-premises consumption as provided in subsection (j) of this section. Each licensed restaurant shall be charged an additional \$100 per year fee.

(m) The commissioner shall establish guidelines to permit wines to be sold in all stores licensed for retail sales.

(n) Wineries and farm wineries may advertise off premises as provided in §17-22-7 of this code.

(o) A licensed wine specialty shop under this article may also hold a wine sampling license authorizing the wine specialty shop to conduct special wine sampling events ~~at a licensed wine specialty shop~~ at its location during regular hours of business. The wine specialty shop may serve up to ~~three~~ six complimentary samples of wine, consisting of no more than ~~two~~ three fluid ounces each, to any one consumer ~~in one~~ per day. Persons serving the ~~complimentary~~ samples shall be 21 years of age or older and an authorized representative of the licensed wine specialty shop, winery, farm winery, or a representative of a distributor or registered supplier. Distributor and supplier representatives attending wine sampling events shall register with the commissioner. No licensee, employee, or representative may furnish, give, sell, or serve ~~complimentary~~ samples of wine to any person less than 21 years of age or to a person who is physically incapacitated due to the consumption of alcoholic liquor or the use of drugs. The wine specialty shop shall notify and secure permission from the commissioner for all wine sampling events 30 days prior to the event. Wine sampling events may not exceed six hours per calendar day. Licensees shall purchase all wines used during these events from a licensed farm winery or a licensed distributor.

(p) The commissioner may issue special one-day licenses to duly organized, nonprofit corporations and associations allowing the sale and serving of wine, and may, if applicable, also allow the charitable auctioning of certain sealed bottles of wine for off-premises consumption only, when raising money for athletic, charitable, educational, or religious purposes. "Auction or auctioning", for the purposes of this subsection, means any silent, physical act, or verbal bid auction, whether or not the auction requires in-presence bidding or online Internet-based electronic bidding through a secure application or website, but shall not include any action in violation of §47-20-10, §47-20-11, or §61-10-1 *et seq.* of this code. The license application shall contain information required by the commissioner and shall be submitted to the commissioner at least 30 days prior to the event. Accompanying the license application, the applicant shall submit a signed and notarized statement that at least 80 percent of the net proceeds from the charitable event will be donated directly to the nonprofit corporation or organization. Wines used during these events may be donated by, or purchased from, a licensed retailer, a distributor, winery, or a farm winery. A licensed winery or farm winery which is authorized in writing by a representative of the duly organized, nonprofit corporation or association which has obtained the one-day license; is in good standing with the state; and obtains the commissioner's approval prior to the one-day license event may, in conjunction with the one-day licensee, exhibit, conduct complimentary tastings, ~~or sell samples not to exceed three six, two three~~ fluid ounce tastings or samples per patron, sell wine by the glass or by the bottle, when consumed by the glass, for consumption ~~on the~~ on-premises during the operation of the one-day license event; and may sell certain sealed wine bottles manufactured by the licensed winery or farm winery for off-premises consumption: *Provided*, That for a licensed winery or farm winery at a licensed one-day event, the tastings, samples, on-premises sales, and off-premises sales of its wine shall occur under the hours of operation permitted by this article, except on Sunday, tastings, samples, on-premises sales, and off-premises sales of its wine are unlawful between the hours of 2:00 a.m. and 6:00 a.m., from the one-day licensee's submitted floor plan for the event subject to the requirements in the code and rules. Under no circumstances may the provisions of §60-8-20(c) or §60-8-20(f) of this code be waived nor may any exception be granted with respect to those subsections.

(q)(1) In addition to the authorization granted to licensed wineries and farm wineries in subsections (h) and (p) of this section, an unlicensed winery, regardless of its designation in another state, ~~but~~ that is duly licensed in its domicile state, may pay a \$150 nonrefundable and ~~nonprorated~~ non-prorated fee and submit an application for temporary licensure on a one-day basis for temporary sampling and sale of wine in sealed containers for off-premises consumption at a special one-day license nonprofit event.

(2) The application shall include, but is not limited to, the person or entity's name, address, taxpayer identification number, and location; a copy of its licensure in its domicile state; a signed and notarized verification that it produces 50,000 gallons or less of wine per year; a signed and notarized verification that it is in good standing with its domicile state; copies of its federal certificate of label approvals and certified lab alcohol analysis for the wines it desires to temporarily provide samples and temporarily sell wine in sealed containers for off-premises consumption at a special one-day license for a nonprofit event issued under subsection (p) of this section; and any other information as the commissioner may reasonably require; Provided, That the background investigation requirement set forth in §60-8-16 of this code is inapplicable to licenses authorized by this subdivision.

(3) The applicant winery shall include a list of all wines proposed to be temporarily sampled and temporarily sold by the glass or bottle, when consumed by the glass, for on-premises consumption or in sealed containers for off-premises consumption at a special one-day license for a nonprofit event so that the wines may be reviewed in the interest of public health and safety. Once approved, the submitted wine list creates a temporary wine brand registration for up to two special one-day licenses for a nonprofit event for no additional fee.

(4) An applicant winery that receives this temporary special one-day license for a nonprofit event shall provide the commissioner a signed and notarized written agreement acknowledging that the applicant winery understands its responsibility to pay all municipal, local, and sales taxes applicable to the sale of wine in West Virginia.

(5) An application must be submitted per for each special one-day license for a nonprofit event the applicant winery desires to attend, and the license fee shall cover up to two special one-day license licenses for nonprofit events before an additional fee ~~would be~~ is required. In no circumstance would the winery be permitted to attend more than four special one-day licensed events. Any applicant or unlicensed winery desiring to attend more than four special one-day license for nonprofit events per year or otherwise operate in West Virginia would need to seek appropriate licensure as a winery or a farm winery in this state.

(6) Notwithstanding the provisions of this article and requirements for licensure, wine brand registration, payment of wine liter tax, and the winery's appointment of suppliers and distributors, this temporary special one-day license for a nonprofit event, once granted, permits a winery to operate in this limited capacity only at the approved specific, special one-day license for a nonprofit event subject to the limitations contained in this section.

(7) The applicant winery shall also apply for and receive a transportation permit to legally transport wine in the state per §60-6-12 of this code.

(8) The applicant winery is subject to all applicable violations and/or penalties under this article and the legislative rules that are not otherwise excepted by this subsection: *Provided*, That the commissioner may by rule or order provide for certain waivers or exceptions with respect to the provisions, rules, or orders required by the circumstances of each ~~festival or fair~~ fair or festival. The commissioner may revoke or suspend any license issued pursuant to this article, prior to any notice or hearing.

(r) The commissioner may issue special licenses to heritage fairs and festivals allowing the sale, serving, and sampling of wine from a licensed farm winery. The license application shall contain information required by the commissioner and shall be submitted to the commissioner at least 30 days prior to the event. Wines used during these events may be donated by or purchased

from a licensed farm winery. Under no circumstances may the provision of §60-8-20(c) of this code be waived nor may any exception be granted with respect thereto. The commissioner shall propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code to implement the provisions of this subsection.

(s)(1) The commissioner may issue a special license for the retail sale of wine in a college or university stadium. A license to sell wine granted pursuant to this subsection entitles the licensee to sell and serve wine for consumption in a college or university stadium. For the purpose of this subsection, "college stadium" means a facility constructed primarily for the use of a Division I, II, or III college or university that is a member of the National Collegiate Athletic Association, or its successor, and used as a football, basketball, baseball, soccer, or other Division I, II, or III sports stadium. A special license issued pursuant to this subsection shall be for a term beginning on the date of its issuance and ending on the next following June 30, and its fee is \$250 regardless of the length of the term of the license. The application for the special license shall contain information required by the commissioner and must be submitted to the commissioner at least 30 days prior to the first day when wine is to be sold. The special license may be issued in the name of the National Collegiate Athletic Association Division I, II, or III college or university or the name of the primary food and beverage vendor under contract with that college or university. All sales must take place within the confines of the college or university stadium: *Provided*, That the exterior of the area where wine sales may occur shall be surrounded by a fence or other barrier prohibiting entry except upon the college or university's express permission, and under the conditions and restrictions established by the college or university, so that the wine sales area is closed to free and unrestricted entry by the general public.

(2) A license issued under this subsection and the licensee are subject to the other requirements of this article and the rules and orders of the commissioner relating to the special license: *Provided*, That the commissioner may by rule or order grant certain waivers or exceptions to those rules or orders as required by the circumstances of each the college or university stadium. The commissioner may revoke or immediately suspend any license issued pursuant to this section prior to any notice or hearing notwithstanding §60-8-27 and §60-8-28 of this code: *Provided, however*, That §60-8-20(c) or §60-8-20(d) of this code may not be waived, nor shall any exception be granted concerning those subsections.

(3) The commissioner may propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code to implement this subsection.

§60-8-6c. Winery and farm winery license to sell wine growlers and provide complimentary samples prior to purchasing a wine growler.

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

(b) *Sales of wine.* — A licensed winery or farm winery with its principal place of business and manufacture located in the State of West Virginia may, when licensed under this section, offer only wine manufactured by the licensed winery or farm winery for retail sale to customers from

the winery or farm winery's licensed premises for consumption ~~off of the licensed off-premises~~ only in the form of original container sealed wine kegs, wine bottles, or wine cans, or also a sealed wine growler for personal consumption, and not for resale. A licensed winery or farm winery may not sell, give, or furnish its wine for consumption on the premises of the principal place of business and manufacture located in the State of West Virginia, except for the limited purpose of ~~complimentary~~ samples as permitted in subsection (c) of this section, ~~or unless separately licensed for on-premises sales in accordance with §60-4-3b of this code, or for on-premises sales when separately licensed~~ as a private wine restaurant or a private manufacturer club.

(c) ~~Complimentary s~~ *Samples*. — A licensed winery or farm winery with its principal place of business and manufacture located in the State of West Virginia may offer ~~complimentary~~ samples of wine as set forth in §60-4-3b of this code.

(d) *Retail sales*. — Every licensed winery or farm winery under this section shall comply with all the provisions of this article as applicable to wine retailers when conducting wine growler sales and is subject to all applicable requirements and penalties in this article.

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

(f) *Advertising*. — A licensed winery or farm winery under this section may advertise a particular brand or brands of wine produced by the licensed winery or farm winery and the price of the wine subject to state and federal requirements or restrictions. The advertisement may not encourage intemperance or target minors.

(g) *Wine Growler defined*. — For purposes of this section and section §60-8-6d of the code, "wine growler" means a container or jug that is made of glass, ceramic, metal, or other material approved by the commissioner, that may be no larger than 128 fluid ounces in size and is capable of being securely sealed. The growler may be used by an authorized licensee for purposes of off-premises sales only of wine for personal consumption, and not for resale. The wine served and sold in a sealed wine growler may include ice or water mixed with the wine to create a frozen alcoholic beverage. Any frozen alcoholic beverage machine used for filling wine growlers shall be sanitized daily and shall be under control and served by the licensee from the secure area. Notwithstanding any other provision of this code to the contrary, a securely sealed wine growler is not an open container under state and local law. A wine growler with a broken seal is an open container under state and local law unless it is located in an area of the motor vehicle physically separated from the passenger compartment. For purpose of this article, a secure seal means using a tamper evident seal, such as: (1) A plastic heat shrink wrap band, strip, or sleeve extending around the cap or lid of wine growler to form a seal that ~~shall be~~ is broken when the container is opened; or (2) A screw top cap or lid that breaks apart when the wine growler is opened.

(h) *Wine Growler requirements*. — A winery or farm winery licensed under this section shall prevent patrons from accessing the secure area where the winery or farm winery fills a wine growler and prevent patrons from filling a wine growler. A licensed winery or farm winery under this section shall sanitize, fill, securely seal, and label any wine growler prior to its sale. A licensed winery or farm winery under this section may refill a wine growler subject to the requirements of this section. A winery or farm winery shall visually inspect any wine growler before filling or refilling

it. A winery or farm winery may not fill or refill any wine growler that appears to be cracked, broken, unsafe, or otherwise unfit to serve as a sealed beverage container.

(i) *Wine Growler labeling.* — A winery or farm winery licensed under this section selling wine growlers shall affix a conspicuous label on all sold and securely sealed wine growlers listing the name of the licensee selling the wine growler, the brand of the wine in the wine growler, the alcohol content by volume of the wine in the wine growler, and the date the wine growler was filled or refilled. All labeling on the wine growler shall be consistent with all federal labeling and warning requirements.

(j) *Wine Growler sanitation.* — A licensed winery or farm winery authorized under this section shall clean and sanitize all wine growlers it fills or refills in accordance with all state and county health requirements prior to its filling and sealing. In addition, the licensed winery or farm winery shall sanitize, in accordance with all state and county health requirements, all taps, tap lines, pipelines, barrel tubes, and any other related equipment used to fill or refill growlers. Failure to comply with this subsection may result in penalties under this article.

(k) *Fee.* — There is no additional fee for a licensed winery or farm winery authorized under this section to sell wine growlers, but the licensee shall meet all other requirements of this section.

(l) *Limitations on licensees.* — To be authorized under this section, a licensed winery or farm winery may not produce more than 10,000 gallons of wine per calendar year at the winery or farm winery's principal place of business and manufacture located in the State of West Virginia. A licensed winery or farm winery authorized under this section is subject to the applicable penalties under this article for violations of this section.

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

§60-8-8. Authorizing wineries and farm wineries to sell and serve wine at fairs and festivals.

All wineries and farm wineries also possessing a Class A wine license or private manufacturer club license may serve and sell wine as set forth in §60-4-3b and §60-8-3 of this code at any licensed fair or festival in the state of West Virginia, subject to the fair or festival licensee granting the winery or farm winery permission to do so in writing.

§60-8-32a. Where wine may be sold and consumed for on-premises consumption.

(a) With prior approval of the commissioner, a Class A wine licensee may sell, serve, and furnish wine for on premises consumption in a legally demarcated area which may include a temporary private wine outdoor dining area or a temporary private wine outdoor street dining area. A temporary private wine outdoor street area shall be approved by the municipal government or county commission in which the licensee operates. The commissioner shall develop and make available an application form to facilitate the purposes of this subsection.

(b) The Class A wine licensee shall submit to a municipality or county commission for the approval of the private wine outdoor dining area or private wine outdoor street dining area and submit to the municipality or county commission a revised floorplan requesting to sell wine, subject to the commissioner's requirements, in an approved and bounded outdoor area. For

private wine outdoor street dining or private wine outdoor dining the approved and bounded outdoor area need not be adjacent to the licensee's licensed premises, but in close proximity and under the licensee's control and with right of ingress and egress. For purposes of this section, "close proximity," means an available area within ~~450~~ 300 feet of the licensee's licensed premises.

(c) This private wine outdoor dining or private wine outdoor street dining may be operated in conjunction with a private outdoor dining or private outdoor street dining area set forth in §60-7-8d of this code, and nonintoxicating beer or nonintoxicating craft beer outdoor dining or outdoor street dining set forth in §11-16-9 of this code.

(d) For purposes of this section, "private wine outdoor dining and private wine outdoor street dining" include dining areas that are:

(1) Outside and not served by an HVAC system for air handling services and use outside air;

(2) Open to the air; and

(3) Not enclosed by fixed or temporary walls; however, the commissioner may seasonally approve a partial enclosure with up to three temporary or fixed walls.

Any areas where seating is incorporated inside a permanent building with ambient air through HVAC is not considered outdoor dining pursuant to this subsection.

(e) Class A licensees licensed for on-premises sales shall provide food, which may be pre-packaged food not requiring kitchen preparation, or a meal along with sealed wine in the original container or a sealed wine growler sales and service as set forth in this section and in §60-8-3 of this code, to a patron who is in-person or in-vehicle while picking up food and sealed wine in the original containers or sealed wine growlers ordered-to-go, subject to verification that the purchasing person is 21 years of age or older, and not visibly, or noticeably intoxicated, and as otherwise specified in this article.

(f) West Virginia farm wineries possessing a Class A license may serve and sell wine by the glass or by the bottle in accordance with §60-4-3b and §60-8-32a of this code.

ARTICLE 8A. MANUFACTURE AND SALE OF HARD CIDER.

§60-8A-5. Winery or farm winery licensee's authority to manufacture, sell, and provide ~~complimentary~~ samples; growler sales; advertisements; taxes; fees; rulemaking.

(a) Sales of hard cider. — A licensed winery or farm winery with its principal place of business or manufacturing facility located in the State of West Virginia may offer hard cider manufactured by the licensed winery or farm winery for retail sale to customers from the winery's or farm winery's licensed premises for consumption ~~off of the licensed~~ off-premises only in approved and registered hard cider kegs, bottles, or cans, or also sealed wine growlers for personal consumption and not for resale. A licensed winery or farm winery may not sell, give, or furnish hard cider for consumption on the premises of the principal place of business or manufacturing facility located in the State of West Virginia, except for the limited purpose of ~~complimentary~~ samples as permitted in subsection (b) of this section. "Wine Growler" has the meaning set forth in §60-8-6c(g) of this code. Customers may consume hard cider on-premises when an operator of a winery or farm winery is licensed as a private wine restaurant or a private manufacturer club.

(b) ~~Complimentary Samples.~~ — A licensed winery or farm winery with its principal place of business or manufacturing facility located in the State of West Virginia may offer ~~complimentary~~ samples of hard cider manufactured at the winery's or farm winery's principal place of business or manufacturing facility located in the State of West Virginia. The ~~complimentary~~ samples may be no greater than ~~two~~ three fluid ounces per sample per patron, and a sampling shall not exceed six complimentary ~~two~~ three fluid ounce samples per patron per day. A licensed winery or farm winery providing ~~complimentary~~ samples shall provide ~~complimentary~~ food, which may be pre-packaged food not requiring kitchen preparation, items to the patron consuming the ~~complimentary~~ samples; and prior to any sampling, verify, using proper identification, that the patron sampling is 21 years of age or older and that the patron is not noticeably or visibly intoxicated. The winery or farm winery is subject to the hours of operation set forth in §60-8-34 of this code.

(c) Retail sales. — Every licensed winery or farm winery under this section shall comply with all the provisions applicable to wine retailers when conducting sales of hard cider and is subject to all applicable requirements and penalties. A winery or a farm winery holding a private wine restaurant license or private manufacturer club license may offer for sale and service hard cider by the drink or glass or cider by the bottle when consumed by the glass on the property of the winery or farm winery. In the interest of promoting tourism throughout the state, every licensed winery or farm winery manufacturing cider in this state is authorized, with a limited off-site retail privilege at private fair and festivals, for off-premises consumption sales of ~~only~~ the winery or farm winery's sealed hard cider. At least five days prior to an approved private fair and festival, an authorized winery or farm winery shall provide a copy of a written agreement to sell only hard cider manufactured by the licensed winery or farm winery at the private fair and festival's licensed premises. If approved, an authorized winery or farm winery may conduct on-premises and off-premises consumption sales of their hard cider from a designated booth at the private fair and festival as set forth in §60-7-8a of this code. All authorized and approved wineries and farm wineries' on-premises and off-premises consumption sales of hard cider shall comply with all retail requirements in §60-8-1 *et seq.* of this code and §60-8A-1 *et seq.* of this code, and specifically with respect to all markups, taxes, and fees. Additionally, an authorized winery or farm winery may provide, sell, and serve hard cider samples in the amounts set forth in subsection(b) of this section, hard cider by the glass or drink, or hard cider by the bottle when consumed by the glass of its hard cider for on-premises consumption to patrons who are 21 years of age and older and who are not intoxicated.

(d) Payment of taxes and fees. — A licensed winery or farm winery under this section shall pay all taxes and fees required of licensed wine retailers, in addition to any other taxes and fees required, and meet applicable licensing provisions as required by law and by rule of the commissioner.

(e) Advertising. — A licensed winery or farm winery may advertise a particular brand or brands of hard cider produced by the licensed winery or farm winery and the price of the hard cider subject to state and federal requirements or restrictions. The advertisement may not encourage intemperance or target minors.

(f) Growler requirements. — A licensed winery or farm winery, if offering wine growler filling services, shall meet the filling, labeling, sanitation, and all other wine growler requirements in §60-8-6c of this code.

(g) Fee. — There is no additional fee for a licensed winery or farm winery authorized under §60-8-6c of this code, to sell wine growlers, if a winery or farm winery only desires to sell hard

cider in the wine growler, and no other wine, then the annual non-prorated and nonrefundable license fee is \$50.

Senator Smith 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 Smith would be as a member of a class of persons and that he would be required to vote.

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

Engrossed Committee Substitute for House Bill 5294, as just amended, was then put upon its passage.

On the passage of the bill, the yeas were: Barrett, Boley, Caputo, Chapman, Clements, Jeffries, Maroney, Nelson, Oliverio, Phillips, Plymale, Queen, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—24.

The nays were: Azinger, Deeds, Grady, Hamilton, Hunt, Karnes, Martin, Maynard, Roberts, and Smith—10.

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. 5294) passed.

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

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

Eng. Com. Sub. for House Bill 5294—A Bill to amend and reenact the provisions of §11-16-6a and §11-16-11a of the Code of West Virginia, as amended; to amend and reenact §60-3A-3a of said code; to amend and reenact §60-4-3a and §60-4-3b; to amend and reenact §60-6-1 of said code; to amend and reenact §60-7-2, §60-7-8a, and §60-7-8d of said code; to amend and reenact §60-8-2, §60-8-3, §60-8-6c, and to amend said code by adding thereto a new section designated §60-8-8; to amend and reenact §60-8-32a of said code and to amend and reenact §60-8A-5 of said code all relating to alcoholic liquors and non-intoxicating beer generally; removing requirement that certain samples must be complimentary; allowing on-premises consumption of alcoholic beverages at wineries, farm wineries, distilleries, mini distilleries, micro distilleries, brewers or resident brewers under specified conditions; increasing number of samples per patron per day; allowing licensed alcohol representatives to purchase West Virginia product for approved sampling events; modifying sample sizes; authorizing alcohol manufacturers to attend private fairs and festivals, wine festivals, and one day charitable events and sell their manufactured alcohol by the drink or glass for on-premises consumption or by the bottle off-premises consumption; clarifying that certain alcohol manufacturers may sell sealed bottles for off-premises consumption; modifying definition of close proximity to 300 feet; removing the ability of political subdivisions to regulate certain conduct of alcohol manufacturers and wine, wineries

and farm wineries; removing private manufacturer club licensees 15 hours per week food service requirement; authorizing simultaneous dual licensing in some circumstances; allowing sale and serving of alcohol, wine, nonintoxicating beer, nonintoxicating craft beer and cider in various types of containers, including glasses and bottles by specified licensees on specified premises; authorizing Class B retail licensees to conduct nonintoxicating beer and liquor sampling events; modifying sample sizes for Class A retail licenses and Class B retail licenses; authorizing licensed brewers and resident brewers to enter into alternating partnership agreements; providing that wineries or farm wineries possessing certain licenses are not subject to the food requirements for private wine restaurants; authorizing licensed representatives to purchase bottles for Class A retail licenses and Class B retail licenses who conduct events; permitting licensed representatives to serve samples; providing for market zone calculations; allowing Class A wine licensees to serve food that does not require kitchen preparation; allowing wineries or farm wineries providing hard cider samples to serve food that does not require kitchen preparation; and exempting out of state wineries requesting a temporary license from background investigation requirements.

