

**ACTS**  
**OF THE**  
**LEGISLATURE**  
**OF**  
**WEST VIRGINIA**



**Regular Session, 2024**  
**Constitutional Amendment, 2024**  
**First Extraordinary Session, 2024**  
**Second Extraordinary Session, 2024**

**Volume I**  
**Chapters 1 - 148**



WEST VIRGINIA HOUSE OF DELEGATES  
**HONORABLE ROGER HANSHAW**  
SPEAKER OF THE HOUSE

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OF THE CLERK OF THE HOUSE



**OFFICE OF THE CLERK OF THE HOUSE**  
STATE CAPITOL  
CHARLESTON, WEST VIRGINIA

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## FOREWORD

These volumes contain the Acts of the Second Regular Session of the 86th Legislature, 2024, the 2024 First Extraordinary Session, and the 2024 Second Extraordinary Session.

### **Second Regular Session of the 86<sup>th</sup> Legislature, 2024**

The Second Regular Session of the 86th Legislature convened on January 10, 2024. The Constitutional sixty-day limit on the duration of the session was March 9, 2024. The Governor issued a proclamation on March 7, 2024, extending the session for a period not to exceed one day for the purpose of considering the Budget Bill. The Regular Session was adjourned *sine die* on March 10, 2024.

Bills totaling 2,575 were introduced in the two houses during the session (1,698 House and 877 Senate). The Legislature passed 279 bills, 123 House and 156 Senate. Two bills became law without the Governor's signature, Com. Sub. for S. B. 841, Setting amount of unemployment taxes and benefits, and Com. Sub. for H. B. 4911, Relating to the sale of raw milk. The Governor vetoed 8 bills, S. B. 683, Amending definition of "alternative fuel" under motor fuel excise tax, Com. Sub. for S. B. 714, Transferring duties and licensing from Board of Osteopathic Medicine to Board of Medicine, Com. Sub. for S. B. 722, Revising examination of records relating to limited video lottery, H. B. 5014, Supplementing and amending appropriations to West Virginia University General Administration Fund, Com. Sub. for H. B. 5105, To eliminate the vaccine requirements for public virtual schools, Com. Sub. for H. B. 5338, Relating to Safe Harbor for Cybersecurity Programs, H. B. 5528, Relating to the renewable energy facilities program, and Com. Sub. for H. B. 5604, Relating to procurement by state spending units. This left a net total of 271 bills, 118 House and 153 Senate, which became law.

There were 132 Concurrent Resolutions introduced during the session, 95 House and 37 Senate, of which 52 House and 20 Senate were adopted. Thirty House Joint Resolutions and 10 Senate Joint Resolutions were introduced, proposing amendments to the State Constitution, of which 1 House Joint Resolution was adopted, Com. Sub. for H. J. R. 28, Protection from medically-assisted suicide or euthanasia in West Virginia Amendment. The House introduced 12 House Resolutions and the Senate introduced 70 Senate Resolutions, of which 7 House and 70 Senate were adopted.

\* \* \* \* \*

### **First Extraordinary Session, 2024**

The Proclamation calling the Legislature into Extraordinary Session on May 19, 2024, contained 15 items for consideration.

The Legislature introduced 31 bills during the Extraordinary Session, 16 House Bills, and 15 Senate Bills. The Legislature passed 15 Bills, 1 House Bill and 14 Senate Bills.

There were 3 Concurrent Resolutions introduced and adopted during the session, 1 House and 2 Senate. The House introduced and adopted 1 House Resolution.

The Legislature adjourned *sine die* on May 21, 2024.

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### **Second Extraordinary Session, 2024**

The Proclamation calling the Legislature into Extraordinary Session on September 30, 2024, with subsequent amendments, contained a total of 40 items for consideration.

The Legislature introduced 89 bills during the Extraordinary Session, 46 House Bills, and 43 Senate Bills. The Legislature passed 37 Bills, 21 House Bills and 16 Senate Bills.

There were 6 Concurrent Resolutions introduced during the session, 4 House and 2 Senate, of which 2 Senate were adopted. The House introduced 2 House Resolutions and the Senate introduced 9 Senate Resolutions, of which 9 Senate were adopted.

The Legislature adjourned *sine die* on October 8, 2024.

\* \* \* \* \*

The rules of the House of Delegates authorize the Clerk to correct errors and omissions, and make stylistic and technical changes to legislative documents or publications, including the Acts of the Legislature and the official bound Journal of the House to conform to legislative action.

Please also note that throughout these Acts are various footnotes for informational purposes, some of which relate to bills which amended the same statute. Language in Enrolled House Bill 3432, which was enacted during the 2023 Regular Session, stipulated that, “When two or more bills amending the same statute are passed during the same session of the Legislature, the form of the statute in the enrolled bill passed latest in time shall control.”

The text of resolutions, and of bills which did not become law, can be found by visiting the West Virginia Legislature’s website ([www.wvlegislature.gov](http://www.wvlegislature.gov)) and going to the Bill Status page.

STEPHEN J. HARRISON

*Clerk of the House and  
Keeper of the Rolls.*

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MEMBERS OF THE HOUSE OF DELEGATES

AS OF OCTOBER 7, 2024

OFFICERS

Speaker: Roger Hanshaw - Wallback  
Clerk: Stephen J. Harrison - Cedar Grove  
Sergeant-at-Arms: Marshall Clay - Fayetteville  
Doorkeeper: Robert W. Stewart - Cross Lanes