Senator Takubo moved that the bill take effect May 1, 2024.

On this question, the yeas were: Barrett, Boley, Caputo, Chapman, Clements, Jeffries, Maroney, Nelson, Oliverio, Phillips, Plymale, Queen, Rucker, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—24.

The nays were: Azinger, Deeds, Grady, Hamilton, Hunt, Karnes, Martin, Maynard, Roberts, and Smith—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. 5294) takes effect May 1, 2024.

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 5617, Authorizing the Public Service Commission to promulgate rules for maintenance, flushing, flow testing, and marking of fire hydrants owned by water utilities.

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

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Maroney—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. Com. Sub. for H. B. 5617) passed with its title.

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

Eng. House Bill 5632, Relating generally to West Virginia Real Estate License Act.

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

On the passage of the bill, the yeas were: Azinger, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, Weld, Woelfel, Woodrum, and Blair (Mr. President)—33.

The nays were: None.

Absent: Maroney—1.

So, a majority of all the members present and voting having voted in the affirmative, the President declared the bill (Eng. H. B. 5632) passed with its title.

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

Eng. House Bill 5696, Relating to the upper Ohio Valley Trail Network.

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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, 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. 5696) passed with its title.

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

Eng. House Bill 5697, Relating to public charter schools code provisions.

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, Barrett, Boley, Caputo, Chapman, Clements, Deeds, Grady, Hamilton, Hunt, Jeffries, Karnes, Maroney, Martin, Maynard, Nelson, Oliverio, Phillips, Plymale, Queen, Roberts, Rucker, Smith, Stover, Stuart, Swope, Takubo, Tarr, Taylor, Trump, 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. 5697) passed with its title.

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

Pending announcement of meetings of standing committees of the Senate, including the Committee on Rules,

On motion of Senator Takubo, at 12:34 p.m., the Senate recessed until 4 p.m. today.

The Senate reconvened at 5:16 p.m. and proceeded to the ninth order of business.

Eng. Com. Sub. for House Bill 4190, Relating to the establishment of an alert system for missing cognitively impaired persons.

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

3A. AMBER ALERT PLAN.

§15-3A-7. Providing for the use of video image recording devices for search purposes during an Amber Alert-~~or~~, Silver Alert, or Purple Alert Activation.

(a) The State Police and the Division of Highways shall coordinate a process to utilize all available video recording and monitoring devices for the purpose of monitoring Amber Alert-~~or~~, Silver, or Purple Alert suspect vehicles. This program shall be called the "Guardian Angel Video Monitoring" Program.

(b) ~~The Secretary of Military Affairs and Public Safety~~ the Department of Homeland Security shall also develop a plan to provide for the State Police to monitor and ~~utilize~~ use video recording and monitoring devices during an Amber Alert-~~or~~, Silver Alert, or Purple Alert. This "Guardian Angel Video Monitoring" implementation plan shall include at a minimum, the following:

(1) ~~Utilization~~ Use of any state or local video recording and monitoring devices upon agreement with the department, agency, or political subdivision in control of the video recording device; and,

(2) Development of policies and initiatives relating to facilitating sharing of information with neighboring states ~~wherein~~ in which suspect vehicles in Amber Alerts-~~or~~, Silver Alerts, or Purple Alerts may be crossing state lines.

(c) The secretary shall ~~submit the plan to the Joint Committee on Government and Finance no later than December 1, 2008~~ develop a plan for implementation no later than July 1, 2025. The plan shall include an analysis of all related costs for equipping and using a statewide video recording and monitoring system during the duration of an Amber Alert, Silver Alert, or Purple Alert, and recommendations for any additional legislation or actions necessary to further facilitate the implementation of the "Guardian Angel Video Monitoring" program.

ARTICLE 3B. SILVER ALERT PLAN.

§15-3B-2. Findings and declarations relative to "Silver Alert Plan".

(a) The Legislature finds that:

(1) Public alerts can be one of the most effective tools in locating ~~missing cognitively impaired persons or~~ senior citizens;

(2) Law-enforcement officers and other professionals specializing in the field of missing persons agree that the most critical moments in the search for a missing person are the first few hours immediately following the discovery that the individual is missing, asserting that if he or she is not found within ~~twenty-four~~ 24 hours, it is unlikely that he or she will be found alive or without serious injury. The rapid dissemination of information, including a description of the missing ~~cognitively impaired person or~~ senior citizen, details of how he or she became missing, and of any vehicle involved, to the citizens of the affected community and region is, therefore, critical;

(3) Alerted to the situation, the citizenry become an extensive network of eyes and ears serving to assist law enforcement in quickly locating and safely recovering a missing ~~cognitively impaired person or~~ senior citizen;

(4) The most effective method of immediately notifying the public of a missing ~~cognitively impaired person or~~ senior citizen is through the broadcast media; and

(5) All forms of developing technologies are required to assist law enforcement in rapidly responding to these alerts and are an additional tool for assuring the well-being and safety of our ~~cognitively impaired~~ senior citizenry. Thus, the use of traffic video recording and monitoring devices for the purpose of surveillance of a suspect vehicle adds yet another set of eyes to assist law enforcement and aid in the safe recovery of the ~~cognitively impaired person or~~ senior citizen.

(b) The Legislature declares that given the successes other states and regions have experienced in using broadcast media alerts to quickly locate and safely recover missing persons, and, with the recent development of highway video recording and monitoring systems, it is altogether fitting and proper, and within the public interest, to establish these programs for West Virginia.

§15-3B-3. Establishment of "Silver Alert" program.

(a) The Secretary of the Department of ~~Military Affairs and Public Safety~~ Homeland Security shall establish a "Silver Alert" program authorizing the broadcast media, upon notice from the State Police, to broadcast an alert to inform the public of a missing ~~cognitively impaired person or a missing~~ senior citizen, subject to the criteria established in section four of this article. The program shall be a voluntary, cooperative effort between state law-enforcement and the broadcast media.

(b) As used in this article:

(1) ~~"Cognitively impaired" means a person having a deficiency in his or her short-term or long-term memory, orientation as to person, place, and time, deductive or abstract reasoning, or judgment as it relates to safety. *Provided*, That the cognitive impairment is not caused by the use of alcohol or drugs not legally prescribed by a physician; and~~

(2) ~~"Senior citizen" means a person over sixty-five~~ 65 years of age.

(c) The secretary shall notify the broadcast media serving the State of West Virginia of the establishment of "Silver Alert" program and invite their voluntary participation.

~~(d) The secretary shall submit a plan to the Joint Committee on Government and Finance no later than December 1, 2009. The plan shall include "Silver Alert" activation protocols, evaluation of first responder training requirements and needs as related to cognitively impaired persons and senior citizens, coordination and utilization of established programs and analysis of any costs. The secretary shall also make recommendations for any additional legislation or actions necessary to further facilitate the implementation of the "Silver Alert" program.~~

§15-3B-4. Activation of Silver Alert.

The following criteria shall be met before the State Police activate the Silver Alert:

- (1) The person is ~~believed to be cognitively impaired~~ or is a senior citizen;
- (2) The person is believed to be missing, regardless of circumstance;
- (3) A person who has knowledge that the person is missing has submitted a missing person's report to the State Police or other appropriate law-enforcement agency;
- (4) The missing person may be in danger of death or serious bodily injury;
- (5) The missing person is domiciled or believed to be located in the State of West Virginia;
- (6) The missing person is, or is believed to be, at a location that cannot be determined by an individual familiar with the missing person, and the missing person is incapable of returning to the missing person's residence without assistance; and
- (7) There is sufficient information available to indicate that a Silver Alert would assist in locating the missing person.

§15-3B-6. Aid to missing ~~cognitively impaired adult~~ or senior citizen; immunity from civil or criminal liability.

~~No~~A person or entity who in good faith follows and abides by the provisions of this article is not liable for any civil or criminal penalty as the result of any act or omission in the furtherance thereof unless it is alleged and proven that the information disclosed was false and disclosed with the knowledge that the information was false.

ARTICLE 3F. PURPLE ALERT PLAN.

§15-3F-1. Short Title.

This article shall be known and may be cited as the "Purple Alert Plan".

§15-3F-2. Findings and declarations relative to "Purple Alert Plan".

- (a) The Legislature finds that:
 - (1) Public alerts can be one of the most effective tools in locating a missing person who has a cognitive impairment;

(2) Law-enforcement officers and other professionals, specializing in the field of missing persons, agree that the most critical moments in the search for a missing person are the first few hours immediately following the discovery that the individual is missing, asserting that if he or she is not found within 24 hours, it is unlikely that he or she will be found alive or without serious injury. The rapid dissemination of information, including a description of the missing cognitively impaired person, details of how he or she became missing, and of any vehicle involved, to the citizens of the affected community and region is, therefore, critical;

(3) Alerted to the situation, the citizenry become an extensive network of eyes and ears serving to assist law enforcement in quickly locating and safely recovering a missing person who has a cognitive impairment;

(4) The most effective method of immediately notifying the public of a missing person who has a cognitive impairment is through the broadcast media: and

(5) All forms of developing technologies are required to assist law enforcement in rapidly responding to these alerts and are an additional tool for assuring the well-being and safety of our cognitively impaired citizenry. Thus, the use of traffic video recording and monitoring devices for the purpose of surveillance of a suspect vehicle adds yet another set of eyes to assist law enforcement and aid in the safe recovery of the cognitively impaired person.

(b) The Legislature declares that given the successes other states and regions have experienced in using broadcast media alerts to quickly locate and safely recover missing persons, and, with the recent development of highway video recording and monitoring systems, it is altogether fitting and proper, and within the public interest, to establish these programs for West Virginia.

§15-3F-3. Definition of Cognitive Impairment

For the purposes of this article, "cognitive impairment" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgement, behavior, or the ability to live independently or provide self-care, and includes but is not limited to:

- (1) Alzheimer's disease or other related dementias;
- (2) An intellectual or developmental disability;
- (3) A brain injury; or
- (4) Another mental disability not related to substance abuse.

§15-3F-4. Establishment of "Purple Alert" program.

(a) The Secretary of the Department of Homeland Security shall establish a "Purple Alert" program authorizing the broadcast media, upon notice from the State Police, to broadcast an alert to inform the public of a missing person who has a cognitive impairment;

(b) The Secretary shall notify the broadcast media serving the State of West Virginia of the establishment of the "Purple Alert" program and invite their voluntary participation.

(c) The Secretary shall develop a plan for implementation no later than July 1, 2025. The plan shall include "Purple Alert" activation protocols, evaluation of first responder training requirements and needs as related to a cognitively impaired person, coordination and use of established programs, and analysis of any costs. The Secretary shall also make recommendations for any additional legislation or actions necessary to further facilitate the implementation of the "Purple Alert" program.

§15-3F-5. Activation of Purple Alert.

The following criteria shall be met before the State Police activate the Purple Alert:

(1) The person is believed to have a cognitive impairment;

(2) The person is believed to be missing, regardless of circumstance;

(3) An individual who has knowledge that the person is missing has submitted a missing person's report to the State Police or other appropriate law-enforcement agency;

(4) The missing person may be in danger of death or serious bodily injury;

(5) The missing person is domiciled or believed to be located in the State of West Virginia;

(6) The missing person is, or is believed to be, at a location that cannot be determined by an individual familiar with the missing person, and the missing person is incapable of returning to his or her residence without assistance;

(7) There is sufficient information available to indicate that a Purple Alert would assist in locating the missing person; and

(8) The missing cognitively impaired person does not qualify for a Silver Alert or a Missing Endangered Child Alert.

§15-3F-6. Notice to participating media; broadcast of alert.

(a) To participate, the media may agree, upon notice from the State Police via email or facsimile, to transmit information to the public about a missing cognitively impaired person that has occurred within their broadcast service region.

(b) The alerts shall include a description of the missing person, any known details of the circumstances surrounding the person becoming missing, and any other information as the State Police may consider pertinent and appropriate. The State Police shall in a timely manner update the broadcast media with new information when appropriate concerning the missing cognitively impaired person.

(c) The alerts also shall provide information concerning how those members of the public who have information relating to the missing cognitively impaired person may contact the State Police or other appropriate law-enforcement agency.

(d) Concurrent with the notice provided to the broadcast media, the State Police shall also notify the Department of Transportation, the Division of Highways, and the West Virginia Turnpike Commission of the "Purple Alert" so that the department and the affected authorities may, if

possible, through the use of their variable message signs, inform the motoring public that a "Purple Alert" is in progress. The department and the affected authorities may provide information relating to the missing cognitively impaired person and information on how motorists may report any information they have to the State Police or other appropriate law-enforcement agency.

(e) The alerts shall terminate upon notice from the State Police.

(f) The Secretary shall develop and undertake a campaign to inform law-enforcement agencies about the "Purple Alert" program established under this article.

§15-3F-7. Immunity from civil or criminal liability.

A person or entity who in good faith follows and abides by the provisions of this article is not liable for any civil or criminal penalty as the result of any act or omission in the furtherance thereof, unless it is alleged and proven that the information disclosed was false and disclosed with the knowledge that the information was false

The bill (Eng. Com. Sub. for H. B. 4190), as amended, was then ordered to third reading.

Eng. House Bill 4292, Providing for enhanced damages for non-payment of royalties due from oil, natural gas, or natural gas liquids production.

On second 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 4305, Relating to granting in-state resident status to economic development participants.

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

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

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

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

§18B-10-1d. Resident tuition rates for economic development participants.

(a) The term "resident" or "residency", or any other term or expression used to designate a West Virginia resident student, when used to determine the rate of tuition to be charged students attending state institutions of higher education, may be construed to include economic development participants.

(b) To meet the definition of "economic development participant" under this section, the following criteria must be met:

(1) The person or the person's parent or legal guardian received economic development incentives to locate to West Virginia, offered pursuant to §5B-2-3b of this code; and

(2) The person files with that institution of higher education a letter of intent to establish 0 residency in this state.

(c) An economic development participant who qualifies as a resident on the first day of the semester or term of the institution of higher education may be charged resident tuition rates.

The bill (Eng. H. B. 4305), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4552, To ensure party affiliation is consistent with candidate's voter registration.

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 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

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

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

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

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

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

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

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

until 11:59 p.m. The offices of the County Clerk in all counties of the state shall be open on that final day of a political filing period from 9:00 a.m. until 12:00 p.m.

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

(1) The date of the election in which the candidate seeks to appear on the ballot;

(2) The name of the office sought; the district, if any; and the division, if any;

(3) The legal name of the candidate and the exact name the candidate desires to appear on the ballot, subject to limitations prescribed in §3-5-13 of this code;

(4) The county of residence and a statement that the candidate is a legally qualified voter of that county; and the magisterial district of residence for candidates elected from magisterial districts or under magisterial district limitations;

(5) The specific address designating the location at which the candidate resides at the time of filing, including number and street or rural route and box number and city, state, and zip code;

(6) For partisan elections, the name of the candidate's political party on the date the certificate of announcement is submitted and a statement that the candidate: (A) Is a member of and affiliated with that political party as evidenced by the candidate's current registration as a voter affiliated with that party; and (B) has not been registered as a voter affiliated with any other political party for a period of 60 days before the date of filing the announcement;

(7) For candidates for delegate to national convention, the name of the presidential candidate to be listed on the ballot as the preference of the candidate on the first convention ballot; or a statement that the candidate prefers to remain "uncommitted";

(8) A statement that the person filing the certificate of announcement is a candidate for the office in good faith;

(9) The words "subscribed and sworn to before me this _____ day of _____, 20____" and a space for the signature of the officer giving the oath.

(e) The Secretary of State or the board of ballot commissioners, as the case may be, may refuse to certify the candidacy or may remove the certification of the candidacy upon receipt of a certified copy of the voter's registration record of the candidate showing that the candidate was registered as a voter in a party other than the one named in the certificate of announcement during the 60 days immediately preceding the filing of the certificate: *Provided*, That unless a signed formal complaint of violation of this section and the certified copy of the voter's registration record of the candidate are filed with the officer receiving that candidate's certificate of announcement no later than 10 days following the close of the filing period, the candidate may not be refused certification for this reason: *Provided, however*, That prior to accepting a Certificate of Announcement for filing for an office which is elected in a partisan election, the Secretary of State's Office, clerk of the county commission, recorder or city clerk shall electronically verify a candidate's current party affiliation as subscribed and sworn to by the candidate. If a candidate's current party affiliation is not as stated on the Certificate of Announcement, the filing shall be refused.

(f) The certificate of announcement shall be subscribed and sworn to by the candidate before some officer qualified to administer oaths, who shall certify the same. Any person who knowingly provides false information on the certificate is guilty of false swearing and shall be punished in accordance with §3-9-3 of this code.

(g) Any candidate for delegate to a national convention may change his or her statement of presidential preference by notifying the Secretary of State by letter received by the Secretary of State no later than the third Tuesday following the close of candidate filing. When the rules of the political party allow each presidential candidate to approve or reject candidates for delegate to convention who may appear on the ballot as committed to that presidential candidate, the presidential candidate or the candidate's committee on his or her behalf may file a list of approved or rejected candidates for delegate and the Secretary of State shall list as "uncommitted" any candidate for delegate who is disapproved by the presidential candidate.

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

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

(j) The amendments to this section enacted by the Legislature in the 2024 Regular Session are effective January 1, 2025.

The bill (Eng. Com. Sub. for H. B. 4552), as amended, was then ordered to third reading.

Eng. House Bill 4721, Require Surveyors to offer to record surveys of property.

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:

ARTICLE 13A. LAND SURVEYORS.

§30-13A-10. Scope of Practice.

(a) A licensee may measure a parcel of land and ascertain its boundaries, corners and contents or make any other authoritative measurements and, in the case of measuring a parcel of land, the licensee shall offer to record the map or plat of the measurements of the survey, for a reasonable fee, for the landowner, in the office of the clerk of the county commission of the county in which the land is located. The practice of surveying can be any of the following, but not limited to:

(1) The performance of a boundary, cadastral, construction, geodetic control, hydrographic, land, mortgage/loan inspection, oil or gas well, partition, photogrammetry, retracement, subdivision or surface mine survey; or

(2) The location, relocation, establishment, reestablishment, laying out or retracement of any property line or boundary of any parcel of land or of any road or utility right-of-way, easement, strip or alignment or elevation of any fixed works by a licensed surveyor.

(b) Activities that must be performed under the responsible charge of a professional surveyor, unless specifically exempted in subsection (c) of this section, include, but are not limited to, the following:

(1) The creation of maps and georeferenced databases representing authoritative locations for boundaries, the location of fixed works, or topography;

(2) Maps and georeferenced databases prepared by any person, firm, or government agency where that data is provided to the public as a survey product;

(3) Original data acquisition, or the resolution of conflicts between multiple data sources, when used for the authoritative location of features within the following data themes: Geodetic control, orthoimagery, elevation and hydrographic, fixed works, private and public boundaries, and cadastral information;

(4) Certification of positional accuracy of maps or measured survey data;

(5) Adjustment or authoritative interpretation of raw survey data;

(6) Geographic Information System (GIS) - based parcel or cadastral mapping used for authoritative boundary definition purposes wherein land title or development rights for individual parcels are, or may be, affected;

(7) Authoritative interpretation of maps, deeds, or other land title documents to resolve conflicting data elements;

(8) Acquisition of field data required to authoritatively position fixed works or cadastral data relative to geodetic control; and

(9) Analysis, adjustment or transformation of cadastral data of the parcel layer(s) with respect to the geodetic control layer within a GIS resulting in the affirmation of positional accuracy.

(c) The following items are not included as activities within the practice of surveying:

(1) The creation of general maps:

(A) Prepared by private firms or government agencies for use as guides to motorists, boaters, aviators, or pedestrians;

(B) Prepared for publication in a gazetteer or atlas as an educational tool or reference publication;

(C) Prepared for or by education institutions for use in the curriculum of any course of study;

(D) Produced by any electronic or print media firm as an illustrative guide to the geographic location of any event; or

(E) Prepared by laypersons for conversational or illustrative purposes. This includes advertising material and users guides.

(2) The transcription of previously georeferenced data into a GIS or LIS by manual or electronic means, and the maintenance thereof, provided the data are clearly not intended to indicate the authoritative location of property boundaries, the precise definition of the shape or contour of the earth, and/or the precise location of fixed works of humans.

(3) The transcription of public record data, without modification except for graphical purposes, into a GIS- or LIS-based cadastre (tax maps and associated records) by manual or electronic means, and the maintenance of that cadastre, provided the data are clearly not intended to authoritatively represent property boundaries. This includes tax maps and zoning maps.

(4) The preparation of any document by any federal government agency that does not define real property boundaries. This includes civilian and military versions of quadrangle topographic maps, military maps, satellite imagery, and other such documents.

(5) The incorporation or use of documents or databases prepared by any federal agency into a GIS/LIS, including but not limited to federal census and demographic data, quadrangle topographic maps, and military maps.

(6) Inventory maps and databases created by any organization, in either hard-copy or electronic form, of physical features, facilities, or infrastructure that are wholly contained within properties to which they have rights or for which they have management responsibility. The distribution of these maps and/or databases outside the organization must contain appropriate metadata describing, at a minimum, the accuracy, method of compilation, data source(s) and date(s), and disclaimers of use clearly indicating that the data are not intended to be used as a survey product.

(7) Maps and databases depicting the distribution of natural resources or phenomena prepared by foresters, geologists, soil scientists, geophysicists, biologists, archeologists, historians, or other persons qualified to document such data.

(8) Maps and georeferenced databases depicting physical features and events prepared by any government agency where the access to that data is restricted by statute. This includes georeferenced data generated by law enforcement agencies involving crime statistics and criminal activities.

On motion of Senator Woodrum, the following amendment to the Government Organization committee amendment to the bill (Eng. H. B. 4721) was reported by the Clerk and adopted:

On page 1, section 10, line 4, by striking out the words "land owner" and inserting in lieu thereof the word "client".

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. H. B. 4721), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4812, Capping amount of moneys to third party vendors who collect business and occupation taxes on behalf of cities.

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

Eng. House Bill 4822, Creating the Certified Sites and Development Readiness Program.

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

Eng. Com. Sub. for House Bill 4829, Relating to employment of service personnel and removing the requirement for a high school diploma or general education development certificate.

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

The following amendments to the bill, from the Committee on Education, were reported by the Clerk, considered simultaneously, and adopted:

On page 1, section 5, line 10, by striking out the word "section" and inserting in lieu thereof the word "paragraph";

And,

On page 1, section 5, line 11, by striking out the word "custodians".

The bill (Eng. Com. Sub. for H. B. 4829), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4851, To allow for public and private schools in West Virginia to employ security personnel.

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 5. COUNTY BOARD OF EDUCATION.

§18-5-51. Public school West Virginia Guardian Program.

(a) Purpose. — County boards of education may contract with an independent contractor who is an honorably discharged veteran, former state trooper, former municipal police officer, former deputy sheriff, or former federal law-enforcement officer to provide West Virginia Guardian services as that term is defined in this section. The purpose of the contract is to provide public safety and/or security on public school grounds and buildings. Any county board of education may contract with as many independent contractors as the county school board considers necessary.

(b) Definitions. — For purposes of this section, the following words have the following meanings:

"Contract" means an agreement between a county board of education and an independent contractor relating to the procurement of public safety or security services.

"County school board" means the same as that term is used in §18-5-1 et seq. of this code.

"Independent contractor" means the same as that term is used in §21-5I-4 of this code.

"Public safety or security" means the protection of students, faculty, and staff of a public school from violence, bullying, theft, substance abuse, the sale or use of illegal substances, exposure to weapons, and threats on school grounds.

"Former deputy sheriff" means the same as that term is used in §7-14C-1 of this code, but who has retired from service.

"Former municipal police officer" means an individual previously employed as a member of a police department by a West Virginia municipality or municipal subdivision, and who has retired from service;

"Former state trooper" means a state police officer employed pursuant to the provisions of §15-2-1 et seq. of this code, and who has retired pursuant to the provisions of §15-2-27 of this code.

"Former federal law-enforcement officer" means a federal law-enforcement officer employed pursuant to the provisions of §15-10-5(b) of this code, who was classified as an 1811 Investigator, and who has retired from service.

"Honorably discharged veteran" means an honorably discharged veteran of the armed forces of the United States, reserve, or National Guard.

"West Virginia Guardian" means an independent contractor under contract to a county school board for the purposes of providing public safety and/or security on school grounds. Persons contracted to provide these services shall include an honorably discharged veteran, a former state trooper, a former municipal police officer, a former deputy sheriff, or a former federal law-enforcement officer. A West Virginia Guardian is considered an authorized individual for purposes of the Gun-Free School Zones Act of 1990, 18 U.S.C. §921 and §922.

(c) Authority. — Notwithstanding the provisions of §61-7-11a of this code or any applicable rule, an independent contractor acting as a West Virginia Guardian may carry a concealed weapon upon meeting all the requirements of this section. A West Virginia Guardian is not law enforcement and may not arrest. They are to provide public safety and security to protect life and property as set forth in this section, including, but not limited to, detention of individuals as may be necessary pending the arrival of law enforcement.

(d) Requirements for participation. — Prior to entering into a contract with a West Virginia Guardian, the county school board shall require an applicant to provide proof that he or she:

(1) Is a citizen of the United States and a resident of the state of West Virginia;

(2) Has received a high school diploma or a General Educational Development diploma known as a GED;

(3) Has met and passed all the requirements for a concealed carry permit as set forth in §61-7-4 of this code;

(4) Has completed and passed all the following training courses and examinations:

(A) The Law Enforcement Professional Standards program at the West Virginia State Police. The cost of this program shall be paid by the independent contractor;

(B) A fitness for duty examination that shall include a physical examination, vision examination, a psychiatric examination, and a pre-employment drug screen. The cost of these each shall be paid by the independent contractor; and

(C) A firearm and less than lethal use of force course. To maintain firearm proficiency, the independent contractor must complete yearly training in firearm and less than lethal use of force course.

(5) Has either been honorably discharged from the United States armed services or is retired from his or her employment as a state trooper, municipal police officer, deputy sheriff, or federal law-enforcement officer;

(6) Is current in any obligation, including taxes, to the state of West Virginia; and

(7) Any other requirements imposed by the county school board which may include, but are not limited to, a pre-employment written examination and a pre-employment polygraph exam. A county school board may also require an independent contractor to carry appropriate liability insurance at his or her expense.

(e) Exclusions from participation. — Any of the following shall preclude an independent contractor from participation as a West Virginia Guardian:

(1) A dishonorable or less than honorable discharge from the United States armed services;

(2) Having not retired from service as a state trooper, municipal police officer, or deputy sheriff;

(3) Having not retired from service as a federal law-enforcement officer;

(4) Credible evidence of illegal drug use by the independent contractor in the preceding five-year period;

(5) A disqualifying criminal offense, which shall include, but is not limited to:

(A) Domestic violence as set forth in §61-2-28 of this code;

(B) Driving under the influence as set forth in §17C-5-2 of this code;

(C) Child abuse as set forth in §61-8D-1 et seq. of this code; or

(D) Unlawful manufacture, delivery, or possession with intent to deliver any controlled substance as set forth in §60A-4-1 et seq. of this code; or

(E) Any other misdemeanor or felony conviction deemed exclusionary for contracting with the independent contractor by the county school board.

(f) *Liability.* — A county school board may not be held civilly liable or be criminally prosecuted for any action of a West Virginia Guardian acting within the scope of the duties for which their services were contracted unless the county school board can be shown to be grossly negligent or committed willful misconduct.

(g) *Miscellaneous.* —

(1) In contracting for the services set forth in this section, county school boards are not subject to the purchasing requirements set forth in §5A-3-1 et seq. of this code.

(2) Nothing in this section requires a county board of education to contract with a West Virginia Guardian. Participation by a county of board of education is voluntary and subject to the availability of county funds. Any county board of education that opts to participate shall do so at its own expense. The provisions of this section place no obligation for the state to appropriate money for the purposes set forth in this section.

(3) As an independent contractor, a West Virginia Guardian is not eligible for participation in the public employee insurance plan, workers' compensation, additional state retirement credited to employment as a West Virginia Guardian, or any other state-sponsored or state-offered benefit plan.

The bill (Eng. Com. Sub. for H. B. 4851), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4867, Require pornography websites to utilize age verification methods to prevent minors from accessing content.

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 49A. CHILD ONLINE PROTECTION AND LIABILITY.

ARTICLE 1. LIABILITY FOR PUBLISHERS AND DISTRIBUTORS OF SEXUAL MATERIAL HARMFUL TO MINORS.

§49A-1-101. Definitions.

As used in this chapter:

"Application" means, as used in this section, a computer software program designed to run on a smartphone, computer tablet, mobile device, smart television, laptop, desktop, or other application enabled devices.

"Commercial entity" includes a for-profit or non-profit corporation, limited liability company, partnership, limited partnership, sole proprietorship, or other legally recognized entity.

"Digital identification" means information stored on a digital network that may be accessed by a commercial entity and that serves as proof of the identity of an individual. It includes, but is not limited to, the West Virginia Mobile ID.

"Distribute" means to issue, sell, give, provide, deliver, transfer, transmute, circulate, or disseminate by any means.

"Intentionally" means conduct that is willfully engaged and the consequences of such conduct results in a violation of this article.

"Internet" means the international computer network of both federal and non-federal interoperable packet switched data networks.

"Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware by documentation or action that the person's conduct is of that nature or that the circumstance exists.

"Minor" means any person under 18 years old.

"News-gathering organization" means any of the following:

(1) an employee of a newspaper, news publication, or news source, printed or on an online or mobile platform, of current news and public interest, while operating as an employee as provided in this subsection, who can provide documentation of employment with the newspaper, news publication, or news source; or

(2) an employee of a radio broadcast station, television broadcast station, cable television operator, or wire service while operating as an employee as provided in this subsection, who can provide documentation of employment.

"Personally identifiable information" means any information about an individual maintained by an agency, including:

(1) any information that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; and

(2) any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information.

"Publish" means to communicate or make information available to another person or entity on a publicly available Internet website or application.

"Sexual conduct" means actual or explicitly simulated acts of masturbation, sexual intercourse, or physical contact in an act of apparent sexual stimulation or gratification with a person's clothed or unclothed genitals, pubic area, buttocks, or breast.

"Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

"Sexual material harmful to minors" means any description or representation of sexual conduct or sexual excitement when it:

(1) appeals to the prurient, shameful, or morbid interest to minors;

(2) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

(3) is, when taken, as a whole, lacking in serious literary, artistic, political, or scientific value for minors.

"Substantial portion" means more than 33-1/3% of total material on a website or application which meets the definition of "sexual material harmful to minors" as defined in this section.

"Transactional data" means a sequence of information that documents an exchange, agreement, or transfer between an individual, commercial entity, or third party used for the purpose of satisfying a request or event. Transactional data includes records from mortgage, education, and employment entities.

§49A-1-102. Reasonable age verification methods.

(a) Any commercial entity that knowingly and intentionally publishes or distributes sexual material harmful to minors on an Internet website that contains a substantial portion of such materials shall, in order to prove that an individual is 18 years of age or older, require an individual to:

(1) provide digital identification; or

(2) comply with a commercial or governmental age verification system that verifies age using:

(A) government-issued identification which may be digital identification; or

(B) a commercially reasonable method that relies on public or private transactional data to verify the age of an individual.

(b) Any commercial entity or third party that performs the required age verification shall not retain any identifying information of the individual after access has been granted to the material: *Provided*, That nothing in this subsection shall be interpreted to require the deletion of data that was otherwise held or obtained by a commercial entity or third party which the commercial entity, or third party, held prior to the age verification or which is, or was, otherwise held by a commercial entity or third party and was not gained or compiled as a part of the age verification process.

§49A-1-103. Applicability of Article.

(a) This article may not be construed to affect the rights of a news-gathering organization or public interest broadcasts.

(b) An Internet service provider, or its affiliates or subsidiaries, a search engine, or a cloud service provider shall not be held to have violated the provisions of this article solely for providing access or connection to or from a website or other information or content on the internet or on a facility, system, or network, including transmission, downloading, intermediate storage, access software, or other services to the extent the provider or search engine is not responsible for the creation of the content that constitutes sexual material harmful to minors.

§49A-1-104. Liability for failing to perform reasonable age verification for sexual material harmful to minors; damages; liability for retention of data; damages; creation of cause of action; and statute of limitations.

(a) Any commercial entity that knowingly and intentionally publishes or distributes sexual material harmful to minors on the internet from a website, or through an application, that contains a substantial portion of sexual material harmful to minors shall be held liable if the entity fails to perform reasonable age verification methods to verify the age of an individual attempting to access the material. A commercial entity that is found to have violated this section shall be liable for damages resulting from a minor child's access to such material, and the individual who brings an action on behalf of the minor shall be entitled to:

(1) Actual damages for financial, physical, and emotional harm incurred by the person bringing the action, if the court determines that the harm is a direct consequence of the violation or violations; and

(2) An award of reasonable attorney fees and court costs.

(b) An award of damages pursuant to this section may not be imposed for violations occurring more than five years before the action is brought and no award of damages may be imposed for any violation that occurred prior to the enactment of this section during the 2024 Regular Session of the West Virginia Legislature.

§49A-1-105. Injunction by action of attorney general; civil penalties; basis of civil penalties; and statute of limitations.

(a) If the attorney general believes that a commercial entity is knowingly and intentionally violating or has knowingly violated this article, and the action is in the public interest, the attorney general may bring an action in the circuit court located where a minor child, or individual, has accessed the sexual material harmful to minors, or in the circuit court located where an individual resides who has had any identifiable information improperly retained, used, shared, or sold, against a commercial entity or third party to enjoin the violation, recover a civil penalty for violating this article. If a court of competent jurisdiction finds that the commercial entity has engaged in a violation of this article, it may assess a civil penalty for each violation of this article in addition to any other damages that may have been incurred, as follows:

(1) \$10,000 per day that the commercial entity operates an Internet website in violation of the age verification requirements of this article; and

(2) \$10,000 per instance when the commercial entity retains identifying information in violation of subsection (b) of this section.

(b) The Legislature hereby creates a statute of limitations for the filing of any civil action under this section and an action shall be filed within five years after the discovery of the violation of the provisions of this section, or in the exercise of reasonable diligence should have known of the violation of the provisions of this section. A civil penalty pursuant to this section may not be imposed for violations occurring prior to the enactment of this section during the 2024 Regular Session of the West Virginia Legislature. The attorney general may recover reasonable and necessary attorney's fees and costs incurred in a civil action under this article.

The bill (Eng. Com. Sub. for H. B. 4867), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4880, Relating to personal income tax social security exemption.

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

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

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

ARTICLE 21. PERSONAL INCOME TAX.

§11-21-12. West Virginia adjusted gross income of resident individual.

(a) General. — The West Virginia adjusted gross income of a resident individual means his or her federal adjusted gross income as defined in the laws of the United States for the taxable year with the modifications specified in this section.

(b) Modifications increasing federal adjusted gross income. — There shall be added to federal adjusted gross income, unless already included therein, the following items:

(1) Interest income on obligations of any state other than this state or of a political subdivision of any other state unless created by compact or agreement to which this state is a party;

(2) Interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States, which the laws of the United States exempt from federal income tax but not from state income taxes;

(3) Any deduction allowed when determining federal adjusted gross income for federal income tax purposes for the taxable year that is not allowed as a deduction under this article for the taxable year;

(4) Interest on indebtedness incurred or continued to purchase or carry obligations or securities the income from which is exempt from tax under this article, to the extent deductible in determining federal adjusted gross income;

(5) Interest on a depository institution tax-exempt savings certificate which is allowed as an exclusion from federal gross income under Section 128 of the Internal Revenue Code, for the federal taxable year;

(6) The amount of a lump sum distribution for which the taxpayer has elected under Section 402(e) of the Internal Revenue Code of 1986, as amended, to be separately taxed for federal income tax purposes; and

(7) Amounts withdrawn from a medical savings account established by or for an individual under §33-15-20 or §33-16-15 of this code that are used for a purpose other than payment of medical expenses, as defined in those sections.

(c) Modifications reducing federal adjusted gross income. — There shall be subtracted from federal adjusted gross income to the extent included therein:

(1) Interest income on obligations of the United States and its possessions to the extent includable in gross income for federal income tax purposes;

(2) Interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States or of the State of West Virginia to the extent includable in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States or of the State of West Virginia, including federal interest or dividends paid to shareholders of a regulated investment company, under Section 852 of the Internal Revenue Code for taxable years ending after June 30, 1987;

(3) Any amount included in federal adjusted gross income for federal income tax purposes for the taxable year that is not included in federal adjusted gross income under this article for the taxable year;

(4) The amount of any refund or credit for overpayment of income taxes imposed by this state, or any other taxing jurisdiction, to the extent properly included in gross income for federal income tax purposes;

(5) Annuities, retirement allowances, returns of contributions and any other benefit received under the West Virginia Public Employees Retirement System, and the West Virginia State Teachers Retirement System, including any survivorship annuities derived therefrom, to the extent includable in gross income for federal income tax purposes: *Provided*, That notwithstanding any provisions in this code to the contrary this modification shall be limited to the first \$2,000 of benefits received under the West Virginia Public Employees Retirement System, the West Virginia State Teachers Retirement System and, including any survivorship annuities derived therefrom, to the extent includable in gross income for federal income tax purposes for taxable years beginning after December 31, 1986; and the first \$2,000 of benefits received under any federal retirement system to which Title 4 U.S.C. §111 applies: *Provided, however*, That the total modification under this paragraph shall not exceed \$2,000 per person receiving retirement benefits and this limitation shall apply to all returns or amended returns filed after December 31, 1988;

(6) Retirement income received in the form of pensions and annuities after December 31, 1979, under any West Virginia police, West Virginia Firemen's Retirement System or the West Virginia State Police Death, Disability and Retirement Fund, the West Virginia State Police Retirement System or the West Virginia Deputy Sheriff Retirement System, including any survivorship annuities derived from any of these programs, to the extent includable in gross income for federal income tax purposes;

(7) (A) For taxable years beginning after December 31, 2000, and ending prior to January 1, 2003, an amount equal to two percent multiplied by the number of years of active duty in the Armed Forces of the United States of America with the product thereof multiplied by the first \$30,000 of military retirement income, including retirement income from the regular Armed Forces, Reserves and National Guard paid by the United States or by this state after December 31, 2000, including any survivorship annuities, to the extent included in gross income for federal income tax purposes for the taxable year.

(B) For taxable years beginning after December 31, 2000, the first \$20,000 of military retirement income, including retirement income from the regular Armed Forces, Reserves and National Guard paid by the United States or by this state after December 31, 2002, including any

survivorship annuities, to the extent included in gross income for federal income tax purposes for the taxable year.

(C) For taxable years beginning after December 31, 2017, military retirement income, including retirement income from the regular Armed Forces, Reserves and National Guard paid by the United States or by this state after December 31, 2017, including any survivorship annuities, to the extent included in federal adjusted gross income for the taxable year. For taxable years beginning after December 31, 2018, retirement income from the uniformed services, including the Army, Navy, Marines, Air Force, Coast Guard, Public Health Service, National Oceanic Atmospheric Administration, reserves, and National Guard, paid by the United States or by this state after December 31, 2018, including any survivorship annuities, to the extent included in federal adjusted gross income for the taxable year.

(D) In the event that any of the provisions of this subdivision are found by a court of competent jurisdiction to violate either the Constitution of this state or of the United States, or is held to be extended to persons other than specified in this subdivision, this subdivision shall become null and void by operation of law.

(8) Decreasing modification for social security income.

~~(A) For taxable years beginning on and after January 1, 2020, 35 percent of the amount of social security benefits received pursuant to Title 42 U.S.C., Chapter 7, including, but not limited to, social security benefits paid by the Social Security Administration as Old Age, Survivors and Disability Insurance Benefits as provided in §42 U.S.C. 401 *et. seq.* or as Supplemental Security Income for the Aged, Blind, and Disabled as provided in §42 U.S.C. 1381 *et. seq.*, included in federal adjusted gross income for the taxable year shall be allowed as a decreasing modification from federal adjusted gross income when determining West Virginia taxable income subject to the tax imposed by this article, subject to the limitation in §11-21-12(c)(8)(D) of this code.~~

~~(B) For taxable years beginning on or after January 1, 2021, 65 percent of the social security benefits received pursuant to Title 42 U.S.C., Chapter 7, including, but not limited to, social security benefits paid by the Social Security Administration as Old Age, Survivors and Disability Insurance Benefits as provided in §42 U.S.C. 401 *et. seq.* or as Supplemental Security Income for the Aged, Blind, and Disabled as provided in §42 U.S.C. 1381 *et. seq.*, included in federal adjusted gross income for the taxable year shall be allowed as a decreasing modification from federal adjusted gross income when determining West Virginia taxable income subject to the tax imposed by this article, subject to the limitation in §11-21-12(c)(8)(D) of this code.~~

~~(C) (A) For taxable years beginning on or after January 1, 2022, 100 percent of the social security benefits received pursuant to Title 42 U.S.C., Chapter 7, including, but not limited to, social security benefits paid by the Social Security Administration as Old Age, Survivors and Disability Insurance Benefits as provided in §42 U.S.C. 401 *et. seq.* or as Supplemental Security Income for the Aged, Blind, and Disabled as provided in §42 U.S.C. 1381 *et. seq.*, included in federal adjusted gross income for the taxable year shall be allowed as a decreasing modification from federal adjusted gross income when determining West Virginia taxable income subject to the tax imposed by this article, subject to the limitation in §11-21-12(c)(8)(D) §11-21-12(c)(8)(B) of this code.~~

~~(D) (B) The deduction allowed by §11-21-12(c)(8)(A), §11-21-12(c)(8)(B), and §11-21-12(c)(8)(C) §11-21-12(c)(8)(A) of this code are allowable only when the federal adjusted gross~~

income of a married couple filing a joint return does not exceed \$100,000, or \$50,000 in the case of a single individual or a married individual filing a separate return.

(C) For taxable years on and after January 1, 2025, and at the beginning of every tax year thereafter until the decreasing modification on personal income tax payable on social security benefits reaches 100 percent, social security benefits received pursuant to Title 42 U.S.C., Chapter 7, including, but not limited to social security benefits paid by the Social Security Administration as Old Age, Survivors and Disability Insurance Benefits as provided in §42 U.S.C. 401 et. seq. or as Supplemental Security Income for the Aged, Blind, and Disabled as provided in §42 U.S.C. 1381 et. seq., included in federal adjusted gross income for the taxable year may be allowed as a decreasing modification from federal adjusted gross income when determining West Virginia taxable income subject to the tax imposed by this article and the limitations as set forth in this paragraph, as follows:

(i) Any decreasing modifications or personal income tax payable on social security benefits allowed by this paragraph are allowable only when the federal adjusted gross income of a married couple filing a joint return exceeds \$100,000, or \$50,000 in the case of a single individual or a married individual filing a separate return.

(ii) In tax years when the Secretary of Revenue has determined pursuant to the provisions of §11-21-4h of this code that a reduction in the rate of personal income tax is at the maximum allowable rate of 10 percent, no decreasing modification for personal income tax payable on social security benefits as set forth in this paragraph shall be allowed for that taxable year.

(iii) In tax years when the Secretary of Revenue has determined pursuant to the provisions of §11-21-4h of this code that a reduction in the rate of personal income is allowable in a percentage amount less than the maximum allowable 10 percent, on January 1 of that taxable year the decreasing modification for personal income tax payable on social security benefits as set forth in this paragraph shall be set at whichever of the following provides the greatest benefit to the taxpayer:

(I) Thirty-five percent of the personal income tax payable on social security benefits received;
or

(II) A percentage amount rounded to the nearest whole percentage equal to the difference between what the rate reduction allowable pursuant to §11-21-4h for personal income tax would be and the maximum allowable 10 percent: *Provided*, That the nearest whole percentage may not exceed 100 percent of the personal income tax payable on social security benefits received.