Name	District	City	Occupation	Term
Adkins, David (R)	30th	Hamlin	Retired	86th
<sup>1</sup> Akers II, James Robert "JB" (R)	55th	Charleston	Lawyer	Appt. 1/9/2024, 86th
Anderson, Bill (R)	10th	Williamstown	Educator	71st - 86th
Barnhart, Trenton (R)	9th	St. Marys	Community Banker	Appt. 9/17/2019, 84th; 85th - 86th
Bridges Jordan (R)	33rd	Logan	Coal Miner	85th - 86th
Brooks, Eric (R)	45th	Mount Hope	Retired	86th
<sup>2</sup> Browning, Ryan (R)	28th	Kenova		Appt. 7/1/2024, 86th
Burkhammer, Adam (R)	64th	Horner	Business Owner	85th - 86th
Butler, Jim (R)	18th	Henderson	Excavating Contractor	81st-84th; 86th
<sup>3</sup> Campbell, Jeff (R)	46th	Lewisburg	Teacher/Broadcaster	Appt. 10/30/2017, 83rd; 84th; Appt. 9/15/2023, 86th
Cannon, Jarred (R)	21st	Hurricane	Business Owner	Appt. 6/15/2022, 85th; 86th
Chiarelli, Geno (R)	78th	Morgantown		86th
<sup>4</sup> Clark, Thomas C. (R)	48th	Webster Springs		Appt. January 12, 2024; 86th
Clark, Wayne (R)	99th	Charles Town	Business Owner	85th - 86th
Cooper, Roy (R)	40th	Wayside	Retired	81st - 86th
Coop-Gonzalez, Elias (R)	67th	Elkins	College Student	86th
Cris, Vernon (R)	12th	Parkersburg	Executive	69th; 83rd - 86th
Crouse, Kathie Hess (R)	19th	Buffalo		Appt. 12/1/21, 85th; 86th
Dean, Mark (R)	34th	Verner	Home Health Executive	83rd - 86th
DeVault, Mike (R)	74th	Fairmont	Fence Co.; Tire Service	86th
Dillon, Henry C. (R)	29th	Naugatuck	Educator	86th
Dittman, Lori (R)	63rd		Teacher/Small Business Owner	86th
Ellington, Joe (R)	38th	Princeton	Physician	80th - 86th
<sup>5</sup> Espinosa, Paul (R)	98th	Charles Town	Public Affairs Manager	81st - 86th
Fast, Tom (R)	51st	Fayetteville	Attorney	82nd - 86th
Fehrenbacher, Bob (R)	11th	Vienna	Retired	86th
Ferrell, Dana (R)	60th	Sissonville	Business Owner	85th - 86th
Fluharty, Shawn (D)	5th	Wheeling	Attorney	82nd - 86th
Foggini, Dave (R)	14th	Belleville	Physics Teacher	86th
Forsht, Don (R)	91st	Gerrardstown	Construction and Property Management	85th - 86th
Foster, Geoff (R)	20th	Winfield	Construction Supply	82nd - 86th
Garcia, Joey (D)	76th	Fairmont	Attorney	85th - 86th
Gearheart, Marty (R)	37th	Bluefield	Businessman	80th - 83rd; 85th - 86th
<sup>6</sup> Green, David (R)	36 <sup>th</sup>	Iaeger		Appt. 1/29/2024; 86th
Griffith, Ric (D)	27th	Kenova	Pharmacist	85th - 86th
Hall, Walter (R)	58th	St. Albans	Licensed Insurance Agent	86th
Hamilton, Anitra (D)	81st	Morgantown	Healthcare Worker	Appt. 4/26/23, 86th
Hansen, Evan (D)	79th	Morgantown	Company President	84th - 86th
Hanshaw, Roger (R)	62nd	Wallback	Attorney	82nd - 86th
Hardy, John (R)	97th	Shepherdstown	Businessman	84th - 86th
Heckert, Scot (R)	13th	Parkersburg		86th
Hillenbrand, Rick (R)	88th	Romney	Retired	86th
Hite, Michael (R)	92nd	Martinsburg	Business Owner	86th
Holstein, Josh (R)	32nd	Ashford		85th - 86th
Hornbuckle, Sean (D)	25th	Huntington	Financial Advisor	82nd - 86th
Hornby, Michael (R)	93rd	Martinsburg	CEO	86th
Horst, Charles K. "Chuck" (R)	95th	Falling Waters	Business Owner	85th - 86th
Hott II, John Paul (R)	85th	Petersburg	Insurance/Disposal Service	84th - 86th
Householder, Eric L. (R)	96th	Martinsburg	Small Business Owner	80th - 86th
Howell, Gary G. (R)	87th	Keyser	Business Owner/Mail Order Auto Parts	80th - 86th
Jeffries, Dean (R)	61st	Elkview	Insurance Agent	Appt. 9/5/2018, 83rd; 84th - 86th
Jennings, D. "Buck" Rolland (R)	84th	Thornton	Self-Employed	Appt. 10/10/2017, 83rd; 84th - 86th

## MEMBERS OF THE HOUSE OF DELEGATES - Continued

Kelly, David L. (R).....	8th	Sistersville.....	Pastor .....	84th - 86th
Kimble, Laura (R).....	71st	Bridgeport.....	Homemaker .....	85th - 86th
Kump, Larry (D).....	94th	Falling Waters....	Retired.....	80th - 81st; 84th; 86th
<sup>7</sup> Lewis, Hollis T. II (D).....	57th	Charleston.....	Attorney .....	Appt. 9/19, 2023, 86th
Linville, Daniel (R).....	22nd	Milton.....	IT Director .....	Appt. 8/1/2018, 83rd; 84th - 86th
Longanacre, Todd (R).....	47th	Alderson.....	Retired.....	85th - 86th
Lucas, Patrick (R).....	24th	Barboursville.....	Real Estate Broker .....	86th
Mallow, Phil (R).....	75th	Kingmont.....	Retired .....	85th - 86th
Marple, Keith (R).....	69th	Lost Creek.....	Retired.....	86th
Martin, Carl "Robbie" (R).....	65th	Buckhannon.....	Business Owner .....	84th - 86th
Maynor, Jordan (R).....	41st	Beaver.....	.....	Appt. 8/19/21, 85th; 86th
Mazzocchi, Margitta (R).....	31st	Chapmanville.....	Business Owner .....	85th-86th
McGeehan, Pat (R).....	1st	Chester.....	Business Management; Author .....	79th; 82nd-86th
Miller, George A. (R).....	90th	Berkeley Springs.	Retired .....	85th - 86th
<sup>8</sup> Moore, Erica (R).....	15th	Spencer.....	.....	Appt. 9/6/2023, 86th
Nestor, William "Ty" (R).....	66th	Elkins.....	Lawyer .....	85th - 86th
Petitto, Mickey (R).....	70th	Clarksburg.....	Accountant; Real Estate Broker and Appraiser.....	86th
Phillips, Chris (R).....	68th	Buckhannon.....	President, CGP Foods, Inc .....	84th - 86th
Pinson, Jonathan Adam (R).....	17th	Point Pleasant.....	Pastor .....	85th - 86th
Pritt, Chris (R).....	53rd	Charleston.....	Lawyer .....	85th - 86th
Pritt, David "Elliott" (R).....	50th	Oak Hill.....	Teacher.....	86th
Pushkin, Mike (D).....	54th	Charleston.....	Taxi Driver/Musician.....	82nd - 86th
Ridenour, Bill (R).....	100th	Harpers Ferry.....	Retired.....	86th
Riley, Clay (R).....	72nd	Shinnston.....	Professional Engineer .....	85th - 86th
Rohrbach, Matthew (R).....	26th	Huntington.....	Physician .....	82nd - 86th
<sup>10</sup> Roop, Carl "Bill" (R).....	44th	Beckley.....	Attorney .....	Appt. 7/6/2024, 86th
Rowe, Larry L. (D).....	52nd	Malden.....	Attorney .....	73rd - 74th (House); 75th - 76th (Senate); 82nd - 86th (House)
Shamblin, Andy (R).....	59th	Nitro.....	Teacher; Minister; City Council.....	86th
Sheedy, Charles (R).....	7th	Cameron.....	Retired.....	86th
Smith, Doug (R).....	39th	Princeton.....	Retired .....	85th - 86th
Statler, Joe (R).....	77th	Core.....	Retired.....	82nd - 83rd; 85th - 86th
Steele, Brandon (R).....	42nd	Beckley.....	Attorney .....	84th - 86th
<sup>11</sup> Stephens, Jeffrey (R).....	6th	Wheeling.....	Teacher/Athletic Director .....	Appt. 10/25/2023, 86th
Street, George (R).....	83rd	Masontown.....	Explosive Ordinance Technician; Farmer.....	86th
Summers, Amy (R).....	73rd	Flemington.....	Registered Nurse .....	82nd - 86th
Thorne, Darren J. (R).....	89th	Romney.....	Farmer.....	86th
Toney, Christopher Wayne (R).....	43rd	Beckley.....	School Bus Operator.....	84th - 86th
Tully, Heather (R).....	49th	Summersville.....	Family Nurse Practitioner .....	Appt. 6/17/2020, 84th; 85th - 86th
Vance, Adam (R).....	35th	Brenton.....	Underground Coal Miner.....	86th
Ward, Bryan C. (R).....	86th	Fisher.....	Retired .....	85th - 86th
Warner, Debbie (R).....	82nd	Morgantown.....	Real Estate Agent .....	86th
Westfall, Steve (R).....	16th	Ripley.....	Insurance Agent .....	81st - 86th
Williams, John (D).....	80th	Morgantown.....	Financial Advisor .....	83rd - 86th
Willis, Jimmy (R).....	3rd	Wellsburg.....	.....	86th
Winzenreid, Dianna (R).....	4th	Wheeling.....	Business Owner .....	Appt. 6/5/23, 86th
Worrell, Evan (R).....	23rd	Salt Rock.....	Chief Operating Officer, In-Home Care Agency.....	84th - 86th
Young, Kayla (D).....	56th	South Charleston ..	Entrepreneur .....	85th - 86th
Zatezalo, Mark (R).....	2nd	Weirton.....	Hydrogeologist .....	82nd - 83rd; 85th - 86th

<sup>1</sup>James Robert "JB" Akers, II appointed January 9, 2024 to fill the vacancy created by the December 22, 2023 resignation of Moore Capito.

<sup>2</sup>Ryan Browning appointed July 1, 2024 to fill the vacancy created by the May 21 resignation of Mark Ross.

<sup>3</sup>Jeff Campbell appointed September 15, 2023 to fill the vacancy created by the August 30, 2023 resignation of D. Michael Honaker.

<sup>4</sup>Thomas C. Clark appointed January 12, 2024 to fill the vacancy created by the January 3, 2024 resignation of Caleb L. Hanna.

<sup>5</sup>Paul Espinosa resigned, during the 2024 Second Extraordinary Session, on October 8, 2024.

<sup>6</sup>David Green appointed January 29, 2024 to fill the vacancy created by the January 7, 2024 resignation of Anita Hall.

<sup>7</sup>Hollis Lewis II appointed September 19, 2023 to fill the vacancy created by the September 8, 2023 resignation of Doug Skaff, Jr.

<sup>8</sup>Erica J. Moore appointed November 6, 2023 to fill the vacancy created by the October 12, 2023 resignation of N. Riley Keaton.

<sup>9</sup>Changed party affiliation from Democrat to Republican on April 17, 2023.

<sup>10</sup>Carl W. Roop appointed July 16, 2024 to fill the vacancy created by the July 2, 2024 resignation of Todd A. Kirby.

<sup>11</sup>Jeffrey Stephens appointed October 25, 2023 to fill the vacancy created by the October 6, 2023 resignation of Charlie Reynolds.

MEMBERS OF THE SENATE

OFFICERS

President: Craig P. Blair - Martinsburg  
Clerk: Bruce Lee Cassis, Jr. - Charleston  
Sergeant-at-Arms: David Lavender - Hurricane  
Doorkeeper: Jeffrey L. Branham - Cross Lanes

Name	District	City	Occupation	Term
Azinger, Michael T. (R)	3rd	Vienna	Manager	82nd (House); 83rd - 86th
Barrett, Jason (R)	16th	Martinsburg		81st - 82nd (House); 86th
Blair, Craig (R)	15th	Martinsburg	Businessman	76th - 79th (House); 81st - 86th
Boley, Donna J. (R)	3rd	St. Marys	Retired	Appt. May 14, 1985, 67th; 68th - 86th
Caputo, Mike (D)	13th	Rivesville	Retired	73rd - 84th (House); 85th-86th
Chapman, Laura (R)	1st	Wheeling	Attorney	86th
Clements, Charles H. (R)	2nd	New Martinsville	Retired	77th (House); Appt. Jan. 28, 2017, 83rd; 84th- 86th
Deeds, Vince (R)	10th	Renick	Retired	86th
Grady, Amy N. (R)	4th	Leon	Teacher	86th
Hamilton, Bill (R)	11th	Buckhannon	Retired	76th-83rd (House); 84th - 86th
Hunt, Mark (R)	8th	Charleston	Attorney	81st - 82nd (House); 86th
Jeffries, Glenn D. (R)	8th	Red House	Businessman	83rd - 86th
Karnes, Robert L. (R)	11th	Helvetia		82nd - 83rd; 86th
Maroney, Michael J. (R)	2nd	Glen Dale	Physician	83rd - 86th
Martin, Patrick (R)	12th	Jane Lew	Business Owner	83rd - 84th (House); 86th
Maynard, Mark R. (R)	6th	Wayne	Automobile Dealer	82nd - 86th
Nelson, Eric (R)	17th	Charleston	Financial Consultant	80th - 84th (House); 85th-86th
Oliverio II, Michael A.	13th	Morgantown	Life Insurance Agent	71st (House); 72nd - 78th; 86th
Phillips, Rupert W., Jr.	7th	Lorado	Sales Manager	80th - 83rd (House); 86th
Plymale, Robert H. (D)	5th	Huntington	Businessman	71st - 86 <sup>a</sup>
Queen, Ben (R)	12th	Bridgeport		83rd - 84th (House); 86th
Roberts, Rollan (R)	9th	Beaver	Minister	84th - 86th
Rucker, Patricia Puertas (R)	16th	Harpers Ferry	Home Schooling Mother	83rd - 86th
Smith, Randy E. (R)	14th	Thomas	Coal Miner	81st - 82nd (House); 83rd - 86th
Stover, David (R)	9th	Maben	Circuit Clerk	86th
Stuart, Mike (R)	7th	South Charleston		86th
Swope, Chandler (R)	6th	Bluefield	Retired	83rd-86th
Takubo, Tom (R)	17th	Charleston	Physician	82nd - 86th
Tarr, Eric J. (R)	4th	Scott Depot		84th - 86th
Taylor, Jay (R)	14th	Grafton	Prosecuting Attorney Clerk	86th
Trump IV, Charles S. (R)	15th	Berkeley Springs	Attorney	71st - 77th (House); 82nd - 86th
Weld, Ryan W. (R)	1st	Wellsburg	Attorney	82nd (House); 83rd - 86th
Woelfel, Michael A. (D)	5th	Huntington	Attorney	82nd - 86th
Woodrum, Jack David (R)	10th	Hinton	Funeral Director	86th

## HOUSE OF DELEGATES COMMITTEES

### COMMITTEES OF THE HOUSE OF DELEGATES

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As of August 12, 2024

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#### AGRICULTURE AND NATURAL RESOURCES

Horst (Chair, *Natural Resources*), Nestor (Chair, *Agriculture*), Miller (Vice Chair, *Agriculture*), Nestor (Vice Chair, *Natural Resources*), Griffith (Minority Chair, *Agriculture*), Hansen (Minority Chair, *Natural Resources*), Bridges, Burkhammer, Cooper, DeVault, Dillon, Dittman, Foggin, Hamilton, Hornby, Longanacre, Marple, Phillips, Smith, Statler, Street, Thorne, Vance, Ward, Worrell

#### ARTIFICIAL INTELLIGENCE (SELECT)

Cannon (Chair), Maynor (Vice Chair), Campbell, Coop-Gonzalez, Kimble, Linville, McGeehan, Rohrbach, Shamblyn, Stephens, Young