(iv) In tax years when the Secretary of Revenue has determined pursuant to the provisions of §11-21-4h of this code that no reduction in the rate of personal income tax is permissible, on January 1 of that taxable year the decreasing modification for personal income tax payable on social security benefits paid as set forth in this paragraph shall be 100 percent of the personal income tax payable on social security benefits received.

(v) Decreasing modifications to personal income tax payable on social security benefits as set forth in this paragraph shall be cumulative in nature. The decreasing modification for personal income tax payable on social security benefits allowed pursuant to the provisions of this paragraph shall continue until such time as the decreasing modification for personal income tax payable on social security benefit payments is 100 percent. Once the decreasing modification of personal income tax payable on social security benefits has reached 100 percent, the Tax

Commissioner shall notify the Joint Committee on Government and Finance and the decreasing modification for personal income tax payable on social security benefits shall remain at 100 percent.

(vi) When necessary, the Secretary of Revenue and the State Auditor will certify to the Tax Commissioner that a percentage change in the decreasing modification on the personal income tax payable on social security benefits is required as soon as the new percentage is determined. The certification will provide the percentage of the decreasing modification of personal income tax payable on social security benefits, the remaining percentage of the decreasing modification of personal income tax payable on social security benefits, and the amount of the reduction in the personal income tax as set forth in §11-21-4h, if any.

(vii) The Tax Commissioner shall prepare an annual report to the Joint Committee on Government and Finance due by September 30 of each year after the effective date of this paragraph, detailing any modifications to the decreasing modification of personal income tax payable on social security benefits.

(viii) Notwithstanding any provision of this code to the contrary, the Tax Commissioner may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to implement the provisions of this paragraph.

(9) Federal adjusted gross income in the amount of \$8,000 received from any source after December 31, 1986, by any person who has attained the age of 65 on or before the last day of the taxable year, or by any person certified by proper authority as permanently and totally disabled, regardless of age, on or before the last day of the taxable year, to the extent includable in federal adjusted gross income for federal tax purposes: *Provided*, That if a person has a medical certification from a prior year and he or she is still permanently and totally disabled, a copy of the original certificate is acceptable as proof of disability. A copy of the form filed for the federal disability income tax exclusion is acceptable: *Provided, however*, That:

(i) Where the total modification under subdivisions (1), (2), (5), (6), (7), and (8) of this subsection is \$8,000 per person or more, no deduction shall be allowed under this subdivision; and

(ii) Where the total modification under subdivisions (1), (2), (5), (6), (7), and (8) of this subsection is less than \$8,000 per person, the total modification allowed under this subdivision for all gross income received by that person shall be limited to the difference between \$8,000 and the sum of modifications under subdivisions (1), (2), (5), (6), (7), and (8) of this subsection;

(10) Federal adjusted gross income in the amount of \$8,000 received from any source after December 31, 1986, by the surviving spouse of any person who had attained the age of 65 or who had been certified as permanently and totally disabled, to the extent includable in federal adjusted gross income for federal tax purposes: *Provided*, That:

(i) Where the total modification under subdivisions (1), (2), (5), (6), (7), and (8) of this subsection is \$8,000 or more, no deduction shall be allowed under this subdivision; and

(ii) Where the total modification under subdivisions (1), (2), (5), (6), (7), and (8) of this subsection is less than \$8,000 per person, the total modification allowed under this subdivision for all gross income received by that person shall be limited to the difference between \$8,000 and the sum of subdivisions (1), (2), (5), (6), (7), and (8) of this subsection;

(11) Contributions from any source to a medical savings account established by or for the individual pursuant to §33-15-20 or §33-16-15 of this code, plus interest earned on the account, to the extent includable in federal adjusted gross income for federal tax purposes: *Provided*, That the amount subtracted pursuant to this subdivision for any one taxable year may not exceed \$2,000 plus interest earned on the account. For married individuals filing a joint return, the maximum deduction is computed separately for each individual; and

(12) Any other income which this state is prohibited from taxing under the laws of the United States including, but not limited to, tier I retirement benefits as defined in Section 86(d)(4) of the Internal Revenue Code.

(d) Modification for West Virginia fiduciary adjustment. — There shall be added to or subtracted from federal adjusted gross income, as the case may be, the taxpayer's share, as beneficiary of an estate or trust, of the West Virginia fiduciary adjustment determined under §11-21-19 of this code.

(e) Partners and S corporation shareholders. — The amounts of modifications required to be made under this section by a partner or an S corporation shareholder, which relate to items of income, gain, loss or deduction of a partnership or an S corporation, shall be determined under §11-21-17 of this code.

(f) Husband and wife. — If husband and wife determine their federal income tax on a joint return but determine their West Virginia income taxes separately, they shall determine their West Virginia adjusted gross incomes separately as if their federal adjusted gross incomes had been determined separately.

(g) Effective date. —

(1) Changes in the language of this section enacted in the year 2000 shall apply to taxable years beginning after December 31, 2000.

(2) Changes in the language of this section enacted in the year 2002 shall apply to taxable years beginning after December 31, 2002.

(3) Changes in the language of this section enacted in the year 2019 shall apply to taxable years beginning after December 31, 2018.

(4) Changes in the language of this section enacted in the year 2024 shall apply to taxable years beginning after December 31, 2024.

The bill (Eng. Com. Sub. for H. B. 4880), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 4882, Extending in-state tuition rates to all members and veterans of the National Guard, reserves, and armed forces as well as their spouses and dependents.

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

Eng. Com. Sub. for House Bill 4919, Relating to the Promise Scholarship.

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

Eng. House Bill 4945, Relating generally to the Hope Scholarship Program.

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 Finance committee amendment pending and the right for further amendments to be considered on that reading.

Eng. Com. Sub. for House Bill 4956, Creating the Oral Health and Cancer Rights Act.

On second 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 4967, Relating to the administration of the Voluntary Remediation and Redevelopment Act to provide new liability protections for persons and companies who wish to purchase and redevelop former industrial properties.

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

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

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

ARTICLE 22. VOLUNTARY REMEDIATION AND REDEVELOPMENT ACT.

§22-22-1. Legislative findings; legislative statement of purpose.

(a) The Legislature finds there is property in West Virginia that is not being put to its highest productive use because it is contaminated or it is perceived to be contaminated as a result of past activity on the property.

(b) The Legislature further finds that abandonment or ~~under-use~~ underutilization of contaminated or potentially contaminated industrial sites results in inefficient use of public facilities and services and increases the pressure for development of uncontaminated pristine land. Since existing industrial areas frequently have transportation networks, utilities, and an existing infrastructure, it can be less costly to society to redevelop existing industrial areas than to relocate amenities for industrial areas at pristine sites.

(c) The Legislature further finds that the existing legal structure creates uncertainty regarding the legal effect of remediation upon liability. Legal uncertainty serves as a further disincentive to productive redevelopment of brownfields. Therefore, incentives should be put in place to encourage voluntary redevelopment of contaminated or potentially contaminated sites.

(d) The Legislature further finds that an administrative program should be established to encourage persons to voluntarily develop and implement remedial plans without the need for

enforcement action by the ~~Division~~ Department of Environmental Protection. Therefore, it is the purpose of this article to:

(1) Establish an administrative program to facilitate voluntary remediation activities and brownfield revitalization;

(2) Provide financial incentives to entice investment at brownfield sites; and

(3) Establish limitations on liability under environmental laws and rules for those persons who remediate sites in accordance with applicable standards established under this article.

§22-22-2. Definitions.

As used in this article, unless otherwise provided or indicated by the context:

"Abandoned property" means real property for which the current owner cannot be determined or cannot be located or property which has been forfeited to or acquired by the State for the nonpayment of taxes pursuant to State law;

~~(a) "Applicable standards", mean the remediation levels established in or pursuant to section three of this article;~~

"Bona fide prospective purchaser" means a person or a tenant of a person who acquires ownership, or proposes to acquire ownership, of real property after the release of hazardous substances occurred;

~~(b) "Brownfield" means any industrial or commercial property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant; which is abandoned or not being actively used by the owner as of the effective date of this article, but shall not include any site subject to a unilateral enforcement order under §104 through §106 of the "Comprehensive Environmental Response, Compensation and Liability Act", 94 Stat. 2779, 42 U.S.C. §9601, as amended, or which has been listed or proposed to be listed by the United States environmental protection agency on the priorities list of Title I of said act, or subject to a unilateral enforcement order under §3008 and §7003 of the "Resource Conservation Recovery Act" or any unilateral enforcement order for corrective action under this chapter;~~

~~(c) "Certified laboratory" means any laboratory approved by the director under laboratory certification rules adopted pursuant to section fifteen, article one of this chapter.~~

"Brownfields Revolving Fund" means the special revenue fund established to provide loans for site assessments and remediation of eligible brownfield sites;

~~(d) "Contaminant" or "contamination" means any man made or man induced alteration of the chemical, physical, or biological integrity of soils, sediments, air, and surface water or groundwater resulting from activities regulated under this article, in excess of applicable standards in this chapter, including any hazardous substance, petroleum, or natural gas;~~

~~(e) "Controls" means to apply engineering measures, such as capping or treatment, or institutional measures, such as deed restrictions, to contaminated sites;~~

"Department" means the West Virginia Department of Environmental Protection;

~~(f) "Development Authority" means any authority as defined in article twelve, chapter seven §7-12-1, et seq. of this code or the state Development Office as defined in article two, chapter five-b §2-5B-1, et seq. of this code.~~

~~(g) "Director" means the director of the Division of Environmental Protection or such other person to whom the director has delegated authority or duties pursuant to this article;~~

~~(h) "Division" means the Division of Environmental Protection of the State of West Virginia;~~

~~(i) "Engineering controls" means remedial actions directed exclusively toward containing or controlling the migration of contaminants through the environment. These include, but are not limited to, slurry walls, liner systems, caps, leachate collection systems, and groundwater recovery trenches;~~

~~(j) "Hazardous substance" means any substance identified as a hazardous substance pursuant to the "Comprehensive Environmental Response, Compensation and Liability Act," 94 Stat. 2779, 42 U.S.C. §9604 9604-9606, as amended;~~

"Innocent land owner" means a person who holds any title, security interest, or any other interest in a brownfield site and who acquired ownership of the real property after the release of hazardous substances occurred;

~~(k) "Institutional controls" means legal or contractual restrictions on property use that remain effective after the remediation action is completed and are used to meet applicable standards. The term may include, but is not limited to, deed and water use restrictions;~~

~~(l) "Industrial activity" means commercial, manufacturing, public utility, mining, or any other activity done to further either the development, manufacturing, or distribution of goods and services, intermediate and final products, and solid waste created during such activities, including, but not limited to, administration of business activities, research and development, warehousing, shipping, transport, remanufacturing, stockpiling of raw materials, storage, repair, and maintenance of commercial machinery or equipment; and solid waste management;~~

"Institutional controls" means legal or contractual restrictions on property use that remain effective after the remediation action is completed and are used to meet applicable standards. The term may include, but is not limited to, deed and water use restrictions;

~~(m) "Land-use covenant" means an environmental covenant within the meaning of §22-22B-2(4) of this code, and is a document or deed restriction issued by the director Secretary on remediated sites which have attained and demonstrate continuing compliance with site-specific standards for any contaminants at the site and which is agreed to by the owner of the property. The covenant shall be recorded by deed in the office of the county clerk of the county wherein the site is situated. The document or covenant shall be included by any grantor or lessor in any deed or other instrument of conveyance or any lease or other instrument whereby real property is let for a period of one year or more, as more fully set forth in sections thirteen and fourteen of this article;~~

~~(n)~~ "Licensed remediation specialist" means a person certified by the ~~director~~ Secretary pursuant to rules adopted under section three of this article as qualified to perform professional services and to supervise the remediation of contaminated sites;

~~(o)~~ "Mitigation measure" means ~~any remediation action performed by a person prior to or during implementation of a remediation plan to protect human health and the environment;~~

~~(p)~~ "Natural gas" means natural gas, natural gas liquids, liquefied natural gas, coalbed methane, synthetic gas usable for fuel, or mixtures of natural gas and synthetic gas;

~~(q)~~(r) "Nonresidential property" means any real property on which ~~commercial, industrial, manufacturing or any other activity is performed, done to further the development, manufacturing or distribution of goods and services, intermediate and final business activities, research and development, warehousing, shipping, transport, remanufacturing, stockpiling of raw materials, storage, repair and maintenance of commercial machinery and equipment, and solid waste management.~~ This term shall not include schools, day care centers, nursing homes, or other residential-style facilities or recreational areas;

~~(r)~~ "Owner" means ~~any person owning or holding legal or equitable title or possessory interest in property or, where title or control of property was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to this state or a political subdivision of this state, or any person who owned the property before the conveyance;~~

"Operator" means the person responsible for the overall operation of a facility site. A person who executes a voluntary remediation agreement with the Secretary may be considered an operator for the purpose of carrying out the activities required by the government;

"Owner" means any person owning or holding legal or equitable title or possessory interest in property or, where title or control of property was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to this state or a political subdivision of this state;

~~(t)~~ "Person" means any public or private corporation, institution, association, firm, or company organized or existing under the laws of this or any other state or country; the state of West Virginia; governmental agency, including federal facilities; political subdivision; county commission; municipal corporation; partnership; trust; estate; person or individuals acting individually or as a group; or any legal entity whatever;

~~(u)~~ "Petroleum" means oil or petroleum of any kind and in any form, including, without limitation, crude oil or any fraction thereof, oil sludge, oil refuse, used oil, substances or additives in the refining or blending of crude petroleum or petroleum stock;

~~(v)~~ "Practical quantitation level" means the lowest analytical level that can be reliably achieved within specified limits of precision and accuracy under routine laboratory conditions for a specified matrix. It is based on quantitation, precision, and accuracy under normal operation of a laboratory and the practical need in a compliance-monitoring program to have a sufficient number of laboratories available to conduct the analyses;

~~(w)~~ "Property" means any parcel of real property, and any improvements thereof;

~~(x)~~ "Related" means ~~the persons who are related to the third degree of consanguinity or marriage;~~

(y) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, migrating, dumping, or disposing of any contaminant or regulated substance into the environment, including, without limitation, the abandonment or improper discarding of barrels, containers, or any other closed receptacle containing any contaminant;

(z) "Remediation" or "remedial action" means to cleanup, mitigate, correct, abate, minimize, eliminate, control, and contain or prevent a release of a contaminant into the environment in order to protect the present or future public health, safety, welfare, or the environment, including preliminary actions to study or assess the release;

(aa) "Remediation contractor" means any person who enters into and is carrying out a contract to cleanup, remediate, respond to or remove a release or threatened release of a contaminant and includes any person who the contractor retained or hired to provide services under a remediation contract;

(bb) "Residential" means any real property or portion thereof which is designed for the housing of human beings and does not meet the definition of "nonresidential" property set forth above;

(cc) "Risk" means the probability that a contaminant, when released into the environment, will cause an adverse effect in exposed humans or other living organisms;

"Secretary" means the Secretary of the Department of Environmental Protection or any other person to whom he or she has delegated authority or duties in accordance with §22-1-6 or §22-1-8 of this code;

(dd) "Site" means any property or portion thereof which contains or may contain contaminants and is eligible for to participate in the voluntary remediation program as provided under this article;

(ee) "Unilateral enforcement order" means a written final order issued by a federal or state agency charged with enforcing environmental law, which compels the fulfillment of an obligation imposed by law, rule against a person without their voluntary consent; and

(ff) "Voluntary remediation" means a series of measures that may be self-initiated by a person to identify and address potential sources of contamination of property and to establish that the property complies with applicable remediation standards.

§22-22-3. Rule-making authority of the ~~director~~ Secretary.

~~Within one year after the effective date of this section, The director~~ Secretary, in accordance with chapter twenty-nine-a of this code, shall propose, and subsequently may amend, suspend, or rescind, rules that do the following:

(a) Establish an administrative program for both brownfield revitalization and voluntary remediation, including application procedures;

(b) Establish procedures for the licensure of remediation specialists, including, but not limited to establishing licensing fees, testing procedures, disciplinary procedures, and methods for revocation of licenses;

(c) Establish procedures for community notification and involvement;

(d) Establish risk-based standards for remediation;

(e) Establish standards for the remediation of property;

(f) Establish a risk protocol for conducting risk assessments and establishing risk-based standards. The risk protocol shall:

(1) Require consideration of existing and reasonably anticipated future human exposures based on current and reasonably anticipated future land and water uses and significant adverse effects to ecological receptor health and viability;

(2) Include, at a minimum, both central tendency and reasonable upper bound estimates of exposure;

(3) Require risk assessments to consider, to the extent practicable, the range of probabilities of risks actually occurring, the range or size of populations likely to be exposed to risk, and quantitative and qualitative descriptions of uncertainties;

(4) Establish criteria for what constitutes appropriate sources of toxicity information;

(5) Address the use of probabilistic modeling;

(6) Establish criteria for what constitutes appropriate criteria for the selection and application of fate and transport models;

(7) Address the use of population risk estimates in addition to individual risk estimates;

(8) To the extent ~~deemed~~ considered appropriate and feasible by the ~~director~~ Secretary considering available scientific information, define appropriate approaches for addressing cumulative risks posed by multiple contaminants or multiple exposure pathways;

(9) Establish appropriate sampling approaches and data quality requirements; and

(10) ~~This protocol shall~~ Include public notification and involvement provisions so that the public can understand how remediation standards are applied to a site and provide for clear communication of site risk issues, including key risk assessment assumptions, uncertainties, populations considered, the context of site risks to other risks, and how the remedy will address site risks;

(g) Establish chemical and site-specific information, where appropriate for purpose of risk assessment. Risk assessments should use chemical and site-specific data and analysis, such as toxicity, exposure, and fate and transport evaluations in preference to default assumptions. Where chemical and site-specific data are not available, a range and distribution of realistic and plausible assumptions should be employed;

(h) Establish criteria to evaluate and approve methods for the measurement of contaminants using the practical quantitation level and related laboratory standards and practices to be used by certified laboratories;

(i) Establish standards and procedures for the ~~utilization~~ use of certificates of completion, land use covenants, and other legal documents necessary to effectuate the purposes of this article; and

(j) Establish any other rules necessary to carry out the requirements and the legislative intent of this act.

§22-22-4. Voluntary remediation program; eligibility application and fee; information available to public; confidentiality of trade secrets; information; criminal penalties; requirements of site assessment; rejection or return of application; appeal of rejection.

(a) Any site is eligible for participation in the voluntary remediation program, except those sites subject to a ~~federal environmental protection agency~~ unilateral enforcement order, under §§ 104 through §106 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), ~~94 Stat. 2779~~, 42 U.S.C. §§~~9601~~ 9604-9006, ~~as amended~~, or which have been listed or proposed to be listed by the United States Environmental Protection Agency ("USEPA") on the priorities list of Title I of said act, or which is subject to a unilateral enforcement order under §3008 and §7003 of the Resource Conservation Recovery Act ("RCRA"), 42 U.S.C. § 6928 or § 6973, or which is subject to any unilateral enforcement order for corrective action under this chapter: *Provided*, That the release which is subject to remediation was not created through gross negligence or willful misconduct. ~~In order to participate in the voluntary remediation program, a person must submit an application to the director and enter into a voluntary remediation agreement as set forth in section seven of this article.~~

(b) Any person who desires to participate in the voluntary remediation program ~~must~~ shall submit to the ~~division~~ Department an application and an application fee established by the ~~director~~ Secretary. The application shall be on a form provided by the ~~director~~ Secretary and contain the following information: The applicant's name, address, financial and technical capability to perform the voluntary remediation, a general description of the site, a site assessment of the actual or potential contaminants ~~made~~ prepared by a licensed remediation specialist, and all other information required by the ~~director~~ Secretary.

(c) The ~~director~~ Secretary shall promulgate a legislative rule establishing a reasonable application fee. Fees collected under this section shall be deposited to the credit of the Voluntary Remediation Fund in the State Treasury as established in §22-22-6 of this code ~~section six of this article~~.

(d) Information obtained by the ~~division~~ Department under this article shall be available to the public, unless the ~~director~~ Secretary certifies such information to be confidential. The ~~director~~ Secretary may make such certification where any person shows, to the satisfaction of the ~~director~~ Secretary, that the information or parts thereof, if made public, would divulge methods, processes, or activities entitled to protection as trade secrets. In submitting data under this article, any person required to provide such confidential data may designate the data which that person believes is entitled to protection under this section and submit such designated data separately from other data submitted under this article. This designation request shall be made in writing. Any person who divulges or discloses any information entitled to protection under this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$5,000 or imprisoned in a county jail for not more than one year, or both fined and imprisoned.

(e) The site assessment must include a legal description of the site; a description of the physical characteristics of the site, and the general operational history of the site to the extent that

the history is known by the applicant; and information of which the applicant is aware concerning the nature and extent of any known contamination at the site and immediately contiguous to the site, or wherever the contamination came to be located.

(f) The ~~director~~ Secretary may reject or return an application if:

- (1) A federal requirement precludes the eligibility of the site;
- (2) The application is not complete and accurate; or
- (3) The site is ineligible under the provisions of this article.

(g) The ~~director~~ Secretary shall act upon all applications within ~~forty-five~~ 45 days of receipt, unless an extension of time is mutually agreed to and confirmed in writing. If an application is returned by the ~~director~~ Secretary because it is not complete or accurate, the ~~director~~ Secretary shall provide the applicant a list of all information that is needed to make the application complete or accurate. The applicant may resubmit an application without submitting an additional application fee.

(h) If the ~~director~~ Secretary rejects the application, then he or she shall notify the applicant that the application has been rejected and provide an explanation of the reasons for the rejection. The applicant may, within ~~twenty-five~~ 25 days of rejection, indicate his or her desire to resubmit the application. Upon final determination by the ~~director~~ Secretary, if the application is rejected, the ~~director~~ Secretary shall return one half of the application fee. The applicant may appeal the ~~director's~~ Secretary's rejection of the application to the Environmental Quality Board established under ~~article three, chapter twenty-two-b of this code~~ §22B-3-1, et seq. of this code.

(i) Upon withdrawal of an application, the applicant is entitled to the refund of one half of the application fee, provided the application has not been accepted by the Secretary.

§22-22-5. Brownfields Revolving Fund applicant eligibility application; loans; remediation process; brownfield remediation; eligibility; application; remediation loan; and obtaining information from director public notification.

(a) ~~For brownfield property, A person may be eligible for Brownfields Revolving Fund moneys when any environmental remediation is undertaken pursuant to this article, by a development authority or any and the person who did not cause or contribute to the contamination on the property. A person receiving Brownfields Revolving Fund moneys shall comply with the appropriate standards established by the director Secretary pursuant to this article and rules promulgated hereunder.~~

(b) ~~After conferring with the director Secretary, the person may apply to the director Secretary for a site assessment or remediation loan under section six of this article §22-22-6 of this code. A site assessment must be conducted to establish existing contamination of the site. An application for brownfield remediation money from the Brownfields Revolving Fund must be submitted along with the an application fee to be established by the Secretary. The procedures established for voluntary remediation set forth in section four must be followed. The director shall establish a reasonable application fee.~~

~~(b)(c)~~ Brownfields sites being remediated by persons who did not cause or contribute to the contamination of the site are also eligible for consideration for remediation loans established under ~~article fifteen, chapter thirty one of this code §15-31-1, et seq. of this code.~~

~~(e)(d)~~ Persons undertaking brownfield remediation, who did not cause or contribute to the contamination of the brownfield site, may obtain all information relating to contamination at the site in the possession of the director prior to engaging in a site assessment receiving Brownfields Revolving Fund moneys to perform remediation and revitalization of brownfield sites shall comply with the following public notice and involvement requirements:

(1) Submit a notice of intent to remediate to the Department. This notice shall provide, to the extent known, a brief description of the location of the site; a listing of the contaminants involved; and the proposed remediation measures. The Department shall publish an acknowledgment noting the receipt of the notice of intent in a Department publication of general circulation. At the time a notice of intent to remediate a site is submitted to the Department, a copy of the notice shall be provided to the municipality and the county in which the site is located. A summary of the notice of intent shall be published in a newspaper of general circulation serving the area in which the site is located;

(2) Provide a 30-day public, county, and municipal comment period for the notice required by this subsection during which the public, county, and municipality may request to be involved in the development of the remediation and reuse plans for the site. If requested by the public, county, municipality, or the Secretary, the person undertaking the remediation shall develop and implement a public involvement program plan which meets the requirements set forth by the Secretary; and

(3) Adhere to other public notice requirements as stipulated by federal or other grantors that provide moneys to the Brownfields Revolving Fund, or as promulgated in the rules developed by the Secretary.

§22-22-6. Voluntary remediation administrative fund established; voluntary remediation fees authorized; Brownfields revolving fund established; disbursement of funds moneys; employment of specialized persons authorized.

(a) There is hereby ~~created~~ reauthorized and continued in the State Treasury a special revenue fund known as the Voluntary Remediation Administrative Fund. The fund shall operate as a special fund whereby all deposits and payments thereto do not expire to the General Revenue Fund but shall remain in the fund and be available for expenditure in succeeding fiscal years. This fund shall consist of fees collected by the ~~director~~ Secretary in accordance with the provisions of this article as well as interest earned on investments made from moneys deposited in the fund. Moneys from this fund shall be expended by the ~~director~~ Secretary for the administration, licensing, enforcement, inspection, monitoring, planning, research, and other activities required by this article.

The ~~director~~ Secretary shall promulgate legislative rules in accordance with the provisions of ~~chapter twenty nine a §29A-3-1 et seq.~~ of this code establishing a schedule of voluntary remediation fees applicable to persons who conduct activities subject to the provisions of this article. The fees may include an appropriate assessment of other program costs not otherwise attributable to any specific site but necessary for the administrative activities required to carry out the provisions of this article.

(b) There is hereby ~~created~~ reauthorized and continued in the State Treasury a special revenue fund known as the Brownfields Revolving Fund. The fund shall be comprised of moneys allocated to the state by the federal government expressly for the purposes of establishing and maintaining a state brownfields redevelopment revolving fund, all receipts from loans made from the fund, any moneys appropriated by the Legislature, all income from the investment of moneys held in the fund, and all other sums designated for deposit to the fund from any source, public or private. The fund shall operate as a special fund whereby all deposits and payments thereto do not expire to the General Revenue Fund but shall remain in the account and be available for expenditure in succeeding fiscal years. Moneys in the fund, to the extent that moneys are available, shall be used ~~solely~~ to make loans to persons to finance site assessments and remediation of eligible brownfield sites and such other activities as authorized by any federal grant received or any legislative appropriation: *Provided*, That moneys in the fund may be utilized to defray those costs incurred by the ~~division~~ Department in administering the provisions of this subsection. The ~~director~~ Secretary shall promulgate rules in accordance with the provisions of ~~chapter twenty-nine-a §29A-3-1 et seq.~~ of this code, to govern the disbursement of moneys from the fund, and establish a state brownfields redevelopment assistance program to direct the distribution of loans from the fund, and establish the interest rates and repayment terms of ~~such~~ any loans: *Provided, however*, That amounts in the fund, ~~other than those~~ appropriated by the ~~federal government~~ West Virginia Legislature, and which are found from time to time to exceed the amount needed for the purposes set forth in this article, may be transferred to other accounts or funds and redesignated for other purposes through appropriations of the Legislature. Moneys from any other source, public or private, shall remain in the fund.

In order to carry out the administration and management of the fund, the ~~division~~ Department ~~is authorized to~~ may employ officers, agents, advisors, and consultants, including attorneys, financial advisors, engineers, other technical advisors, and public accountants and, not withstanding any provisions of this code to the contrary, ~~to~~ determine their duties and compensation without the approval of any other agency or instrumentality.

§22-22-7. Voluntary remediation agreement; required use of licensed remediation specialist; required provisions of a voluntary remediation agreement; failure to reach agreement; appeal to the Environmental Quality Board; no enforcement action when subject of agreement.

Upon acceptance of an application, the ~~director~~ Secretary shall enter into an agreement with the applicant for the remediation of the site which sets forth the following:

(a) A person desiring to participate in the voluntary remediation program ~~must~~ shall enter into a voluntary remediation agreement that sets forth the terms and conditions of the evaluation of the reports and the implementation of work plans;

(b) Any voluntary remediation agreement approved by the ~~director~~ Secretary shall provide for the services of a licensed remediation specialist for supervision of all activities described in the agreement;

(c) A voluntary remediation agreement ~~must~~ shall provide for cost recovery of all reasonable costs incurred by the ~~division~~ Department in review and oversight of the person's work plan and reports as a result of field activities or attributable to the voluntary remediation agreement, which are in excess of the fees submitted by the applicant along with a schedule of payments; appropriate tasks, deliverables, and schedules for performance of the remediation; a listing of all statutes and rules for which compliance is mandated; a description of any work plan or report to

be submitted for review by the ~~director~~ Secretary, including a final report that provides all information necessary to verify that all work contemplated by the agreement has been completed; the licensed remediation specialist's supervision of remediation contractors; and a listing of the technical standards to be applied in evaluating the work plans and reports, with reference to the proposed future land use to be achieved. The voluntary remediation agreement may also provide for alternate dispute resolutions between the parties to the agreement, including, but not limited to, arbitration or mediation of any disputes under this agreement;

(d) ~~No~~ A voluntary remediation agreement may not be modified or amended, unless the amendment or modification is reduced to writing and mutually agreed upon by the parties to the agreement: *Provided*, That when the ~~director~~ Secretary determines that there is an imminent threat to the public, he or she may unilaterally modify or amend the agreement;

(e) Upon acceptance of an application, the ~~director~~ Secretary and the applicant shall develop a remediation agreement. If an agreement is not reached between the applicant and the ~~director~~ Secretary on or before the ~~thirty-first~~ 31st day after the application has been accepted, either party may withdraw from negotiations. ~~Should this occur,~~ If this occurs, the agency retains the application fee. The applicant may appeal the failure to reach agreement to the Environmental Quality Board as established under ~~article three, chapter twenty-two b of this code~~ §22B-3-1, et seq. of this code. By mutual agreement, when it becomes impractical to reach an agreement within ~~thirty-one~~ 31 days, the time limit may be extended in writing; and

(f) The ~~division~~ Department may not initiate an enforcement action against a person who is in compliance with this section for the contamination that is the subject of the voluntary remediation agreement or for the activity that resulted in the contamination, unless there is an imminent threat to the public.

§22-22-8. Voluntary remediation work plans and reports.

After signing a voluntary remediation agreement, the person undertaking remediation shall prepare and submit the appropriate work plans and reports to the ~~director~~ Secretary. The ~~director~~ Secretary shall review and evaluate the work plans and reports for accuracy, quality, and completeness. The ~~director~~ Secretary may approve a voluntary remediation work plan or report or disapprove and notify the person of additional information needed to obtain approval.

§22-22-9. Termination of agreement; cost of recovery; legal actions.

The person undertaking remediation may, in ~~their~~ his or her sole discretion, terminate the agreement as provided by the terms of the agreement and by giving ~~fifteen~~ 15 days advance written notice of termination. Only those costs incurred or obligated by the ~~director~~ Secretary before notice of termination of the agreement are recoverable, if the agreement is terminated. The termination of the agreement does not affect any right the ~~director~~ Secretary may have under any other law to recover costs. The person undertaking the remediation must pay the ~~division's~~ Department's costs associated with the voluntary remediation within ~~thirty-one~~ 31 days after receiving notice that the costs are due and owing. The ~~director~~ Secretary may bring an action in Kanawha County circuit court or in the circuit court in the county wherein the property is situated to recover the amount owed to the ~~division~~ Department and reasonable legal expenses.

§22-22-10. Inspections; right of entry; sampling; reports and analyses.

(a) The ~~director~~ Secretary, upon presentation of proper credentials, may enter any building, property, premises, place, or facility where brownfield or voluntary remediation activities are being or have been performed for the purpose of making an inspection to ascertain the compliance by any person with the provisions of this article or the rules promulgated by the ~~director~~ Secretary.

(b) The ~~director~~ Secretary shall make periodic inspections at sites subject to this article. After an inspection is made, a report shall be filed with the ~~director~~ Secretary and a copy shall be provided to the person who is responsible pursuant to the voluntary agreement for remediation activities. The reports shall not disclose any confidential information protected under the provisions of ~~subsection (d), section four of this article §22-22-4(d) of this code~~. The inspection reports shall be available to the public in accordance with the provisions of ~~article one, chapter twenty-nine b of this code §29B-1-1, et seq. of this code~~.

(c) The ~~director~~ Secretary may, upon presentation of proper credentials, enter any building, motor vehicle, property, premises, or site where brownfield or voluntary remediation activities are being or have been performed and take samples of wastes, soils, air, surface water, and groundwater. In taking such samples, the ~~director~~ Secretary may utilize ~~such~~ sampling methods ~~as are~~ necessary in exercising good scientific technique. Following the taking of any sample, the ~~director~~ Secretary shall give the person responsible in the voluntary agreement for remediation activities a receipt describing the sample obtained and, if requested, a portion of each sample equal in volume or weight to the portion retained. The ~~director~~ Secretary shall promptly provide a copy of any analysis made to the responsible person named in the voluntary agreement.

(d) Upon presentation of proper credentials, the ~~director~~ Secretary shall be given access to all records relating to a ~~brownfield~~ or voluntary remediation.

§22-22-11. Licensed remediation specialist, licensure procedures.

(a) ~~No~~ A person may not practice as a licensed remediation specialist without a license issued by the ~~director~~ Secretary. Any violation of this provision shall be subject to the enforcement orders ~~as set forth in section twelve of this article §22-22-12 of this code~~.

(b) To obtain a license, a person must apply to the ~~director~~ Secretary in writing on forms approved and supplied by the ~~director~~ Secretary. Each application for examination for a license shall contain:

(1) The full name of the person applying for the license;

(2) The principal business address of the applicant;

(3) All formal academic education and experience of the applicant to demonstrate professional expertise of the applicant;

(4) If waiver of the examination is being requested, any license or certification that the person desires to be considered as part of the waiver request;

(5) The examination fee; and

(6) Any other necessary information prescribed by the ~~director~~ Secretary.

(c) The ~~director~~ Secretary shall establish the date, time, and location of licensed remediation specialist examinations.

(d) The applicant ~~must~~ shall demonstrate that he or she possesses a practical knowledge of the remediation activities; procedures necessary to remediate a site; and the management of contaminants at a site, including, but not limited to, site investigation, health and safety protocol, quality assurance, feasibility studies and remedial design.

(e) If the ~~director~~ Secretary does not certify the remediation specialist applicant, the ~~director~~ Secretary shall inform the applicant in writing of the reasons therefor. The ~~director~~ Secretary may not deny a license without cause.

(f) It is the licensed remediation specialist's duty to protect the safety, health, and welfare of the public as set forth in this article, in the performance of his or her professional duties. The licensed remediation specialist is responsible for any release of contaminants during remediation activities undertaken pursuant to the approved remediation agreement, work plans, or reports. If a licensed remediation specialist faces a situation where he or she is unable to meet this duty, the licensed remediation specialist may either sever the relationship with the client or employer or refuse professional responsibility for work plan, report, or design. The specialist shall notify the ~~division~~, Department if there is a threat to the environment or the health, safety, or welfare of the public.

(g) A licensed remediation specialist shall only perform assignments for which the specialist is qualified by training and experience in those specific technical fields; be objective in work plans, reports, and opinions; and avoid any conflict of interest with employer, clients, and suppliers. A licensed remediation specialist shall not solicit or accept gratuities, directly or indirectly, from contractors, agents, or other parties dealing directly with the employer or client in regard to professional services being performed at the work site; accept any type of bribe; falsify or permit misrepresentation of professional qualifications; intentionally provide false information to the ~~director~~ Secretary; or knowingly associate with ~~one~~ a person who is engaging in business or professional practices of a fraudulent or dishonest nature.

(h) A licensed remediation specialist shall not charge any special fees above usual and customary professional rates for being licensed.

(i) The license issued by the ~~director~~ Secretary may be renewed every two years for any licensed remediation specialist in good standing. The ~~director~~ Secretary, by rule, shall establish license fees.

(j) The ~~director~~ Secretary ~~is authorized to~~ may revoke a license; suspend a license for not more than five years; or impose lesser sanctions as may be appropriate for acts or omissions in violation of this article.

§22-22-12. Enforcement orders for licensed remediation specialists; cease and desist order; criminal penalties.

(a) If the ~~director~~ Secretary, upon inspection, investigation, or through other means observes, discovers, or learns that a licensed remediation specialist has violated the provisions of this article or any rules promulgated hereunder, the ~~director~~ Secretary may:

(1) Issue an order stating with reasonable specificity the nature of the violation and requiring compliance immediately or within a specified time. An order under this section includes, but is not limited to, orders suspending or revoking licenses, orders requiring a person to take remedial action, or cease and desist orders; or

(2) Request the prosecuting attorney of the county in which the alleged violation occurred bring a criminal action as provided for herein.

(b) Any person issued an order may file a request for reconsideration with the ~~director~~ Secretary within seven days of the receipt of the order. The ~~director~~ Secretary shall conduct a hearing on the merits of the order within ~~ten~~ 10 days of the filing of the request for reconsideration. The filing of a notice of request for reconsideration does not stay or suspend the execution or enforcement of the order.

(c) Any licensed remediation specialist who fraudulently misrepresents that work has been completed and such action results in an unjustified and inexcusable disregard for the safety of others, thereby placing another in imminent danger or contributing to ongoing harm to the environment, ~~he or she shall be~~ is guilty of a felony and, upon conviction thereof, shall be fined not more than \$50,000, or imprisoned not less than one nor more than two years, or both ~~such fine and imprisonment~~.

(d) If any person associated with remediation of a brownfield or voluntary remediation site engages in fraudulent acts or representations to the ~~division~~ Department, ~~he or she shall be~~ is guilty of a felony and, upon conviction thereof, shall be fined not more than \$50,000 or imprisoned not less than one nor more than two years, or both.

§22-22-13. Certificate of completion.

(a) The licensed remediation specialist shall issue a final report to the person undertaking the voluntary remediation when the property meets the applicable standards and all work has been completed as contemplated in the voluntary remediation agreement or the site assessment shows that all applicable standards are being met. Upon receipt of the final report, the person may seek a certificate of completion from the ~~director~~ Secretary.

(b) The ~~director~~ Secretary may delegate the responsibility for issuance of a certificate of completion to a licensed remediation specialist in limited circumstances, as specified by rule pursuant to this article.

(c) The certificate of completion shall contain a provision relieving a person who undertook the remediation and subsequent successors and assigns from all liability to the state as provided under this article which shall remain effective as long as the property complies with the applicable standards in effect at the time the certificate of completion was issued. This certificate is subject to reopener provisions of section fifteen of this article and may, if applicable, result in a land-use covenant as provided in section fourteen of this article.

§22-22-14. Land-use covenant; criminal penalties.

(a) The ~~director~~ Secretary shall establish by rule, criteria for deed recordation of land-use covenants and containing all necessary deed restrictions. The ~~director~~ Secretary shall cause all land-use covenants to appear in the chain of title by deed to be properly recorded in the office of the county clerk where the remediation site is located. If institutional and engineering controls are

used, in whole or in part, to achieve a remediation standard, the ~~director~~ Secretary shall direct that a land-use covenant be applied. The covenant shall include whether residential or nonresidential exposure factors were used to comply with the site-specific standard. The covenant shall contain a provision relieving the person who undertook the remediation and subsequent successors and assigns from all civil liability to the state as provided under this article and shall remain effective as long as the property complies with the applicable standards in effect at the time the covenant was issued.

(b) Whoever knowingly violates a land-use covenant by converting nonresidential property to residential property is guilty of a felony, and, upon conviction thereof, shall be fined not more than \$25,000, imprisoned for not more than five years, or both.

§22-22-15. Reopeners.

Any person who completes remediation in compliance with this article shall not be required to undertake additional remediation actions for contaminants subject to the remediation, unless the ~~director~~ Secretary demonstrates that:

(a) Fraud was committed in demonstrating attainment of a standard at the site that resulted in avoiding the need for further remediation of the site;

(b) New information confirms the existence of an area of a previously unknown contamination which contains contaminants that have been shown to exceed the standards applied to the previous remediation at the site;

(c) The level of risk is increased significantly beyond the established level of protection at the site due to substantial changes in exposure conditions, such as, a change in land use, or new information is obtained about a contaminant associated with the site which revises exposure assumptions beyond the acceptable range. Any person who changes the use of the property causing the level of risk to increase beyond established protection levels shall be required by the ~~division~~ Department to undertake additional remediation measures under the provisions of this article;

(d) The release occurred after the effective date of this article on a site not used for industrial activity prior to the effective date of this article; the remedy relied, in whole or in part, upon institutional or engineering controls instead of treatment or removal of contamination; and treatment, removal, or destruction has become technically and economically practicable; or

(e) The remediation method failed to meet the remediation standard or combination of standards.

In the event that any of the foregoing circumstances occur, the remediation agreement will be reopened and revised to the extent necessary to return the site to its previously agreed to state of remediation or other appropriate standard.

§22-22-16. Duty of assessor and citizens to notify ~~director~~ Secretary when change of property use occurs.

If an assessor in any county becomes aware of a change of remediated property use from nonresidential property to residential, the assessor shall check the land record of the county to ascertain if a land-use covenant appears to have been violated. Should it appear that a violation

has occurred, the assessor shall notify the ~~director~~ Secretary in writing of the suspected violation. If any citizen becomes aware of a change of property use from nonresidential to residential, the citizen may check the land record of the county to ascertain if a land use covenant appears to have been violated and may notify the ~~director~~ Secretary in writing. The ~~director~~ Secretary shall then investigate and proceed with any necessary enforcement action.

§22-22-17. Public notification for brownfields.

[Repealed.]

§22-22-18. Environmental liability protection.

(a) Any person demonstrating compliance with the applicable standards established in section three of this article, whether by remediation or where the site assessment shows that the contamination at the site meets applicable standards, shall be relieved of further liability for the remediation of the site under this chapter. Contamination identified in the remediation agreement submitted to and approved by the ~~division~~ Department shall ~~not be~~ is not subject to citizen suits or contribution actions. The protection from further remediation liability provided by this article applies to the following persons:

(1) The current or future owner or operator of the site, including development authorities and fiduciaries who participated in the remediation of the site;

(2) A person who develops or otherwise occupies the site;

(3) A successor or assign of any person to whom the liability protection applies;

(4) A public utility, as defined in ~~section two, article one, chapter twenty-four~~ §24-1-2 of this code, and for the purpose of this article, a utility engaged in the storage and transportation of natural gas, to the extent the public utility performs activities on the site;

(5) A remediation contractor;

(6) A licensed remediation specialist; and

(7) A lender or developer who engages in the routine practices of commercial lending, including, but not limited to, providing financial services, holding of security interests, workout practices, foreclosure, or the recovery of funds from the sale of a site.

(b) A person shall not be considered a person responsible for a release or a threatened release of contaminants simply by virtue of conducting or having a site assessment conducted. Nothing in this section relieves a person of any liability for failure to exercise due diligence in performing a site assessment.

(c) The Secretary may, consistent with programs developed under federal law, make a determination to limit the liability of lenders, innocent purchasers or landowners, de minimis contributors, or others who have grounds to claim limited responsibility for a containment or cleanup that may be required pursuant to the Hazardous Waste Management Act §22-18-1, et seq. of this code, the Water Pollution Control Act §22-11-1, et seq. of this code, the Groundwater Protection Act §22-12-1, et seq. of this code, or any other applicable law.

(d) A person who is a bona fide prospective purchaser shall not be held liable for a containment or cleanup that may be required at a brownfield site pursuant to the Hazardous Waste Management Act §22-18-1, et seq. of this code, the Water Pollution Control Act §22-11-1, et seq. of this code, the Groundwater Protection Act §22-12-1, et seq. of this code, or any other applicable law, if:

(1) The person did not cause, contribute, or consent to the release or threatened release;

(2) The person is not liable or potentially liable through any direct or indirect familial relationship or any contractual, corporate, or financial relationship or is not the result of a reorganization of a business entity that was potentially liable;

(3) The person exercises appropriate care with respect to hazardous substances found at the facility by taking reasonable steps to stop any continuing release, prevent any threatened future release, and prevent or limit human, environmental, or natural resource exposure to any previously released hazardous substances; and

(4) The person does not impede the performance of any response action.