#### BANKING AND INSURANCE

Barnhart (Chair, *Banking*), Westfall (Chair, *Insurance*), Hott (Vice Chair, *Banking and Insurance*), Rowe (Minority Chair, *Banking*), Williams (Minority Chair, *Insurance*), Akers, Cannon, Coop-Gonzalez, Criss, Crouse, Ellington, Espinosa, Fehrenbacher, Foggin, Garcia, Green, Hall, Hardy, Hornby, Householder, Jeffries, Linville, Pritt, Riley, Thorne

#### ECONOMIC DEVELOPMENT AND TOURISM

Howell (Chair), Clark (Vice Chair), Hornbuckle (Minority Chair), Williams (Minority Vice Chair), Campbell, DeVault, Dittman, Fehrenbacher, Ferrell, Green, Hall, Hornby, Kirby, Lewis, Lucas, Marple, Maynor, Moore, Nestor, Petitto, Pinson, Pritt, Sheedy, Street, Thorne, Willis

#### EDUCATION

Ellington (Chair), Statler (Vice Chair), Toney (Vice Chair), Pushkin (Minority Chair), Griffith (Minority Vice Chair), Chiarelli,

## HOUSE OF DELEGATES COMMITTEES

Clark, Dillon, Dittman, Ferrell, Foggin, Hall, Hamilton, Hornby, Jennings, Kimble, Longanacre, Lucas, Mazzocchi, Pritt, Ridenour, Smith, Thorne, Tully, Willis

### **ENERGY AND MANUFACTURING**

Anderson (Chair), Zatezalo (Vice Chair), Hansen (Minority Chair), Young (Minority Vice Chair), Barnhart, Bridges, W. Clark, Cooper, Coop-Gonzalez, Crouse, DeVault, Dillon, Fehrenbacher, Foggin, Heckert, Holstein, Horst, Hott, Rowe, Sheedy, Stephens, Street, Toney, Vance, Warner

### **ENROLLED BILLS**

Jeffries (Chair), Westfall (Vice Chair), Ferrell, Pushkin, Shamblin

### **FINANCE**

Criss (Chair), Hardy (Vice Chair), Rowe (Minority Chair), Williams (Minority Vice Chair), Anderson, Barnhart, Dittman, Ellington, Espinosa, Fehrenbacher, Ferrell, Gearheart, Hite, Hornbuckle, Horst, Hott, Howell, Jeffries, Linville, Mazzocchi, Riley, Rohrbach, Statler, Summers, Toney

### **FIRE DEPARTMENTS AND EMERGENCY MEDICAL SERVICES**

Mallow (Chair), Riley (Vice Chair), Garcia (Minority Chair), Hamilton (Minority Vice Chair), Burkhammer, Chiarelli, Dean, DeVault, Dillon, Ferrell, Heckert, Jennings, Pinson, Pritt, Shamblin, Statler, Summers, Tully, Vance, Ward, Warner, Willis, Worrell, Young

### **GOVERNMENT ORGANIZATION**

Phillips (Chair), McGeehan (Vice Chair), Young (Minority Chair), Griffith (Minority Vice Chair), Adkins, Bridges, Brooks, Burkhammer, Butler, Chiarelli, Crouse, Dean, Forsht, Hillenbrand, Lewis, Longanacre, Mallow, Martin, Miller, Pritt, Smith, Vance, Winzenreid, Worrell

## HOUSE OF DELEGATES COMMITTEES

### HEALTH AND HUMAN RESOURCES

Summers (Chair), Tully (Vice Chair), Pushkin (Minority Chair), Griffith (Minority Vice Chair), Barnhart, Cannon, Cooper, Dittman, Foggin, Forsht, Hamilton, Hardy, Heckert, Hite, Jeffries, Jennings, Kelly, Miller, Petitto, Rohrbach, Shamblin, Sheedy, Westfall, Winzenreid, Worrell

### JAILS AND PRISONS

Kelly (Chair), Hott (Vice Chair), Lewis (Minority Chair), Garcia (Minority Vice Chair), Bridges, Brooks, Burkhammer, W. Clark, Dittman, Fast, Forsht, Hanna, Horst, Jennings, Miller, Moore, Petitto, Phillips, Pinson, Pritt, Pushkin, Smith, Steele, Street, Toney, Zatezalo

### JUDICIARY

Fast (Chair), Kelly (Vice Chair), Garcia (Minority Chair), Fluharty (Minority Vice Chair), Akers, Foster, Hansen, Heckert, Hillenbrand, Kimble, Kump, Mallow, Marple, Martin, Nestor, Phillips, Pritt, Ridenour, Shamblin, Steele, Ward, Warner, Westfall, Zatezalo

### PENSIONS AND RETIREMENT

Gearheart (Chair), Pritt (Vice Chair), Anderson, Griffith, Kump, Marple, Williams

### POLITICAL SUBDIVISIONS

Martin (Chair), Forsht (Vice Chair), Williams (Minority Chair), Hansen (Minority Vice Chair), Akers, Anderson, Barnhart, Brooks, T. Clark, W. Clark, Coop-Gonzalez, Dean, Foster, Hall, Hardy, Hite, Holstein, Howell, Maynor, Mazzocchi, Miller, Phillips, Pritt, Rowe, Shamblin

### PREVENTION AND TREATMENT OF SUBSTANCE ABUSE

Rohrbach (Chair), Fehrenbacher (Vice Chair), Butler, Chiarelli, Ellington, Gearheart, Green, Holstein, Kelly, Maynor, Pushkin

## HOUSE OF DELEGATES COMMITTEES

### RULES

Hanshaw (Chair), Householder (Vice Chair), Hornbuckle (Minority Chair), Fluharty (Minority Vice Chair), Anderson, Criss, Ellington, Espinosa, Fast, Gearheart, Hardy, Howell, Jeffries, Kelly, Linville, Phillips, Riley, Rohrbach, Summers, Westfall

### SENIOR, CHILDREN, AND FAMILY ISSUES

Mazzocchi (Chair), Petitto (Vice Chair), Hamilton (Minority Chair), Lewis (Minority Vice Chair), Adkins, Bridges, Burkhammer, Chiarelli, Coop- Gonzalez, Dean, Dillon, Hall, Hite, Holstein, Kimble, Lucas, Martin, Moore, Pinson, Rohrbach, Rowe, Sheedy, Toney, Winzenreid

### PREVENTION AND TREATMENT OF SUBSTANCE ABUSE

Rohrbach (Chair), Fehrenbacher (Vice Chair), Butler, Chiarelli, Ellington, Gearheart, Green, Holstein, Kelly, Maynor, Pushkin.

### TECHNOLOGY AND INFRASTRUCTURE

Linville (Chair), Cannon (Vice Chair), Williams (Minority Chair), Garcia (Minority Vice Chair), Adkins, Brooks, Burkhammer, Butler, Campbell, Espinosa, Gearheart, Green, Hall, Hillenbrand, Hite, Holstein, Lucas, Marple, Maynor, Petitto, Ridenour, Riley, Stephens, Ward, Willis, Young

### VETERANS' AFFAIRS AND HOMELAND SECURITY

Cooper (Chair, *Veterans' Affairs*), Jennings (Chair, *Homeland Security*), Longanacre (Vice Chair, *Veterans' Affairs*), Griffith (Minority Chair, *Veterans' Affairs*) Pushkin, (Minority Chair, *Homeland Security*), Anderson, Barnhart, Butler, Campbell, Coop-Gonzalez, Crouse, Fluharty, Heckert, Hillenbrand, Jeffries, Kelly, Kimble, Mazzocchi, McGeehan, Nestor, Ridenour, Sheedy, Smith, Steele

### WORKFORCE DEVELOPMENT

Worrell (Chair), Crouse (Vice Chair), Young (Minority Chair), Lewis (Minority Vice Chair), Adkins, Butler, Cannon, T. Clark, W. Clark, DeVault, Ellington, Fast, Fehrenbacher, Ferrell, Forsht, Foster, Gearheart, Hansen, Holstein, Horst, Mallow, Nestor, Stephens, Warner, Zatezalo

## SENATE COMMITTEES

### COMMITTEES OF THE SENATE

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As of August 17, 2024

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#### AGRICULTURE AND NATURAL RESOURCES

Senators Hamilton (*Chair*), Deeds (*Vice Chair*), Grady, Jeffries, Karnes, Phillips, Smith, Stuart, Swope, Stover, Taylor, Woodrum, and Woelfel

#### BANKING AND INSURANCE

Senators Azinger (*Chair*), Oliverio (*Vice Chair*), Barrett, Boley, Clements, Nelson, Queen, Tarr, and Plymale

#### CONFIRMATIONS

Senators Boley (*Chair*), Chapman (*Vice Chair*), Azinger, Martin, Phillips, Takubo, Tarr, Weld, and Caputo

#### ECONOMIC DEVELOPMENT

Senators Jeffries (*Chair*), Martin (*Vice Chair*), Chapman, Hamilton, Hunt, Nelson, Oliverio, Phillips, Queen, Roberts, Stover, Stuart, Swope, Tarr, and Plymale

#### EDUCATION

Senators Grady (*Chair*), Clements (*Vice Chair*), Azinger, Boley, Chapman, Deeds, Maynard, Oliverio, Roberts, Stover, Taylor, Trump, and Plymale

#### ENERGY, INDUSTRY, AND MINING

Senators Smith (*Chair*), Queen (*Vice Chair*), Barrett, Boley, Karnes, Martin, Nelson, Oliverio, Phillips, Stover, Stuart, Swope, Taylor, and Caputo

#### ENROLLED BILLS

Senators Woodrum (*Chair*), Roberts (*Vice Chair*), Jeffries, Maynard, and Woelfel

#### FINANCE

Senators Tarr (*Chair*), Phillips (*Vice Chair*), Boley, Chapman, Clements, Jeffries, Nelson, Oliverio, Queen, Roberts, Smith, Swope, Takubo, Woodrum, and Plymale



## SENATE COMMITTEES

### GOVERNMENT ORGANIZATION

Senators Woodrum (*Chair*), Barrett (*Vice Chair*), Hamilton, Hunt, Jeffries, Phillips, Queen, Smith, Stuart, Swope, Weld, and Woelfel

### HEALTH AND HUMAN RESOURCES

Takubo (*Vice Chair*), Azinger, Chapman, Deeds, Grady, Hamilton, Hunt, Jeffries, Roberts, Rucker, Tarr, Weld, and Plymale

### INTERSTATE COOPERATION

Senator Oliverio (*Chair*), Hunt, Queen, Stover, Taylor, Trump, Woelfel

### JUDICIARY

Senators Trump (*Chair*), Weld (*Vice Chair*), Azinger, Barrett, Deeds, Hamilton, Hunt, Martin, Maynard, Rucker, Stover, Stuart, Swope, Takubo, Taylor, Caputo, and Woelfel

### MILITARY

Senators Weld (*Chair*), Deeds (*Vice Chair*), Chapman, Clements, Smith, Taylor, and Caputo

### OUTDOOR RECREATION

Senators Maynard (*Chair*), Taylor (*Vice Chair*), Chapman, Deeds, Grady, Martin, Rucker, Smith, Stover, Stuart, and Caputo

### PENSIONS

Senators Nelson (*Chair*), Hunt (*Vice Chair*), Azinger, Barrett, Clements, Grady, Hamilton, Oliverio, Queen, and Plymale

### RULES

Senators Blair (*Chair*), Takubo (*Vice Chair*), Azinger, Boley, Grady, Nelson, Tarr, Trump, Weld, Woodrum, and Woelfel

### SCHOOL CHOICE

Senators Rucker (*Chair*), Maynard (*Vice Chair*), Boley, Deeds, Karnes, Roberts, Woodrum, and Woelfel

## SENATE COMMITTEES

### **TRANSPORTATION AND INFRASTRUCTURE**

Senators Clements (*Chair*), Stuart (*Vice Chair*), Barrett, Hunt, Jeffries, Karnes, Oliverio, Phillips, Roberts, Swope, and Plymale

### **WORKFORCE**

Senators Roberts (*Chair*), Jeffries (*Vice Chair*), Karnes, Martin, Nelson, Smith, Stover, Tarr, Weld, and Caputo

# LEGISLATURE OF WEST VIRGINIA

# ACTS

SECOND REGULAR SESSION, 2024

## CHAPTER 1

(Com. Sub. for S. B. 583 - By Senators Stuart, Azinger, Deeds,  
Phillips, Smith, Tarr, Taylor, and Roberts)

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[Passed March 9, 2024; to take effect July 1, 2024]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §55-7-32, relating to employer liability and damages in civil actions arising out of the operation of commercial motor vehicles; defining terms; establishing cap on noneconomic loss in certain circumstances; providing exceptions to applicability of cap; permitting cap to increase annually to account for inflation; setting forth effective date; and providing for applicability to causes of action arising after effective date.

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

### ARTICLE 7. ACTIONS FOR INJURIES.

#### **§55-7-32. Liability for employee negligence in actions involving commercial motor vehicles.**

(a) As used in this section:

"Commercial motor vehicle" means as defined in §17E-1-3(7) (A), (B), and (D) of this code, and also includes a truck tractor, road tractor, trailer, semitrailer, and pole trailer as defined in §17A-1-1 of this code. For purposes of this section, "commercial motor

vehicle" does not include a vehicle serving as a common carrier of passengers, a commercial motor vehicle as defined in §17E-1-3(7)(C) of this code, a school bus as defined in §17E-1-3(33) of this code, or other vehicle that is primarily engaged in transporting passengers.

"Employer defendant" means (A) the owner of a commercial motor vehicle; (B) the employer of the person operating a commercial motor vehicle; or (C) any other person or entity that owns, leases, rents, or otherwise holds or exercises legal control over a commercial motor vehicle or operator of a commercial motor vehicle.

"Operation" means driving, operating, or being in physical control of a commercial motor vehicle in any place open to the general public for purposes of vehicular traffic.

(b) In any civil action for personal injury or wrongful death involving the operation of a commercial motor vehicle requiring a commercial driver's license, the maximum amount recoverable by each person injured or killed against the employer defendant of a commercial motor vehicle as compensatory damages for noneconomic loss may not exceed \$5 million for each occurrence, regardless of the number of claims or theories of liability.

(c) The limitation on noneconomic damages contained in subsection (b) of this section is not available to any employer defendant that does not have commercial motor vehicle insurance in the aggregate amount of at least \$3 million for each occurrence covering the personal injury that is the subject of the action.