(e) A person who is an innocent land owner who holds title, security interest, or any other interest in a brownfield site shall not be held liable for a containment or cleanup that may be required at a brownfield site pursuant to the Hazardous Waste Management Act §22-18-1, et seq. of this code, the Water Pollution Control Act §22-11-1, et seq. of this code, the Groundwater Protection Act §22-12-1, et seq. of this code, or any other applicable law if:

(1) The person did not cause, contribute, or consent to the release or threatened release;

(2) The person is not liable or potentially liable through any direct or indirect familial relationship or any contractual, corporate, or financial relationship or is not the result of a reorganization of a business entity that was potentially liable;

(3) The person made all appropriate inquiries into the previous uses of the facility in accordance with generally accepted good commercial and customary standards and practices, including those established by federal law;

(4) The person exercises appropriate care with respect to hazardous substances found at the facility by taking reasonable steps to stop any continuing release, prevent any threatened future release, and prevent or limit human, environmental, or natural resource exposure to any previously released hazardous substances;

(5) The person does not impede the performance of any response action; and either

(6) At the time the person acquired the interest, he or she did not know and had no reason to know, that any hazardous substances had been or were likely to have been disposed of on, in, or at the site, or

(7) The person is a government entity that acquired the site by escheat or through other involuntary transfer or acquisition.

(f) A person that owns real property that is contiguous to or otherwise similarly situated with respect to, and that is or may be contaminated by a release or threatened release of a hazardous

substance from real property that is not owned by that person shall not be considered liable for a containment or cleanup that may be required pursuant to the Hazardous Waste Management Act §22-18-1, et seq. of this code, the Water Pollution Control Act §22-11-1, et seq. of this code, the Groundwater Protection Act §22-12-1, et seq. of this code, or any other applicable law if the person did not cause, contribute, or consent to the release or threatened release, if the person is not liable or potentially liable through any direct or indirect familial relationship or any contractual, corporate, or financial relationship or is not the result of a reorganization of a business entity that was potentially liable, and if such person provides full cooperation, assistance, and access to persons that are authorized to conduct response actions at the facility from which there has been a release.

(g) The provisions of this section shall not otherwise limit the authority of the Secretary to require any person responsible for the contamination or pollution to contain or remediate sites where solid or hazardous waste or other substances have been improperly managed.

§22-22-20. Affirmative defenses.

Any person who is alleged to have violated an environmental law or the common law equivalent, which occurred while acting pursuant to this article, may affirmatively plead the following in response to an alleged violation:

(a) An act of God;

(b) An intervening act of a public agency;

(c) Migration from property owned by a third party;

(d) Actions taken or omitted in the course of rendering care, assistance, or advice in accordance with the environmental laws or at the direction of the ~~division~~ Department;

(e) An act of a third party who was not an agent or employee of the lender, fiduciary, developer, remediation contractor, or development authority; or

(f) If the alleged liability for a lender, fiduciary, developer, or development authority arises after foreclosure, and the lender, fiduciary, developer, or development authority exercised due care with respect to the lender's, fiduciary's, developer's, or development authority's knowledge about the contaminants, and took reasonable precautions based upon such knowledge against foreseeable actions of third parties and the consequences arising therefrom. A lender, fiduciary, developer, remediation contractor, or development authority may avoid liability by proving any other defense which may be available to it.

The bill (Eng. Com. Sub. for H. B. 4967), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 5127, Including Potomac State College in the definition of community and technical college education program for participation in the "Learn and Earn Program".

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

Eng. Com. Sub. for House Bill 5188, Relating to awards and benefits for duty related disability in the municipal police officers and firefighters retirement system.

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

The following amendments to the bill, from the Committee on Finance, were reported by the Clerk, considered simultaneously, and adopted:

On page two, section 17, lines 21-23, by striking out all of subsection (c) and inserting in lieu thereof a new subsection (c) to read as follows:

(c) If the member is partially disabled, the member shall receive 45 percent of his or her average full monthly compensation for the 12-month contributory period preceding the member's disability award, or the shorter period if the member has not worked 12 months. If the member remains partially disabled until attaining 60 years of age, the member shall then receive the retirement benefit provided in §8-22A-14 and §8-22A-15 of this code.;

And,

On page two, section 17, line 24, by striking out the words "or partially".

The bill (Eng. Com. Sub. for H. B. 5188), as amended, was then ordered to third reading.

Eng. House Bill 5257, Relating generally to allowing the Supreme Court of Appeals discretion to create uniform pay scales for all levels of judicial support staff.

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 50. MAGISTRATE COURTS.

ARTICLE 1. COURTS AND OFFICERS.

§50-1-8. Magistrate court clerks; salaries; duties; duties of circuit clerk.

(a) In each county having three or more magistrates, the judge of the circuit court or the chief judge of the circuit court, if there is more than one judge of the circuit court, shall appoint a magistrate court clerk. In all other counties the judge may appoint a magistrate court clerk or may, by rule, require the duties of the magistrate court clerk to be performed by the clerk of the circuit court, in which event the circuit court clerk is entitled to additional compensation in the amount of \$2,500 per year. The magistrate court clerk serves at the will and pleasure of the circuit judge.

(b) Magistrate court clerks shall be paid at least twice per month by the state. The annual salary of all magistrate court clerks is ~~\$52,296~~. ~~Beginning July 1, 2023, the annual salary of a magistrate court clerk shall be \$54,596~~ shall be determined by a pay scale established by the Administrative Director of the Supreme Court. Magistrate court clerks may receive any general salary increase granted to state employees, whose salaries are not set by statute, expressed as a percentage increase or an across-the-board increase, implemented after July 1, 2023.

(c) In addition to other duties that may be imposed by the provisions of this chapter or by the rules of the Supreme Court of Appeals or the judge of the circuit court or the chief judge of the circuit court if there is more than one judge of the circuit court, it is the duty of the magistrate court clerk to establish and maintain appropriate dockets and records in a centralized system for the magistrate court, to assist in the preparation of the reports required of the court and to carry out on behalf of the magistrates or chief magistrate if a chief magistrate is appointed, the administrative duties of the court.

(d) The magistrate court clerk, or if there is no magistrate court clerk in the county, the clerk of the circuit court, may issue all manner of civil process and require the enforcement of subpoenas and subpoenas duces tecum in magistrate court.

§50-1-9. Magistrate assistants; salary; duti

(a) In each county there shall be at least one magistrate assistant for each magistrate; however, the Supreme Court of Appeals may authorize additional magistrate assistants if the workload of a county's magistrate court requires extra staff support. Each magistrate assistant shall be appointed by the magistrate under whose authority and supervision and at whose will and pleasure he or she shall serve. If more than one magistrate assistant per magistrate is approved by the Supreme Court of Appeals, then the chief magistrate, or chief circuit judge if no chief magistrate is designated, shall appoint, supervise, and assign job duties for any additional magistrate assistant as needed for that county. The assistant shall not be a member of the immediate family of any magistrate and shall not have been convicted of a felony or any misdemeanor involving moral turpitude and shall reside in the State of West Virginia. For the purpose of this section, "immediate family" means the relationships of mother, father, sister, brother, child, or spouse.

(b) A magistrate assistant shall have the duties, clerical or otherwise, assigned by the magistrate and prescribed by the rules of the Supreme Court of Appeals or the judge of the circuit court, or the chief judge of the circuit court if there is more than one judge of the circuit court. In addition to these duties, magistrate assistants shall perform and are accountable to the magistrate court clerks with respect to the following duties:

- (1) The preparation of summons in civil actions;
- (2) The assignment of civil actions to the various magistrates;
- (3) The collection of all costs, fees, fines, forfeitures, and penalties which are payable to the court;
- (4) The submission of moneys, along with an accounting of the moneys, to appropriate authorities as provided by law;
- (5) The daily disposition of closed files which are to be located in the magistrate clerk's office;
- (6) All duties related to the gathering of information and documents necessary for the preparation of administrative reports and documents required by the rules of the Supreme Court of Appeals, the judge of the circuit court or the chief judge of the circuit court if there is more than one judge of the circuit court;

(7) All duties relating to the notification, certification, and payment of jurors serving pursuant to the terms of this chapter; and

(8) All other duties or responsibilities whereby the magistrate assistant is accountable to the magistrate court clerk as determined by the magistrate.

(c) Magistrate assistants shall be paid at least twice per month by the state. The annual salary of all magistrate assistants is ~~\$46,932~~. ~~Beginning July 1, 2023, the annual salary of a magistrate assistant shall be \$49,232~~ shall be determined by a pay scale established by the Administrative Director of the Supreme Court. Magistrate assistants may receive any general salary increase granted to state employees, whose salaries are not set by statute, expressed as a percentage increase or an across-the-board increase enacted after July 1, 2023.

§50-1-9a. Magistrate court deputy clerks; duties; salary.

(a) Whenever required by workload and upon the recommendation of the judge of the circuit court, or the chief judge of the circuit court if there is more than one judge of the circuit court, the Supreme Court of Appeals may provide by rule for the appointment of magistrate court deputy clerks. The magistrate court deputy clerks shall be appointed by the judge of the circuit court, or the chief judge of the circuit court if there is more than one judge of the circuit court, to serve at his or her will and pleasure under the immediate supervision of the magistrate court clerk.

(b) Magistrate court deputy clerks shall have the duties, clerical or otherwise, as may be assigned by the magistrate court clerk and as may be prescribed by the rules of the Supreme Court of Appeals, the judge of the circuit court, or the chief judge of the circuit court, if there is more than one judge of the circuit court. Magistrate court deputy clerks may also exercise the power and perform the duties of the magistrate court clerk as may be delegated or assigned by the magistrate court clerk.

(c) A magistrate court deputy clerk may not be an immediate family member of any magistrate, magistrate court clerk, magistrate assistant, or judge of the circuit court within the same county; may not have been convicted of a felony or any misdemeanor involving moral turpitude; and must reside in this state. For purposes of this subsection, "immediate family member" means a mother, father, sister, brother, child, or spouse.

(d) Magistrate court deputy clerks shall be paid at least twice per month by the state. The annual salary of all magistrate court deputy clerks is ~~\$46,932~~. ~~Beginning July 1, 2023, the annual salary of a magistrate court deputy clerk shall be \$49,232~~ shall be determined by a pay scale established by the Administrative Director of the Supreme Court. Magistrate court deputy clerks may receive any general salary increase granted to state employees whose salaries are not set by statute, expressed as a percentage increase or an across-the-board increase implemented after July 1, 2023.

CHAPTER 51. COURTS AND THEIR OFFICERS.

ARTICLE 2A. FAMILY COURTS.

§51-2A-6. Compensation and expenses of family court judges and their staffs.

(a) A family court judge is entitled to receive as compensation for his or her services an annual salary of \$62,500: *Provided*, That beginning July 1, 2005, a family court judge is entitled to receive

as compensation for his or her services an annual salary of \$82,500: *Provided, however,* That beginning July 1, 2011, the annual salary of a family court judge shall be \$94,500: *Provided further,* That beginning July 1, 2020, the annual salary of a family court judge shall be \$103,950.

(b) The secretary-clerk of the family court judge is appointed by the family court judge and serves at his or her will and pleasure. The secretary-clerk of the family court shall be paid at least twice per month by the state. The annual salary of all secretary-clerks of the family court is \$42,576. ~~Beginning July 1, 2023, the annual salary of a family court secretary clerk shall be \$44,876 shall be determined by a pay scale established by the Administrative Director of the Supreme Court.~~ Family court secretary-clerks may receive any general salary increase granted to state employees, whose salaries are not set by statute, expressed as a percentage increase or an across-the-board increase enacted after July 1, 2023.

(c) The family court judge may employ not more than one family case coordinator who serves at his or her will and pleasure: *Provided,* That the Supreme Court of Appeals may authorize additional family case coordinators if the workload of a circuit's family court requires extra staff support. The annual salary of the family case coordinator of the family court judge ~~shall be established by the Administrative Director of the Supreme Court of Appeals but may not exceed \$54,576. Beginning July 1, 2023, the annual salary of a family court case coordinator shall not exceed \$56,876 shall be determined by a pay scale established by the Administrative Director of the Supreme Court.~~ Family court case coordinators may receive any general salary increase granted to state employees, whose salaries are not set by statute, expressed as a percentage increase or an across-the-board increase enacted after July 1, 2023. If more than one family case coordinator is approved by the Supreme Court of Appeals, then the chief family court judge of that circuit shall appoint, supervise, and assign job duties for any additional family case coordinator as needed for that circuit.

(d) The sheriff or his or her designated deputy shall serve as a bailiff for a family court judge. The sheriff of each county shall serve or designate persons to serve so as to assure that a bailiff is available when a family court judge determines the same is necessary for the orderly and efficient conduct of the business of the family court.

(e) Disbursement of salaries for family court judges and members of their staffs are made by or pursuant to the order of the Director of the Administrative Office of the Supreme Court of Appeals.

(f) Family court judges and members of their ~~staffs~~ staff are allowed their actual and necessary expenses incurred in the performance of their duties. The expenses and compensation will be determined and paid by the Director of the Administrative Office of the Supreme Court of Appeals under such guidelines as he or she may prescribe, as approved by the Supreme Court of Appeals.

(g) The Supreme Court of Appeals is authorized to create additional classifications of support staff that it deems necessary to adequately and efficiently staff the family courts of this state, including, but not limited to, receptionists, assistant case coordinators, and assistant secretary-clerks. The Supreme Court of Appeals may determine the authority to hire and terminate, supervise, and assign job duties for these positions pursuant to its own employment rules, policies, and procedures. The annual salary of additional support staff authorized by this section shall not exceed the regular annual salary of a secretary-clerk and shall be paid by the state on the same basis established for secretary-clerks as provided in this section.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 1C. BAIL.**§62-1C-1a. Pretrial release; types of release; conditions for release; considerations as to conditions of release.**

(a) Subject to the provisions of §62-1C-1 of this code when a ~~person~~ defendant charged with a violation or violations of the criminal laws of this state first appears before a judicial officer:

(1) Except for good cause shown, a judicial officer shall release a ~~person~~ defendant charged with a misdemeanor ~~an~~ offense on his or her own recognizance at the initial appearance unless that ~~person~~ he or she is charged with:

(A) A misdemeanor offense of actual violence or threat of violence against a person;

(B) A misdemeanor offense where the victim was a minor, as defined in §61-8C-1 of this code;

(C) A misdemeanor offense involving the use of a deadly weapon, as defined in §61-7-2 of this code;

(D) A misdemeanor ~~offense~~ violation of the Uniform Controlled Substances Act involving a Schedule I or II narcotic drug or methamphetamine as set forth in chapter 60A of this code;

(E) A misdemeanor offenses of sexual abuse;

(F) A serious misdemeanor traffic offense set forth in §17C-5-1 or §17C-5-2 of this code; or

(G) A misdemeanor offense involving auto tampering; petit larceny; or possession, transfer, or receiving of stolen property when the alleged value ~~an~~ of the property involved exceeds \$250.

(2) For the ~~misdemeanor~~ offenses ~~specified~~ listed in this subsection, and all other offenses ~~which that~~ carry a possible penalty of incarceration, ~~the arrested person is entitled to a defendant~~ shall be admitted to bail subject to the least restrictive condition or combination of conditions that the judicial officer determines reasonably necessary to assure that person will appear as required, and ~~which that~~ will not jeopardize the safety of the ~~arrested person~~ defendant, victims, witnesses, or other persons in the community or the safety and maintenance of evidence: Provided, That a magistrate may not release a defendant charged with a felony offense on his or her own recognizance at an initial appearance. Further conditions may include that the ~~person~~ charged defendant shall:

(A) Not violate any criminal law of this state, another state, or the United States;

(B) Remain in the custody of a person designated by the judicial officer who agrees to assume supervision and to report any violation of a release condition to the court, if the designated person is reasonably able to assure the judicial officer that the ~~person~~ defendant will appear as required and will not pose a danger to himself or herself or to the safety of any other person or the community;

(C) Participate in home incarceration pursuant to §62-11B-1 *et seq.* of this code;

(D) Participate in an electronic monitoring program if one is available where the person is charged or will reside;

(E) Maintain employment, or, if unemployed, actively seek employment;

(F) Avoid all contact with an alleged victim of the alleged offense and with potential witnesses and other persons as directed by the court;

(G) Refrain from the use or excessive use of alcohol, or any use of a narcotic drug or other controlled substance, as defined in §60A-1-1 *et seq.* of this code without a prescription from a licensed medical practitioner; or

~~(H) Execute an agreement to forfeit, upon failing to appear as required, property of a sufficient unencumbered value, including money, as is reasonably necessary to assure the appearance of the person as required. The person charged shall provide the court with proof of ownership, the value of the property, and information regarding existing encumbrances of the property as, in the discretion of the judicial officer, is reasonable and necessary collateral to ensure the subsequent appearance of the person as required;~~

~~(I) Post a cash bond, or execute a bail bond with solvent sureties who will execute an agreement to forfeit an amount reasonably necessary to assure appearance of the person as required. If other than an approved surety, the surety shall provide the court with information regarding the value of its assets and liabilities and the nature and extent of encumbrances against the surety's property. The surety shall have a net worth of sufficiently unencumbered value to pay the amount of the bail bond; or~~

~~(J)(H)~~ Satisfy any other condition that is reasonably necessary to assure the appearance of the person defendant as required and to assure the safety of the ~~arrested person~~ defendant, victims, witnesses, other persons in the community, or the safety and maintenance of evidence.

(3) ~~Proper~~ The considerations in determining whether to release the ~~arrested person~~ defendant on an ~~unsecured bond~~ his or her own recognizance, fixing a reasonable amount of bail, or imposing other reasonable conditions of release ~~are~~ shall be:

(A) The ability of the ~~arrested person~~ defendant to give bail;

(B) The nature, number, and gravity of the offenses;

(C) The potential penalty the ~~arrested person~~ defendant faces;

(D) Whether the alleged acts were violent in nature;

(E) The ~~arrested person's~~ defendant's prior record of criminal convictions and delinquency adjudications, if any;

(F) The character, health, residence, and reputation of the ~~arrested person~~ defendant;

(G) The character and strength of the evidence which has been presented to the judicial officer;

(H) Whether the ~~arrested person~~ defendant is currently on probation, extended supervision, or parole;

(I) Whether the ~~arrested person~~ defendant is already on bail or subject to other release conditions in other pending cases;

(J) Whether the ~~arrested person~~ defendant has been bound over for trial after a preliminary examination;

(K) Whether the ~~arrested person~~ defendant has in the past forfeited bail or violated a condition of release or was ever a fugitive from justice; and

(L) The policy against unnecessary incarceration of ~~arrested persons~~ defendants pending trial set forth in this section.

(b) In all misdemeanors, ~~cash~~ bail may not exceed three times the maximum fine provided for the offense. If the person is charged with more than one misdemeanor, ~~cash~~ bail may not exceed three times the highest combined total maximum fine of the charged offenses for the offenses.

(c) Notwithstanding any provisions of this article to the contrary, whenever a defendant person not subject to the provisions of §62-1C-1 of this code not released on his or her own recognizance pursuant to subsection (a) of this section remains incarcerated after his or her initial appearance, relating to a misdemeanor, ~~due to the inability to meet the requirements of a secured bond,~~ a magistrate or judge shall hold a hearing within five days of setting the initial bail to determine if there is a condition or combination of conditions which can meet the considerations set forth in §62-1C-1a(a)(2) of this code.

(d) A judicial officer may upon notice and hearing modify the conditions of release at any time by imposing additional or different conditions.

(e) A prosecuting attorney and defense counsel, unless expressly waived by the defendant, shall appear at all hearings in which ~~bail or bond conditions~~ condition is or are at issue other than the proceeding at which the conditions of release are initially set.

(f) ~~No~~ A judicial officer may not recommend the services of a surety who is his or her relative as that term is defined in §6B-1-3 of this code.

§62-1C-2. Bail defined; ~~form~~ selection of form by defendant; receipts; right of judicial officer to impose conditions on release.

(a) Bail is the pretrial release of a defendant from custody upon terms and conditions specified by order of an appropriate judicial officer. Bail shall be set at a monetary amount determined by a judicial officer to provide adequate security for the appearance of a defendant to answer to a specific criminal charge before any court or magistrate at a specific time or at any time to which the case may be continued.

(b) ~~It may take any~~ Except as provided in §62-1C-2(e), a defendant is entitled to and may select one of the following forms for making bail:

~~(a) The~~ (1) By the deposit by the defendant or by some other person for him or her of cash, in a manner consistent with rules promulgated by the Supreme Court of Appeals;

(2) By executing an agreement to forfeit, upon failing to appear as required, real or personal property of a sufficient unencumbered value, including money, as is reasonably necessary to

assure the appearance of the person as required which shall be known as a recognizance. The defendant or person or persons owning the property shall provide the court with proof of ownership, the value of the property, and information regarding existing encumbrances of the property as, in the discretion of the judicial officer, is reasonable and necessary collateral to ensure the subsequent appearance of the defendant as ordered; or

(3) By use of a bail bondsman, as defined in §51-10A-1 of this code, who shall post a cash bond or execute a bail bond with a solvent surety or sureties who will execute an agreement to forfeit an amount reasonably necessary to assure appearance of the defendant as required. If other than an approved surety is used, the surety shall provide the judicial officer with information regarding the value of its assets and liabilities and the nature and extent of encumbrances against the surety's property. The surety shall have a net worth of sufficiently unencumbered value to pay the amount of the bail bond.

~~(b) The written undertaking by one or more persons to forfeit a sum of money equal to the amount of the bail if the defendant is in default for appearance, which shall be known as a recognizance;~~

~~(c) Such other form as the judge of the court that will have jurisdiction to try the offense may determine.~~

(c) All bail shall be received by the clerk of the court, or by the magistrate and, except in case of recognizance, receipts shall be given therefor by him to the surety.

(d) Nothing in this article shall be construed as limiting a circuit court at any stage of a proceeding from imposing any condition or combination of conditions that he or she determines are reasonably necessary to assure that the defendant will appear as required, and that will not jeopardize the safety of the defendant, victims, witnesses, or other persons in the community or the safety and maintenance of evidence pursuant to the provisions of §62-1C-1a of this code, including, but not limited to, release of a defendant on his or her own recognizance.

(e) A judicial officer, in his or her discretion, may set a cash only bail, in a manner consistent with rules promulgated by the Supreme Court of Appeals for the following offenses:

(1) Violations of the Uniform Controlled Substances Act for manufacturing, delivering, or possessing with the intent to deliver a Schedule I or II substance as set forth in chapter 60A of this code;

(2) All offenses included in §61-2-1 et seq. of this code;

(3) All offenses included in §61-8B-1 et seq. of this code;

(4) All offenses included in §61-8C-1 et seq. of this code; or

(5) All offenses included in §61-8D-1 et seq. of this code.

Senator Trump requested a ruling from the Chair as to whether he should be excused from voting under Rule 43 of the Rules of the Senate, as he is a candidate running for the office of Justice of the Supreme Court of Appeals of West Virginia.

The Chair replied that Senator Trump should be excused from voting on any matter pertaining to the bill and, without objection, Senator Trump was excused from voting on any matter pertaining to the bill.