(d) This section does not apply if the civil action involving a commercial motor vehicle arises from an incident for which an operator or driver is found to have:

(1) At the time of the incident, operated a commercial motor vehicle with an alcohol concentration of .04 or more as defined in §17E-1-14 of this code;

(2) Following the incident, refused to submit to testing required under §17E-1-15 of this code;

(3) At the time of the incident, operated a commercial motor vehicle under the influence of any controlled substance, other drug, or inhalant substance;

(4) At the time of the incident, operated a commercial motor vehicle in excess of the hours of operation established under state or federal regulations;

(5) At the time of the incident, operated a commercial motor vehicle in willful or wanton disregard for the safety of persons or property;

(6) At the time of the incident, operated a commercial motor vehicle loaded in excess of the maximum gross vehicle weight rating established under state or federal regulations, not including when an operator or driver is legally operating the vehicle according to permit issued under §17C-17-11 of this code; or

(7) At the time of the incident, operated a commercial motor vehicle while engaging in one or more of the acts that constitute distracted driving as set forth in §17C-14-15(e) of this code.

(e) On January 1, 2026, and in each year thereafter, the limitation on compensatory damages for noneconomic loss contained in subsection (b) of this section shall increase to account for inflation by an amount equal to the Consumer Price Index published by the United States Department of Labor, not to exceed 150 percent of the amounts specified in said subsection.

(f) This section shall be effective on July 1, 2024, and shall only apply to causes of action arising after the effective date.

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## CHAPTER 2

### (S. B. 428 - By Senator Woodrum)

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[Passed February 12, 2024; in effect 90 days from passage (May 12, 2024)]  
[Approved by the Governor on February 20, 2024.]

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AN ACT to amend and reenact §19-11B-12 of the Code of West Virginia, 1931, as amended, relating to establishing that appeals from administrative rulings are to be filed with the Intermediate Court of Appeals.

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

### **ARTICLE 11B. FROZEN DESSERTS AND IMITATION FROZEN DESSERTS LAW.**

#### **§19-11B-12. Hearings and appeals.**

(a) Any person aggrieved by any action taken under this article shall be afforded the opportunity for a hearing before the commissioner under the rules promulgated by the commissioner.

(b) Hearings shall be conducted in accordance with procedures set forth by rule.

(c) All the testimony and evidence at a hearing shall be recorded by mechanical means, which may include the use of tape recordings. The mechanical record shall be maintained for 90 days from the date of the hearing and a transcript shall be made available to the aggrieved party.

(d) Any party who feels aggrieved of the suspension, revocation, or denial order may appeal to the Intermediate Court of Appeals pursuant to the provisions of §29A-5-4 of this code.

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## CHAPTER 3

**(Com. Sub. for Com. Sub. for S. B. 679 - By Senators Stuart,  
Taylor, and Deeds)**

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[Passed March 9, 2024; in effect from passage]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §11-16-23 of the Code of West Virginia, 1931, as amended; to amend and reenact §19-12E-12 of said code; to amend and reenact §19-12F-1, §19-12F-3, §19-12F-4, §19-12F-7, §19-12F-8, §19-12F-9, and §19-12F-11 of said code; to amend said code by adding thereto a new section, designated §19-12F-9a; and to amend and reenact §60-7-13 of said code, all relating to regulation of select plant-based derivatives, including hemp-derived cannabinoid products and regulation of kratom; clarifying findings; defining terms; redirecting moneys from monetary penalties assessed by Commissioner of Agriculture to another fund; requiring permits to manufacture, process, distribute, offer to sell, and sell regulated products; prohibiting retailer from adding imposed tax as separate new charge; specifying regulatory authority of the Commissioner of Agriculture and the Alcohol Beverage Control Administration Commissioner; specifying funding requirements for nonintoxicating beer tax revenues; specifying application of the Administrative Procedures Act for certain contested cases; specifying application fees for certain permits; specifying requirements for business registration certificate, nexus, jurisdiction, and taxation relating to remote interstate sales and distribution; imposition of use tax; specifying maintenance of lists by the Commissioner of Agriculture of permittees, approved products and entities, and persons who cease to be permitted; specifying labeling requirements; authorizing use of funds by the Commissioner of Agriculture and Alcohol Beverage Control

Administration Commissioner; specifying application of Tax Commissioner's fee; authorizing and requiring a certain memoranda of understanding and information sharing between Tax Commissioner, Commissioner of Agriculture, and Alcohol Beverage Control Administration Commissioner; requiring a memorandum of cooperation; specifying administrative sanctions; authorizing the Alcohol Beverage Control Administration Commissioner to enforce regulation of the product at the retail level; authorizing enforcement actions involving agents of the Alcohol Beverage Control Administration Commissioner and persons acting upon the request, direction, or control of law-enforcement agencies; clarifying Alcohol Beverage Control Administration Commissioner's authority over alcohol licensees selling kratom and hemp-derived cannabinoid products; and specifying transfer of excess Alcohol Beverage Control Enforcement Fund money.

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

## **CHAPTER 11. TAXATION.**

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

#### **§11-16-23. Revocation or suspension of license; monetary penalty; hearing assessment of costs; establishment of enforcement fund.**

(a) Upon a determination by the commissioner that a licensee has: (i) Violated the provisions of §11-16-18 of this code, or of §60-1-1 *et seq.* of this code; (ii) acted in such a way as would have precluded initial or renewal licensure; or (iii) violated any rule or order promulgated by the commissioner, he or she may:

(1) Revoke the licensee's license;

(2) Suspend the licensee's license;

(3) Place the licensee on probationary status for a period not to exceed 12 months; and



(4) Impose a monetary penalty not to exceed \$1,000 for each violation where revocation is not imposed.

(b) Any monetary penalty assessed and collected by the commissioner shall be transmitted to the State Treasurer for deposit into the State Treasury to the credit of a special revenue fund designated the Alcohol Beverage Control Enforcement Fund established by the provisions of §60-7-13 of this code.

(c) In addition to the grounds for revocation, suspension, or other sanction of a license set forth in subsection (a) of this section, conviction of the licensee of any offense constituting a violation of the laws of this state or of the United States relating to nonintoxicating beer or alcoholic liquor are mandatory grounds for sanctioning of a license. Conviction of the licensee of any violation of the laws of this State or of the United States relating to prostitution or the sale, possession, or distribution of narcotics or controlled substances is mandatory grounds for revocation of the licensee's license for a period of at least one year.

## **CHAPTER 19. AGRICULTURE.**

### **ARTICLE 12E. INDUSTRIAL HEMP DEVELOPMENT ACT.**

#### **§19-12E-12. Regulation of select plant-based derivatives; findings; industrial hemp.**

(a) This section shall be known as the Select Plant-Based Derivatives Regulation Act: Industrial Hemp.