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

The bill (Eng. H. B. 5257), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 5338, Relating to Safe Harbor for Cybersecurity Programs.

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 Finance committee amendment pending and the right for further amendments to be considered on that reading.

Eng. Com. Sub. for House Bill 5405, Providing additional professional development and support to West Virginia educators through teacher and leader induction and professional growth.

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

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

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

CHAPTER 18. EDUCATION.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-10. Foundation allowance to improve instructional programs, instructional technology, and teacher and leader induction and professional growth.

(a) The total allowance to improve instructional programs and instructional technology is the sum of the following:

(1) For instructional improvement, in accordance with county and school electronic strategic improvement plans required by §18-2E-5 of this code, an amount equal to 10 percent of the increase in the local share amount for the next school year shall be added to the amount of the appropriation for this purpose for the immediately preceding school year. The sum of these amounts shall be allocated to the counties as follows:

(A) One hundred fifty thousand dollars shall be allocated to each county; and

(B) Allocation to the counties of the remainder of these funds shall be made proportional to the average of each county's average daily attendance for the preceding year and the county's second month net enrollment.

Moneys allocated by this subdivision shall be used to improve instructional programs according to the county and school strategic improvement plans required by §18-2E-5 of this code and approved by the state board.

Up to 50 percent of this allocation for the improvement of instructional programs may be used to employ professional educators and service personnel in the county. Prior to the use of any funds from this subdivision for personnel costs, the county board must receive authorization from the state superintendent. The state superintendent shall require the county board to demonstrate: (1) The need for the allocation; (2) efficiency and fiscal responsibility in staffing; (3) sharing of services with adjoining counties in the use of the total local district board budget; and (4) employment of technology integration specialists to meet the needs for implementation of the West Virginia Strategic Technology Learning Plan. County boards shall make application for the use of funds for personnel for the next fiscal year by May 1 of each year. On or before June 1, the state superintendent shall review all applications and notify applying county boards of the approval or disapproval of the use of funds for personnel during the fiscal year appropriate. The state superintendent shall require the county board to demonstrate the need for an allocation for personnel based upon the county's inability to meet the requirements of state law or state board policy.

The funds available for personnel under this subdivision may not be used to increase the total number of professional noninstructional personnel in the central office beyond four.

The plan shall be made available for distribution to the public at the office of each affected county board; plus

(2) For the purposes of improving instructional technology, an amount equal to 20 percent of the increase in the local share amount for the next school year shall be added to the amount of the appropriation for this purpose for the immediately preceding school year. The sum of these amounts shall be allocated to the counties as follows:

(A) Thirty thousand dollars shall be allocated to each county; and

(B) Allocation to the counties of the remainder of these funds shall be made proportional to the average of each county's average daily attendance for the preceding year and the county's second month net enrollment.

Moneys allocated by this subdivision shall be used to improve instructional technology programs according to the county board's strategic technology learning plan.

This allocation for the improvement of instructional technology programs may also be used for the employment of technology system specialists essential for the technology systems of the schools of the county to be fully functional and readily available when needed by classroom teachers. The amount of this allocation used for the employment of technology system specialists shall be included and justified in the county board's strategic technology learning plan; plus

(3) One percent of the state average per pupil state aid multiplied by the number of students enrolled in dual credit, advanced placement, and international baccalaureate courses, as defined by the state board, distributed to the counties proportionate to enrollment in these courses in each county; plus

(4) For the purpose of supporting county-level implementation of the comprehensive systems for teacher and leader induction and professional growth pursuant to §18A-3C-3 of this code, an amount equal to 20 percent of the increase in the local share amount for the next school year shall be added to the amount of the appropriation for this purpose for the immediately preceding

school year. The sum of these amounts shall be allocated to the counties in a manner established by the state board which considers the following factors:

(A) The number of full-time-equivalent teachers employed by the county with zero years of experience;

(B) The number of full-time-equivalent teachers employed by the county who are less than fully certified for the teaching position in which they are employed;

~~(B)~~ (C) The total number of full-time-equivalent teachers employed by the county with one year of experience, with two years of experience, and with three years of experience;

~~(C)~~ (D) The number of full-time-equivalent principals, assistant principals, and vocational administrators employed by the county who are in their first or second year of employment as a principal, assistant principal, or vocational administrator;

~~(D)~~ (E) The number of full-time-equivalent principals, assistant principals, and vocational administrators employed by the county who are in their first year in an assignment at a school with a programmatic level in which they have not previously served as a principal, assistant principal, or vocational administrator; and

~~(E)~~ (F) Needs identified in the strategic plans for continuous improvement of schools and school systems including those identified through the performance evaluations of professional personnel.

Notwithstanding any provision of this subsection to the contrary, no county may receive an allocation for the purposes of this subdivision which is less than the county's total 2016-2017 allocation from the Teacher Mentor and Principals Mentorship appropriations to the Department of Education. Moneys allocated by this subdivision shall be used for implementation of the comprehensive systems for teacher and leader induction and professional growth pursuant to §18A-3C-3 of this code. Notwithstanding any provision of this subsection to the contrary, for each of the five school years beginning with the school year 2020 – 2021 and ending after the school year 2024 – 2025, from funds to be allocated under this subdivision, \$100,000 shall be retained by the Department of Education to assist county boards with the design and implementation of a teacher leader framework to accomplish the teacher induction and professional growth aspects of their comprehensive systems of support for teacher and leader induction and professional growth pursuant to §18A-3C-3 of this code. The Department of Education may also retain an additional amount of funds to be allocated under this subdivision beginning with the school year 2024 – 2025, not exceeding \$15,000,000, to accommodate the participation by county school systems in regional professional learning cadres or teacher leadership networks established or supported by the Department of Education, to expand regional professional learning cadres or teacher leadership networks designed to support the full implementation of the Third Grade Success Act provided in §18-2E-10 of this code, to implement the Department of Education's academic initiatives, and to assist teachers who are less than fully certified for the teaching position in which they are employed as further provided in §18A-3C-3 of this code. Up to \$2,000,000 of the \$15,000,000 shall be distributed to county boards for the purpose of expanding the school districts' ability to contract with organizations that facilitate the school districts' participation in regional professional learning cadres or teacher leadership networks designed to support math and science improvement or to support teachers who are less than fully certified for the teaching position in which they are employed as further provided in §18A-3C-3 of this code. The \$2,000,000 shall be distributed to the county boards under a grant program to be established

by the state board by rule pursuant to §29A-3B-1 et seq. of this code. The rule shall include at least the following:

(A) A requirement and procedures for county boards to submit applications for a grant;

(B) Criteria on which awards of the grants will be based on; and

(C) A requirement for an external evaluation for any program funded by a grant.

(b) Notwithstanding the restrictions on the use of funds pursuant to subdivisions (1) and (2), subsection (a) of this section, a county board may:

(1) Utilize up to 25 percent of the allocation for the improvement of instructional programs in any school year for school facility and equipment repair, maintenance, and improvement or replacement and other current expense priorities and for emergency purposes. The amount of this allocation used for any of these purposes shall be included and justified in the county and school strategic improvement plans or amendments thereto; and

(2) Utilize up to 50 percent of the allocation for improving instructional technology in any school year for school facility and equipment repair, maintenance, and improvement or replacement and other current expense priorities and for emergency purposes. The amount of this allocation used for any of these purposes shall be included and justified in the county board's strategic technology learning plan or amendments thereto.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 3C. IMPROVING TEACHING AND LEARNING.

§18A-3C-3. Comprehensive system for teacher and leader induction and professional growth.

(a) The intent of the Legislature is to allow for local-level implementation of comprehensive systems of support for building professional practice consistent with sound educational practices and resources available. In this regard, it is the intent of the Legislature that the comprehensive systems of support shall incorporate support for improved professional performance that begins with meaningful assistance for beginning teachers and leaders and also is targeted on deficiencies identified through the educator personnel evaluation process and other professional development needs identified in the strategic plans for continuous improvement of schools and school systems. Further, because of significant variability among the counties, not only in the size of their teaching force, distribution of facilities and available resources, but also because of their varying needs, the Legislature intends for the implementation of this section to be accomplished in a manner that provides adequate flexibility to the counties to design and implement a comprehensive system of support for improving professional performance that best achieves the goals of this section within the county. Finally, because of the critical importance of ensuring that all teachers perform at the accomplished level or higher in the delivery of instruction that at least meets the West Virginia Professional Teaching Standards and because achieving this objective at a minimum entails providing assistance to address the needs as indicated by the data informed results of annual performance evaluations, including the self-assessed needs of the teachers themselves, the Legislature expects the highest priority for county and state professional development will be on meeting these needs and that the comprehensive systems of support for

improving professional practice will reflect substantial redirection of existing professional development resources toward this highest priority.

(b) Each county board shall ensure that the results on the comprehensive statewide student assessment for the students taught by each teacher are provided to that teacher so that the teacher can see the performance of the students he or she taught the previous school year.

~~(b)~~ (c) On or before July 1, 2018, the state board shall publish guidelines on the design and implementation of a county-level comprehensive system of support for improving professional practice. The purpose of the guidelines is to assist the county board with the design and implementation of a system that best achieves the goals of this section within the county. The guidelines may include examples of best practices and resources available to county boards to assist them with the design and implementation of a comprehensive system of support and may include guidelines for the design and implementation of a teacher leader framework committed to improving the quality of instruction.

~~(c)~~ (d) Effective for the school year beginning July 1, 2018, and thereafter, a county board is not eligible to receive state funding appropriated for the purposes of this section or any other provision of law related to beginning teacher and principal internships and mentor teachers and principals unless it has adopted a plan for implementation of a comprehensive system of support for improving professional practice, the plan has been verified by the state board as meeting the requirements of this section and the county is implementing the plan. The plan shall address the following:

(1) The manner in which the county will provide the strong school-based support and supervision that will assist beginning teachers in developing instructional and management strategies, procedural and policy expertise, and other professional practices they need to be successful in the classroom and perform at the accomplished level. Nothing in this subdivision prohibits a school or school system that was granted an exception or waiver from §18A-3-2c of this code prior to the effective date of this section from continuing implementation of the program in accordance with the exception or waiver;

(2) The manner in which the county will provide the strong support and supervision necessary to assist teachers employed by the county who are less than fully certified for the teaching position in which they are employed that will include an emphasis on grade-level content, standards driven instruction, research-based instructional strategies, and mentoring support consistent with the West Virginia Professional Teaching Standards.

~~(2)~~ (3) The manner in which the county will provide the strong support and supervision that will assist beginning principals in developing instructional leadership, supervisory and management strategies, procedural and policy expertise, and other professional practices they need to be successful in leading continuous school improvement and performing at the accomplished level or above;

~~(3)~~ (4) The manner in which the county in cooperation with the teacher preparation programs in this state will provide strong school-based support and assistance necessary to make student and resident teaching a productive learning experience;

(4) (5) The manner in which the county will use the data from the educator performance evaluation system to serve as the basis for providing professional development specifically targeted on the area or areas identified through the evaluation process as needing improvement.

If possible, this targeted professional development should be delivered at the school site using collaborative processes, mentoring or coaching or other approaches that maximize use of the instructional setting;

~~(5)~~ (6) The manner in which the county will use the data from the educator performance evaluation system to serve as the basis for establishing priorities for the provision of county-level professional development when aggregate evaluation data from the county's schools indicates an area or areas of needed improvement;

~~(6)~~ (7) If a county uses master teachers, mentors, academic coaches, or any other approaches using individual employees to provide support, supervision, or other professional development or training to other employees for the purpose of improving their professional practice, the manner in which the county will select each of these individual employees based upon demonstrated superior performance and competence as well as the manner in which the county will coordinate support for these employees. If the duties of the position are to provide mentoring to an individual teacher at only one school, then priority shall be given to applicants employed at the school at which those duties will be performed;

~~(7)~~ (8) The manner in which the county will use local resources available, including, but not limited to, funds for professional development and academic coaches, to focus on the priority professional development goals of this section;

~~(8)~~ (9) The manner in which the county will adjust its scheduling, use of substitutes, collaborative planning time, calendar, or other measures as may be necessary to provide sufficient time for professional personnel to accomplish the goals of this section as set forth in the county's plan; and

~~(9)~~ (10) The manner in which the county will monitor and evaluate the effectiveness of implementation and outcomes of the county system of support for improving professional practice.

~~(d)~~ (e) Effective the school year beginning July 1, 2020, and thereafter, appropriations for supporting county-level implementation of the comprehensive systems of support for teacher and leader induction and professional growth pursuant to §18-9A-10 of this code and any new appropriation which may be made for the purposes of this section shall be expended by county boards only to accomplish the activities as set forth in their county plan pursuant to this section. Effective the school year beginning July 1, 2020, and thereafter, any employee service or employment as a mentor is not subject to the provisions of this code governing extra duty contracts. A county board may adopt a teacher leader framework designed to accomplish the purposes of this section related to teacher induction and professional growth and, if the county board adopts a county salary supplement pursuant to §18A-4-5a of this code to provide additional compensation to teachers who, in addition to teaching duties, are assigned other duties for new teacher induction, improving professional practice and furthering professional growth among teachers as set forth in the county's comprehensive system of support, then appropriations made for supporting the purposes of this section may be applied to that salary supplement and other associated costs which may include a reduction in the teaching load of the teacher leader: Provided, That effective July 1, 2024, and thereafter, any additional amount paid to a teacher pursuant to this section shall only be for the duration of any service provided under this section and not be considered salary for the purposes of the computation of an annuity under §18-7A-26 of this code.

~~(e)~~ (f) The Department of Education shall assist county boards with the design and implementation of a teacher leader framework to accomplish the teacher induction and professional growth aspects of their comprehensive systems of support pursuant to this section. The goals of a teacher leader framework are to achieve:

(1) Increased student achievement and growth through the development of a shared leadership structure at the school level;

(2) Broader dissemination and use of effective teacher strategies through an increase in teacher collaboration; and

(3) Stronger and more positive school and district culture through the development and retention of highly effective teachers.

~~(f)~~ (g) The Department of Education may form networks among schools or school systems, or both, of comparable size and interests for the design and implementation of teacher leader frameworks that are shall be:

(A) Driven by varying district and school needs;

(B) Related to existing state and district initiatives;

(C) Designed to improve student achievement and growth; and

(D) Designed to fit district size, current culture for collaboration, and funding capacity.

~~(g)~~ (h) A teacher leader framework adopted by a county board must:

(1) Create specific roles and responsibilities, eligibility requirements, and compensation plans for each teacher leader position, and clearly communicate these to teacher leaders, administrators, and other stakeholders;

(2) Provide regular, targeted professional learning opportunities for teacher leaders, and encourage redelivery within their respective schools;

(3) Provide time and opportunities for teacher leaders to collaborate with administrators, curriculum staff, other teacher leaders, and teachers;

(4) Monitor and evaluate the effectiveness of the teacher leader program through surveys from school administrators and school faculty; and

(5) Include teacher leaders in the school improvement planning process;

~~(h) The Legislative Oversight Commission on Education Accountability shall review the progress of the implementation of the comprehensive systems of support for teacher and leader induction and professional growth and may make any recommendations it considers necessary to the Legislature during the next regular legislative session.~~

The bill (Eng. Com. Sub. for H. B. 5405), as amended, was then ordered to third reading.

Eng. Com. Sub. for House Bill 5514, Enhancing training requirements for county boards of education members.

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

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

On page 7, section 4, lines 28 through 33, by striking out the proviso and inserting in lieu thereof the following: *Provided, however, That a county board member who is in default of a training requirement established in §18-5-1a of this code shall not, until after the default is cured, receive compensation for any meeting held during the period of default. For purposes of compensation, a member in default of a training requirement may cure the default by completing the unfulfilled training requirements within three months of the default. Upon curing the default, the member shall receive compensation, without interest, for the meetings held during the period of default: *Provided, further, That up to five paid meetings may be provided when planning for activities such as running an election for excess levy, construction bond hearings, school closure hearings, personnel hearings, student expulsion hearings, and in the case of a disaster: *And provided further, That members shall be paid for up to two trainings.***

The bill (Eng. Com. Sub. for H. B. 5514), as amended, was then ordered to third reading.

Eng. House Bill 5528, Relating to the renewable energy facilities program.

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

Eng. Com. Sub. for House Bill 5544, Relating to requiring certain reporting from the Mountaineer Trail Network Authority each year.

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 right for amendments to be considered on that reading.

Eng. House Bill 5548, Relating to modifying requirements imposed on any owner, operator, or manager within a tourism development project.

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 Economic Development committee amendment pending and the right for further amendments to be considered on that reading.

Eng. House Bill 5594, Exempting the West Virginia School of Osteopathic Medicine, West Virginia University and Marshall University from contracts, agreements, or memorandums of understanding with spending units in state government with exceptions.

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

Eng. Com. Sub. for House Bill 5604, Relating to procurement by state spending units.

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

On motion of Senator Woodrum, 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:

CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.

ARTICLE 3. PURCHASING DIVISION.

§5A-3-10. Competitive bids; publication of solicitations for sealed bids; purchase of products of nonprofit workshops; employee to assist in dealings with nonprofit workshops; continuing procurements over \$1 million.

(a) A purchase of and contract for commodities, printing, and services shall be based on competitive bids, except when another method of procurement is determined to be in the best interest of the State.

(b) The director shall solicit, on behalf of spending units, sealed bids for the purchase of commodities and printing which is estimated to exceed \$25,000. The director may delegate the procurement of commodities, services, or printing estimated to be \$25,000 or less to the spending unit. The director may set a higher or lower delegated procurement limit for a particular spending unit if the director determines that such action would be in the best interest of the spending unit and the State. In no event may the director authorize more than \$100,000 of delegated procurement authority to a spending unit.

(c) *Bids for the purchase of technical infrastructure.* Notwithstanding the provisions of subsection (b) of this section to the contrary, the director shall solicit, on behalf of spending units, sealed bids for the purchase of technical infrastructure as defined in §5A-6-2 of this code which is estimated to exceed \$250,000. The director shall delegate the procurement of technical infrastructure estimated to be \$250,000 or less to the spending unit. The director may set a higher or lower delegated procurement limit for a particular spending unit for the purchase of technical infrastructure if the director determines that such action would be in the best interest of the spending unit and the State.

(d) Spending units shall not make an individual purchase in excess of the delegated procurement limit established in ~~subsection (b)~~ subsections (b) or (c) of this section, issue a series of requisitions for the same or similar commodity or service or divide or plan procurements with the intention to circumvent the delegated procurement limit established in ~~subsection (b)~~ subsections (b) or (c) of this section, or otherwise avoid the use of sealed bids. Any spending unit that discovers it has awarded multiple contracts for the same or similar commodity or service to an individual vendor over any 12-month period shall file copies of all contracts awarded or orders placed for the commodity, service, or printing in question within the 12 preceding months with the director upon exceeding the delegated ~~limit~~ limits, along with a statement explaining how either the multiple contract awards or orders do not circumvent the delegated procurement ~~limit~~ limits, or how the contracts or orders were not intended to circumvent the delegated ~~limit~~ limits. If the spending unit does not report to the director within a reasonable period, the director shall contact the spending unit to request such statement and may suspend the purchasing authority of the spending unit until the spending unit complies with the reporting requirement of this subsection, as determined appropriate. The director may conduct a review of any spending unit to ensure compliance with this subsection. Following a review, in consultation with the relevant spending unit, the director shall complete a report summarizing his or her findings and forward the report to

the spending unit. In addition, the director shall report to the Joint Committee on Government and Finance on January 1 and July 1 of each year the spending units which have reported under this subsection and the findings of the director.

~~(d)~~ (e) The director may permit bids by electronic transmission to be accepted in lieu of sealed bids.

~~(e)~~ (f) Bids shall be solicited by public notice. The notice may be published by any advertising medium the director considers advisable. The director may also solicit sealed bids by sending requests by mail or electronic transmission to prospective vendors.

~~(f)~~ (g) (1) The director may, without competitive bidding, purchase commodities and services produced and offered for sale by nonprofit workshops, as defined in §5A-1-1 of this code, which are located in this state: *Provided*, That the commodities and services shall be of a fair market price and of like quality comparable to other commodities and services otherwise available as determined by the director.

(2) To encourage contracts for commodities and services with nonprofit workshops, the director shall employ a person whose responsibilities in addition to other duties are to identify all commodities and services available for purchase from nonprofit workshops, to evaluate the need of the state for commodities and services to coordinate the various nonprofit workshops in their production efforts, and to make available to the workshops information about available opportunities within state government for purchase of commodities or services which might be produced and sold by such workshops. Funds to employ such a person shall be included annually in the budget.

~~(g)~~ (h) For all commodities and services in an amount exceeding \$1 million, if the procurement of the commodity or service is continuing in nature, 12 months prior to the expiration of the contract or final renewal option, whichever is later, the spending unit shall coordinate with the Purchasing Division on a new procurement for such commodity or service under the requirements of this article. This procurement shall be awarded or terminated no later than 180 days after the procurement specifications have been finally approved by the Purchasing Division.

§5A-3-10f. Use of cooperative contracts.

Any state spending unit may make a written request to the director to procure technical infrastructure pursuant to a competitively procured agreement. The director shall respond to the request within 30 days of receipt of the request. If the director does not respond within 30 days of receipt of the request, the director is deemed to have approved the request and the spending unit may procure technical infrastructure pursuant to the competitively procured agreement.

ARTICLE 6. OFFICE OF TECHNOLOGY.

§5A-6-2. Definitions.

As used in this article:

"Information systems" means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.

"Information technology" means any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information.

"Information technology marketplace portal" or "IT marketplace portal" means a structured digital catalog that customers can use to find, buy, deploy, and manage third-party information technology products and services whose pricing and discount levels are set by the third-party providers.

"Technology services" means professional services designed to provide functions, maintenance, and support of information technology devices, or services including, but not limited to, computer systems application development and maintenance; systems integration and interoperability; operating systems maintenance and design; computer systems programming; computer systems software support; planning and security relating to information technology devices; data management consultation; information technology education and consulting; information technology planning and standards; establishment of local area network and workstation management standards; and cloud computing.

"Telecommunications" means the preparation, transmission, communication, or related processing of information by electrical, electromagnetic, electromechanical, electro-optical, or electronic means.

"Chief Information Officer" means the person holding the position created in §5A-6-3 of this code and vested with authority to oversee state spending units in planning and coordinating information systems that serve the effectiveness and efficiency of the state and individual state spending units, and further the overall management goals and purposes of government: *Provided*, That reference to "Chief Technology Officer" in other articles of this code shall mean "Chief Information Officer".