(b) The Legislature finds that select plant-based derivatives can be regulated so as not to interfere with the strict regulation of controlled substances in this state, and that the manufacturing, processing, distribution, and retail sale, or other sale of hemp-derived cannabinoid products is an activity deserving of particular, careful, and strict attention to the administration and enforcement of West Virginia standards designed to protect and safeguard the welfare and well-being of West Virginia citizens and residents. The purpose of the act is to allow limited, regulated access to select plant-based derivatives which are naturally occurring and as

authorized by the provisions of this article for adults 21 years of age and older: *Provided*, That the provisions of this section shall not apply to naturally occurring select plant-based derivative products not containing tetrahydrocannabinol content. Businesses located within this state engaged in manufacturing, processing, distributing, or sale of hemp-derived cannabinoid products and businesses located outside of this state that are engaged in the remote distribution or remote retail sale of hemp-derived cannabinoid products across state lines for delivery into this state, are subject to the permitting, labeling, and other control and administration provisions of this article. In the interest of protecting the safety, welfare, and well-being of West Virginia citizens and residents, West Virginia nexus and jurisdiction attaches for purposes of business registration, permitting, regulation, and taxation with relation to the activity of distribution or sale of hemp-derived cannabinoid products across state lines into this state. Persons located outside of this state that are engaged in distribution or sale of hemp-derived cannabinoid products across state lines into this state shall obtain a West Virginia business registration certificate as specified in §11-12-1 *et seq.* of this code and are subject to other administrative and regulatory requirements as set forth in this code.

(c) As used in this section:

(1) "Alcohol Beverage Control Administration Commissioner" means the West Virginia Alcohol Beverage Control Administration Commissioner or his or her designees.

(2) "Commissioner" means the Commissioner of Agriculture or his or her designees.

(3) "Contaminated" means made impure or unsafe by biological, chemical, or physical additives.

(4) "Department" or "Department of Agriculture" means the West Virginia Department of Agriculture.

(5) "Final product" means a product approved by the Department in accordance with the provisions of this article, and any other applicable rules and requirements set forth by the Department, as specified for the product.

(6) "Grower" means a person or entity which grows industrial hemp.

(7) "Hemp-derived cannabinoid" means a naturally occurring non-synthetic substance as follows:

(A) Delta-9 tetrahydrocannabinol with a total concentration of not more than 0.3 percent on a dry weight basis; or

(B) Delta-8 tetrahydrocannabinol;

(C) Delta-10 tetrahydrocannabinol;

(D) Hexahydrocannabinol (HHC-);

(E) Tetrahydrocannabiphorol (THCp); and

(F) Tetrahydrocannabivarin (THCv).

(8) "Non-naturally occurring derivative" means a product that is contaminated as defined by this article, or a product that, upon result of Department laboratory testing, is found to be in violation of this article or rules promulgated therewith, or otherwise violates applicable federal regulations.

(9) "Processor" or "manufacturer" means a person or entity that processes compounds or converts hemp-derived cannabinoids into a hemp-derived cannabinoid product and distributes, sells, or offers for sale, hemp-derived cannabinoid products in this state on a wholesale basis to a retailer.

(10) "Retail sales" means the sale of hemp-derived products in a commercial setting as determined and set forth in rules promulgated by the commissioner.

(11) "Seller" or "distributor" means a person or entity that distributes, offers for sale, or sells hemp-derived products to persons for personal consumption.

(d) Permitting and registration.

(1) The commissioner may issue manufacturer, processor, distributor, and retailer permits. Any person manufacturing, processing, distributing, offering for sale, or selling any hemp-derived cannabinoid products in this state shall have a permit issued by the commissioner and be otherwise authorized to do business in this State.

(2) The business activity subject to permitting under this section shall be treated as separate and distinct from manufacturing, processing, distribution, or sale of kratom and kratom products addressed and administered under §19-12F-1 *et seq.* of this code, or of hemp addressed and administered under other sections of this article, or of medical cannabis addressed and administered under §16A-9-1 *et seq.* of this code.

(3) Persons engaged in manufacturing, processing, distribution, or sale of hemp-derived cannabinoid products in this state shall obtain a West Virginia business registration certificate as specified in §11-12-1 *et seq.* of this code and are subject to other administrative and regulatory requirements set forth in this code.

(4) The Tax Commissioner may place a notation on the business registration certificate showing the status of the certificate holder as a person or entity holding a permit from the commissioner pursuant to this section.

(5) The commissioner shall keep a list of all persons and entities that have been issued permits pursuant to this section. Such list shall be public information and shall be published initially on or before June 30, 2024, by the commissioner on its website from time to time so as to reflect a current listing.

(6) The commissioner shall keep a list of any persons or entities that have been subject to a permit revocation, withdrawal, suspension, non-renewal, or other process whereby the person or

entity has ceased to be a permit holder in good standing with the commissioner.

(7) The commissioner shall keep a list of all hemp-derived cannabinoid products that have been approved for sale or distribution in this state. Such list shall be public information and shall be published initially on or before June 30, 2024, by the commissioner on its website from time to time so as to reflect a current listing.

(e) Rules. The commissioner shall propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code that include, but are not limited to:

(1) Issuance of permits to persons who wish to manufacture, handle, process, distribute, offer for sale, or sell hemp-derived cannabinoid products;

(2) Regular sampling and testing of hemp-derived cannabinoid products to determine purity levels;

(3) Supervision of the hemp-derived cannabinoid products during their cultivation, processing, and sale;

(4) Assessment of fees as commensurate with the need of the commissioner's activities in issuing permits, laboratory testing, and in overseeing the regulation of hemp-derived products. Such fees shall be in addition to those fees specified in subsection (d) of this section;

(5) Approving the manufacture, production, sale, processing, distributing, and transport of hemp-derived cannabinoid products;

(6) Developing guidelines for the labeling of hemp-derived cannabinoid products, including, but not limited to, a statement which says "KEEP OUT OF REACH OF CHILDREN. CONSULT YOUR PHYSICIAN BEFORE USE IF YOU ARE PREGNANT

OR TAKING ANY MEDICATION" and "USE OF THIS PRODUCT MAY IMPACT DRUG TESTING RESULTS”;

(7) Developing guidelines or standards related to the display or staging of hemp-derived cannabinoid products to increase the safety of underage patrons in retail environments;

(8) Developing guidelines or standards to restrict the advertising or marketing of unapproved or unlawful products;

(9) Developing prohibitions on child-targeted packaging and shapes and forms of products;

(10) Developing administrative rules, procedures, and sanctions for violations of this section; and

(11) Any other rules and procedures necessary to carry out the purposes of this article.

(f) Emergency rules; mandatory labeling.

(1) Emergency Rules. The commissioner and the Alcohol Beverage Control Administration Commissioner may, pursuant to §29A-3-15 of this code, promulgate such separate or joint emergency rules necessary to effectuate the purposes of this article.

(2) Labeling.

(A) The commissioner shall review labels to be used on hemp-derived cannabinoid products to be sold in this state.

(B) In addition to the labeling required by the provisions of subdivision (6) of subsection (e) of this section the commissioner may require and prescribe such labeling as he or she may determine to be necessary and appropriate for hemp-derived cannabinoid products to be sold to the final consumer in this state.

(C) Hemp-derived cannabinoid products may not be sold to the final consumer in this State without an approved label.

(g) Any website owned, managed, or operated by a person who manufactures, processes, distributes, offers for sale, or sells hemp-derived cannabinoid products to persons in this state shall employ a neutral age-screening mechanism to verify legal age. The mechanism may include an age-gate, age-screen, or any other age-verification mechanism approved by the commissioner.

(h) Any person or entity distributing, offering to distribute, or selling hemp-derived cannabinoid products to persons in this state by means other than a direct in-person transaction shall employ an age verification mechanism approved by the commissioner.