"Technical infrastructure" means all information systems, information technology, information technology equipment, telecommunications, and technology services as defined in this section.

"Technology project" means a project where technology is a significant component and is either valued at \$250,000 or more, or will involve sensitive or restricted data.

"Steering committee" means an internal agency oversight committee established jointly by the Chief Information Officer and the agency proposing the project, which shall include representatives from the Office of Technology and at least one representative from the agency proposing the project.

"Technology portfolio" means a strategic management process documenting relationships between agency missions and information technology and telecommunications investments.

§5A-6-4f. Information technology marketplace portal.

(a) On or before September 1, 2024, the Secretary of Administration shall approve at least two IT marketplace portals for use by state spending units. Any IT marketplace approved by the Secretary must meet the following minimum qualifications: (1) Be as equally accessible to West Virginia-based third-party solutions as they are to national solutions; (2) offer real-time transaction capability; (3) offer third-party solutions in addition to a providers' own products; (4) have the

capability to apply negotiated contracts; (5) have the capability to search and filter by compliance frameworks; (6) have capability to view product security compliance in real-time; and (7) offer diverse solution types. Diverse solution types include, but are not limited to software, software as a service, machine learning algorithms, professional services, large data sets, and virtual images.

(b) The Chief Information Officer shall determine if the procurement of technical infrastructure through an IT marketplace portal is advantageous for the State of West Virginia. The Chief Information Officer may utilize best value procurement when determining if using an IT marketplace portal is most advantageous for the State.

(c) Upon the approval of an IT marketplace portal by the Secretary, a state spending unit may use the IT marketplace to procure technical infrastructure.

CHAPTER 11. TAXATION.

ARTICLE 8. LEVIES.

§11-8-26. Unlawful expenditures by local fiscal body.

(a) Except as provided in §11-8-14b, §11-8-25a, and §11-8-26a of this code, or subsection (b) of this section, a local fiscal body ~~shall~~ may not expend money or incur obligations:

- (1) In an unauthorized manner;
- (2) For an unauthorized purpose;
- (3) In excess of the amount allocated to the fund in the levy order; or
- (4) In excess of the funds available for current expenses.

(b) Local fiscal bodies may not obligate funds beyond the current fiscal year except for contracts executed to procure technology licensing service agreements. Local fiscal bodies shall justify entering into multi-year technology license service agreements by maintaining documentation of material fiscal savings to the body.

~~(b)~~ (c) Notwithstanding the foregoing and any other provision of law to the contrary, a local fiscal body or its duly authorized officials may not be penalized for a casual deficit which does not exceed its approved levy estimate by more than three percent: *Provided*, That such casual deficit is satisfied in the levy estimate for the succeeding fiscal year: *Provided, however*, That in calculating a deficit for purposes of this section, account shall not be taken of any amount for which the local fiscal body may be liable for the unfunded actuarial accrued liability of the West Virginia Retiree Health Benefit Trust Fund or any amount allocated to the local fiscal body as an employer annual required contribution that exceeds the minimum annual employer payment component of the contribution, all as provided under §5-16D-1 *et seq.* of this code.

The bill (Eng. Com. Sub. for H. B. 5604), as amended, was then ordered to third reading.

Eng. House Joint Resolution 21, Amending the Constitution to prohibit persons not United States citizens from voting in any election held within this state.

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

The following amendment to the resolution, 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:

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at the next general election to be held in the year 2024, which proposed amendment is that Section 1, Article IV thereof, be amended, to read as follows:

ARTICLE IV. ELECTION AND OFFICERS.

4-1. Election and officers.

The citizens of the state shall be entitled to vote at all elections held within the counties in which they respectively reside; but no person who is a minor, or who has been declared mentally incompetent by a court of competent jurisdiction, or who is under conviction of treason, felony, or bribery in an election, or who has not been a resident of the state and of the county in which he or she offers to vote for 30 days next preceding such offer shall be permitted to vote while such disability continues; but no person in the military, naval, or marine service of the United States shall be deemed a resident of this state by reason of being stationed therein, nor shall any person who is not a citizen of the United States be entitled to vote at any election held within this state.

Resolved further, That in accordance with the provisions of §3-11-1 *et seq.* of the Code of West Virginia, 1931, as amended, such amendment is hereby numbered "Amendment 1" and designated as the "Citizens Voting Amendment" and the purpose of the proposed amendment is summarized as follows: "The purpose of this amendment is to prohibit persons who are not citizens of the United States from voting in West Virginia elections."

The resolution (Eng. H. J. R. 21), as amended, was then ordered to third reading.

The Senate proceeded to the tenth order of business.

Eng. Com. Sub. for House Bill 4753, Relating to providing health insurance coverage concerning biomarker testing.

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

Eng. Com. Sub. for House Bill 4975, Relating to establishing a foster parent information system.

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

Eng. Com. Sub. for House Bill 5609, Relating to confidentiality of child care records and the Foster Care Ombudsman.

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 28, Protection from medically-assisted suicide or euthanasia in West Virginia Amendment.

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

At the request of Senator Takubo, unanimous consent being granted, the Senate returned to the third order of business.

Executive Communications

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



Jim Justice
Governor of West Virginia

March 6, 2024

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, is the following bill:

Committee Substitute for Senate Bill No. Six Hundred Sixty-eight (668), which was presented to me on February 29, 2024.

You will note that I approved this bill on March 6, 2024.

Sincerely,

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

Jim Justice
Governor

JJ: mrp

cc: The Honorable Stephen J. Harrison



Jim Justice
Governor of West Virginia

March 6, 2024

The Honorable Steven 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. Five Thousand Six (5006), which was presented to me on February 29, 2024.

House Bill No. Five Thousand Two Hundred Sixty-one (5261), which was presented to me on February 29, 2024.

House Bill No. Five Thousand Two Hundred Sixty-seven (5267), which was presented to me on February 29, 2024.

House Bill No. Five Thousand Two Hundred Seventy-three (5273), which was presented to me on February 29, 2024.

You will note that I approved these bills on March 6, 2024.

Sincerely,

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

Jim Justice
Governor

JJ: mrp

cc: The Honorable Lee Cassis

The Senate again proceeded to the fourth order of business.

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

Your Committee on Education has had under consideration

Senate Concurrent Resolution 36 (originating in the Committee on Education)—Requesting a study of School Building Authority including its funding sources, the types of projects it funds, its distributions by county, its distributions by type of project, and its methods for evaluating projects for funding.

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

Respectfully submitted,

Amy N. Grady,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the resolution (S. C. R. 36) contained in the foregoing report from the Committee on Education was then referred to the Committee on Rules.

Senator Weld, 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 4110, Authorizing certain miscellaneous agencies and boards to promulgate legislative rules.

And has amended same.

Now on second reading, having been read a first time and rereferred to the Committee on the Judiciary on March 5, 2024;

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

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

Senator Weld, 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 4320, Relating to access for minor children's medical records.

With amendments from the Committee on Health and Human Resources pending;

And reports the same back without recommendation as to passage; but with the recommendation that it first be rereferred to the Committee on the Judiciary.

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4320) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, ordered to second reading, and rereferred to the Committee on the Judiciary.

Senator Weld, 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 4399, Creating the equitable right to expungement.

And has amended same.

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

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4399) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Weld, 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 4700, Banning certain persons from sport wagering activities.

And has amended same.

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

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4700) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Weld, 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 4786, Delivery Network Company (DNC) Insurance Model Act.

With amendments from the Committee on Banking and Insurance pending;

And has also amended the same.

And reports the same back with the recommendation that it do pass as amended by the Committee on Banking and Insurance to which the bill was first referred; and as last amended by the Committee on the Judiciary.

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4786) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Government Organization has had under consideration

Eng. House Bill 4793, Relating to moonshine.

And has amended same.

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

Respectfully submitted,

Jack David Woodrum,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. H. B. 4793) contained in the preceding report from the Committee on Government Organization was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Education has had under consideration

Eng. House Bill 4863, Patriotic Access to Students in Schools Act.

And has amended same.

Eng. House Bill 5252, Requiring certain minimum experience for the director or coordinator of services class title involving school transportation.

And has amended same.

And,

Eng. Com. Sub. for House Bill 5553, To provide and change graduation requirements and change duties relating to academic content standards.

And has amended same.

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

Respectfully submitted,

Amy N. Grady,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bills (Eng. H. B. 4863, Eng. H. B. 5252, and Eng. Com. Sub. for H. B. 5553) contained in the preceding report from the Committee on Education were each taken up for immediate consideration, read a first time, and ordered to second reading.

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 4883, Relating to increasing annual salaries of certain employees of the state.

And has amended same.

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

Respectfully submitted,

Eric J. Tarr,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4883) contained in the preceding report from the Committee on Finance was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Weld, 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 4911, Relating to the sale of raw milk.

With amendments from the Committee on Agriculture and Natural 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,

Ryan W. Weld,
Vice Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4911) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Weld, 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 4951, To facilitate the interstate practice of School Psychology in educational or school settings.

And reports the same back without recommendation as to passage; but with the recommendation that it first be rereferred to the Committee on the Judiciary.

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4951) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, ordered to second reading, and rereferred to the Committee on the Judiciary.

Senator Weld, 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 4999, Creating exception to spousal privilege.

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

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 4999) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Weld, 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 5084, Require retailers to verify identification and age upon purchase of vape products.

And has amended same.

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

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 5084) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

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

Your Committee on Health and Human Resources has had under consideration

Eng. Com. Sub. for House Bill 5105, To eliminate the vaccine requirements for public virtual schools.

And has amended same.

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

Respectfully submitted,

Michael J. Maroney,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 5105) contained in the preceding report from the Committee on Health and Human Resources was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Weld, 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 5232, The Business Liability Protection Act.

And reports the same back without recommendation as to passage; but with the recommendation that it first be rereferred to the Committee on the Judiciary.

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 5232) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, ordered to second reading, and rereferred to the Committee on the Judiciary.

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

Your Committee on Transportation and Infrastructure has had under consideration:

Eng. Com. Sub. for House Bill 5238, Mandating that all courts provide adjudication for juvenile offenders for traffic violations to the Division of Motor Vehicles.

And has amended same.

Eng. Com. Sub. for House Bill 5287, Relating generally to traffic safety.

And has amended same.

And,

Eng. Com. Sub. for House Bill 5583, Permitting the Commissioner of the Division of Highways to issue a special permit to operate or move a vehicle or combination of vehicles of a size or weight of vehicles or nondivisible load exceeding the maximum specified.

And has amended same.

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

Respectfully submitted,

Charles H. Clements,
Chair.

At the request of Senator Takubo, unanimous consent being granted, the bills (Eng. Com. Sub. for H. B. 5238, 5287, 5583) contained in the preceding report from the Committee on Transportation and Infrastructure were each taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Weld, 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 5349, West Virginia Truth in Food Labeling Act.

And reports the same back without recommendation as to passage; but with the recommendation that it first be rereferred to the Committee on the Judiciary.

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 5349) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, ordered to second reading, and rereferred to the Committee on the Judiciary.

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 5435, Establishing the registered apprenticeship to associate of applied science program to be administered by the Council for Community and Technical College Education.

With an amendment from the Committee on Education pending;

Now on second reading, having been read a first time and referred to the Committee on Finance on March 5, 2024;

And reports the same back with the recommendation that it do pass as amended by the Committee on Education to which the bill was first referred.

Respectfully submitted,

Eric J. Tarr,
Chair.

Senator Weld, 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 5510, Clarify law regarding the crime of witness tampering.

And has amended same.

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

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 5510) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, and ordered to second reading.

Senator Weld, 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 5668, Creating the Responsible Gaming and Research Act.

And reports the same back without recommendation as to passage; but with the recommendation that it first be rereferred to the Committee on the Judiciary.

Respectfully submitted,

Ryan W. Weld,
Vice Chair.

At the request of Senator Takubo, unanimous consent being granted, the bill (Eng. Com. Sub. for H. B. 5668) contained in the preceding report from the Committee on the Judiciary was taken up for immediate consideration, read a first time, ordered to second reading, and rereferred to the Committee on the Judiciary.

The Senate proceeded to the thirteenth order of business.

The following communications were reported by the Clerk:

The Senate of West Virginia
Charleston

LEE CASSIS
CLERK OF THE SENATE



STATE CAPITOL, ROOM M-211
1900 KANAWHA BOULEVARD, EAST
CHARLESTON, WV 25305-0800
304-357-7800

March 6, 2024

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the President of the Senate and the Speaker of the House of Delegates, have been examined and found truly enrolled:

Com. Sub. for S. B. 331, Eliminating cap on maximum amount of money in county's financial stabilization fund;

Com. Sub. for S. B. 370, Updating Public Employees Grievance Board procedure that certain decisions be appealed to Intermediate Court of Appeals;

S. B. 529, Including Salem University in PROMISE Scholarship program;

Com. Sub. for S. B. 539, Creating cold case database;

And,

S. B. 712, Reducing minimum age for State Police cadet.

These bills are presented to you on this day, March 6, 2024.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Lee Cassis".

Lee Cassis
Clerk of the Senate

C: The Honorable Stephen J. Harrison
Clerk of the House of Delegates

The Senate of West Virginia
Charleston

LEE CASSIS
CLERK OF THE SENATE



STATE CAPITOL, ROOM M 211
1900 KANAWHA BLVD. EAST
CHARLESTON, WV 25305-0800
304-357-7800

March 6, 2024

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bill, authenticated by the signature of the Clerk of each House, and signed by the President of the Senate and the Speaker of the House of Delegates, has been examined and found truly enrolled:

S. B. 602, Cardiac Emergency Response Plan Act.

This bill is presented to you on this day, March 6, 2024.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Lee Cassis".

Lee Cassis
Clerk of the Senate

C: The Honorable Stephen J. Harrison
Clerk of the House of Delegates



STEPHEN J. HARRISON
CLERK OF THE HOUSE

West Virginia House of Delegates
OFFICE OF THE CLERK
BUILDING 1, SUITE 212
1900 KANAWHA BLVD., EAST
CHARLESTON 25305

(304) 340-3200
STEVE.HARRISON@WVHOUSE.GOV

March 6, 2024

The Honorable Jim Justice, II
Governor, State of West Virginia
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Governor Justice,

The following bills, authenticated by the signature of the Clerk of each House, and signed by the Speaker of the House of Delegates and the President of the Senate, have been examined and found truly enrolled:

Com. Sub. for H. B. 4809, Health Care Sharing Ministries Freedom to Share Act;

Com. Sub. for H. B. 4850, Removing the sunset clause from Oil and Gas Personal Property Tax;

Com. Sub. for H. B. 5057, To raise the threshold for nominal referral fees from \$25 to \$100;

And,

H. B. 5268, Relating to the enhanced recovery of oil and natural gas in horizontal wells.

These bills are presented to you on this day, March 6, 2024.

Respectfully submitted,

A handwritten signature in cursive script that reads "Stephen J. Harrison".

Stephen J. Harrison
Clerk of the House of Delegates

C: The Honorable Lee Cassis
Clerk of the Senate

Under the provisions of Rule 15 of the Rules of the Senate, the following senator was added as a co-sponsor to the following resolution on March 5, 2024:

Senate Resolution 67: Senator Caputo.

Pending announcement of meetings of standing committees of the Senate, including the Committee on Rules,

On motion of Senator Takubo, at 6:11 p.m., the Senate adjourned until tomorrow, Thursday, March 7, 2024, at 10 a.m.

SENATE CALENDAR

**Thursday, March 07, 2024
10:00 AM**

UNFINISHED BUSINESS

S. R. 68 - Designating March 7, 2024, as Recovery Community Day

S. R. 69 - Recognizing month of March as National Social Work Awareness Month

THIRD READING

Eng. Com. Sub. for H. B. 4190 - Relating to the establishment of an alert system for missing cognitively impaired persons - (Com. title amend. pending)

Eng. H. B. 4305 - Relating to granting in-state resident status to economic development participants

Eng. Com. Sub. for H. B. 4552 - To ensure party affiliation is consistent with candidate's voter registration - (Com. title amend. pending)

Eng. H. B. 4721 - Require Surveyors to offer to record surveys of property - (Com. title amend. pending).

Eng. Com. Sub. for H. B. 4812 - Capping amount of moneys to third party vendors who collect business and occupation taxes on behalf of cities

Eng. H. B. 4822 - Creating the Certified Sites and Development Readiness Program

Eng. Com. Sub. for H. B. 4829 - Relating to employment of service personnel and removing the requirement for a high school diploma or general education development certificate. - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 4851 - To allow for public and private schools in West Virginia to employ security personnel. - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 4867 - Require pornography websites to utilize age verification methods to prevent minors from accessing content - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 4880 - Relating to personal income tax social security exemption - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 4882 - Extending in-state tuition rates to all members and veterans of the National Guard, reserves, and armed forces as well as their spouses and dependents

Eng. Com. Sub. for H. B. 4919 - Relating to the Promise Scholarship

Eng. H. B. 4945 - Relating generally to the Hope Scholarship Program - (Com. amend. and title amend. pending) - (With right to amend)

Eng. Com. Sub. for H. B. 4967 - Relating to the administration of the Voluntary Remediation and Redevelopment Act to provide new liability protections for persons and

companies who wish to purchase and redevelop former industrial properties. - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 5127 - Including Potomac State College in the definition of community and technical college education program for participation in the "Learn and Earn Program"

Eng. Com. Sub. for H. B. 5188 - Relating to awards and benefits for duty related disability in the municipal police officers and firefighters retirement system

Eng. H. B. 5257 - Relating generally to allowing the Supreme Court of Appeals discretion to create uniform pay scales for all levels of judicial support staff. - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 5338 - Relating to Safe Harbor for Cybersecurity Programs - (Com. amend. pending) - (With right to amend)

Eng. Com. Sub. for H. B. 5405 - Providing additional professional development and support to West Virginia educators through teacher and leader induction and professional growth. - (Com. title amend. pending)

Eng. Com. Sub. for H. B. 5514 - Enhancing training requirements for county boards of education members.

Eng. H. B. 5528 - Relating to the renewable energy facilities program

Eng. Com. Sub. for H. B. 5544 - Relating to requiring certain reporting from the Mountaineer Trail Network Authority each year - (With right to amend)

Eng. H. B. 5548 - Relating to modifying requirements imposed on any owner, operator, or manager within a tourism development project - (Com. amend. pending) - (With right to amend)

Eng. H. B. 5594 - Exempting the West Virginia School of Osteopathic Medicine, West Virginia University and Marshall University from contracts, agreements, or memorandums of understanding with spending units in state government with exceptions.

Eng. Com. Sub. for H. B. 5604 - Relating to procurement by state spending units

Eng. H. J. R. 21 - Amending the Constitution to prohibit persons not United States citizens from voting in any election held within this state

SECOND READING

Eng. Com. Sub. for H. B. 4110 - Authorizing certain miscellaneous agencies and boards to promulgate legislative rules - (Com. amend. pending)

Eng. H. B. 4292 - Providing for enhanced damages for non-payment of royalties due from oil, natural gas, or natural gas liquids production - (Com. amend. and title amend. pending).

Eng. H. B. 4297 - Law Enforcement Officers Safety Act - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 4350 - Relating to appointment of candidates after filing period - (Com. amend. pending)

Eng. Com. Sub. for H. B. 4399 - Creating the equitable right to expungement - (Com. amend. and title amend. pending)

Eng. H. B. 4700 - Banning certain persons from sport wagering activities - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 4753 - Relating to providing health insurance coverage concerning biomarker testing - (Com. amends. and title amend. pending)

Eng. Com. Sub. for H. B. 4786 - Delivery Network Company (DNC) Insurance Model Act - (Com. amend. and title amend. pending)

Eng. H. B. 4793 - Relating to distilled liquor - (Com. amend. pending)

Eng. Com. Sub. for H. B. 4837 - Clarifying the duty of banks to retain and procure records - (Com. amend. and title amend. pending)

Eng. H. B. 4863 - Patriotic Access to Students in Schools Act - (Com. amend. pending)

Eng. Com. Sub. for H. B. 4883 - Relating to increasing annual salaries of certain employees of the state - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 4911 - Relating to the sale of raw milk - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 4956 - Creating the Oral Health and Cancer Rights Act - (Com. amends. pending)

Eng. Com. Sub. for H. B. 4975 - Relating to establishing a foster parent information system - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 4999 - Creating exception to spousal privilege

Eng. Com. Sub. for H. B. 5084 - Require retailers to verify identification and age upon purchase of vape products - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 5105 - To eliminate the vaccine requirements for public virtual schools. - (Com. amend. pending)

Eng. Com. Sub. for H. B. 5158 - Relating to making technical corrections to the special education code - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 5162 - Establish a program to promote creation and expansion of registered apprenticeship programs - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 5238 - Mandating that all courts provide adjudication for juvenile offenders for traffic violations to the Division of Motor Vehicles - (Com. amends. pending)

Eng. H. B. 5252 - Requiring certain minimum experience for the director or coordinator of services class title involving school transportation. - (Com. amend. and title amend. pending)

Eng. Com. Sub. for H. B. 5262 - Relating generally to teacher's bill of rights - (Com. amends. and title amend. pending)

Eng. Com. Sub. for H. B. 5287 - Relating generally to traffic safety - (Com. amend. and title amend. pending)

- Eng. H. B. 5430 - Relating to per diem compensation and expenses of newly elected or appointed judicial officers receiving education and training prior to taking the oath of office. - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 5435 - Establishing the registered apprenticeship to associate of applied science program to be administered by the Council for Community and Technical College Education - (Com. title amend. pending)
- Eng. Com. Sub. for H. B. 5510 - Clarify law regarding the crime of witness tampering - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 5553 - To provide and change graduation requirements and change duties relating to academic content standards - (Com. amend. pending)
- Eng. Com. Sub. for H. B. 5561 - Relating to permitting the electronic execution of trusts. - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 5583 - Permitting the Commissioner of the Division of Highways to issue a special permit to operate or move a vehicle or combination of vehicles of a size or weight of vehicles or nondivisible load exceeding the maximum specified - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. B. 5609 - Relating to confidentiality of child care records and the Foster Care Ombudsman - (Com. amend. and title amend. pending)
- Eng. Com. Sub. for H. J. R. 28 - Protection from medically-assisted suicide or euthanasia in West Virginia Amendment - (Com. amend. pending)

ANNOUNCED SENATE COMMITTEE MEETINGS

Regular Session 2024

Thursday, March 7, 2024

9:45 a.m.

Rules

(Room 219M)