(i) For the privilege of engaging or continuing within this state in the business of the retail sale of hemp-derived cannabinoid products, as defined in this section, there is hereby levied upon and collected from every person exercising the privilege a privilege tax equal to 11 percent of the retail sales price on each retail sale of hemp-derived cannabinoids. Such tax is imposed in addition to all other applicable taxes.

(1) The tax imposed by this subsection shall not be added by the retailer as a separate charge or line item on any sales slip, invoice, receipt, other statement, or memorandum of the price paid by a customer. The tax shall be due and payable on a quarterly basis as follows: on the 20th day of January, April, July, and October for the preceding calendar quarter. When the payment of tax is due, the person or entity permitted by the commissioner shall file a tax return in a form prescribed by the Tax Commissioner. The Tax Commissioner may require such forms, schedules, and returns and impose such filing and remittance requirements that are necessary or convenient for the efficient administration of taxes imposed by this subsection.

(2) The taxes imposed by this subsection shall be paid by the person or entity permitted by the commissioner to the Tax Commissioner by electronic funds transfer unless electronic payment is prohibited by state or federal law. Tax returns required by this subsection shall be filed electronically with the Tax Commissioner.

(3) The West Virginia use tax shall be collected from sellers and marketplace facilitators as defined in §11-15A-1 of this code, and referrers engaged in making sales, facilitating sales, marketing, or referring sellers or purchasers for the purpose of making or furthering retail sales of hemp-derived cannabinoid products into this state. Such sellers, marketplace facilitators, and referrers are subject to the taxation and other requirements of §11-15A-1 *et seq.* of this code, including §11-15A-6a and §11-15A-6b of this code. Application of §11-15A-6a and §11-15A-6b of this code shall not be limited to the thresholds specified in subsection §11-15A-6b(e) of this code but in the interest of protecting the safety, welfare, and well-being of West Virginia citizens and residents, West Virginia nexus and jurisdiction shall attach with relation to any such activity for the purpose of making or furthering retail sales of hemp-derived cannabinoid products, into this state.

(4) If any retailer does not renew its permit, relinquishes its permit, has its permit to operate suspended or revoked, or otherwise ceases selling hemp-derived cannabinoid products, then any tax, additions to tax, penalties, and interest imposed by this section and by §11-10-1 *et seq.* of this code shall become due and the retailer shall make a final return or returns and pay any tax which is due within 90 days of not renewing its permit, relinquishing its permit, having its permit to operate suspended or revoked, or otherwise ceasing business. The unpaid amount of any tax is to be considered a lien.

(5) All money received from the privilege tax imposed under this section, including any interest and additions to tax paid under §11-10-1 *et seq.* of this code, less the amount of any refunds, and less the fee retained by the Tax Commissioner pursuant to §11-10-27 of this code, shall be deposited into the Agricultural Fees Fund created by §19-1-4c of this code.

(6) Persons or entities subject to the tax imposed by this section shall provide to the Tax Commissioner any information required by the Tax Commissioner to administer, collect, and enforce the tax imposed by this section.



(7) Notwithstanding any provision of §11-10-1 *et seq.* of this code or of this article to the contrary, the Tax Commissioner, the Alcohol Beverage Control Administration Commissioner, and the commissioner may enter into written agreements pursuant to which the Tax Commissioner may disclose to designated employees of the Alcohol Beverage Control Administration Commissioner or the commissioner, or both, whether a particular retailer or permittee, or applicant for a permit, is in good standing with the Tax Commissioner, and the commissioner may disclose to designated employees of the Tax Commissioner or the Alcohol Beverage Control Administration Commissioner, or both, information a retailer or permittee, or applicant for a permit, provides to the commissioner pursuant to this code and the Alcohol Beverage Control Administration Commissioner may disclose to designated employees of the Tax Commissioner, or the commissioner, or both, information a retailer or permittee, or applicant for a permit, provides to the Alcohol Beverage Control Administration Commissioner pursuant to this code. Tax information disclosed pursuant to a written agreement shall remain confidential in the hands of the receiver and shall not be disclosable under §29B-1-1 *et seq.* of this code. To the extent feasible, this information should be shared or exchanged electronically to ensure safe destruction, or as necessary, proper file retention practices.

(8) The Tax Commissioner may promulgate, in accordance with the provisions of §29A-3-1 *et seq.* of this code, any necessary legislative rules, including emergency rules, as the Tax Commissioner considers necessary for the efficient administration of taxes imposed by this subsection.

(A) Funds from the tax imposed by the provisions of subdivision (1) of this subsection, less the fee retained by the Tax Commissioner pursuant to §11-10-27 of this code, and deposited in the Agricultural Fees Fund, shall be divided and deposited as follows:

(i) Sixty-five percent shall remain in the Agriculture Fees Fund for the use of the commissioner for administering and enforcing the provisions of this article;

(ii) Five percent shall be transferred to the Fight Substance Abuse Fund created by §60A-9-8 of this code; and

(iii) Thirty percent shall be deposited in the Alcohol Beverage Control Enforcement Fund established by the provisions of §60-7-13 of this code.

(B) Notwithstanding any provision in §11-9-1 *et seq.* of this code to the contrary, and as relevant to the tax imposed by this section, the West Virginia Tax Crimes and Penalties Act set forth in §11-9-1 *et seq.* of this code shall apply with like effect as if the said West Virginia Tax Crimes and Penalties Act were applicable only to the tax imposed by this section and were set forth in extenso in this section.

(C) Notwithstanding any provision of §11-10-1 *et seq.* of this code, or any other provision of this code to the contrary, each and every provision of the West Virginia Tax Procedure and Administration Act as set forth in §11-10-1 *et seq.* of this code applies to the tax imposed by this section with like effect as if the said West Virginia Tax Procedure and Administration Act were applicable only to the tax imposed by this section and were set forth in extenso in this section.

(j) The provisions of this section related to retail sales shall be enforced by the commissioner with the assistance of the Alcohol Beverage Control Administration Commissioner.

(1) The commissioner, the Tax Commissioner, and the Alcohol Beverage Control Administration Commissioner may enter into a memorandum or memoranda of understanding to facilitate the enforcement of this section. In addition to any other memoranda, the aforementioned commissioners may enter into, they shall agree by memorandum to the following:

(A) To assist each other in enforcement of this section;

(B) To assist each other in training and cooperating with State and local law enforcement to develop a state-wide plan for implementing the provisions of this section;

(C) To confer among themselves and law enforcement about enforcement of this section on a monthly basis; and

(D) To jointly compile a report to be submitted to the Joint Committee on Government and Finance on or before January 1, 2025, as to actions undertaken to enforce this section and the results thereof.

(2) Procedure for contested cases. Any person or entity seeking to contest an administrative action of the commissioner under this article shall assert such contestation in writing within 14 days under the provisions of the Administrative Procedures Act set forth in §29A-5-1 *et seq.* of this code in administrative proceedings held by or before the commissioner or his or her designee.

(1)(1) Any hemp-derived product found in this state in violation of this article is hereby declared contraband and any property interest in the hemp-derived product is vested in the State of West Virginia and is subject to seizure, forfeiture, and destruction.

(2) Any certified law-enforcement officer in this state may enforce the criminal provisions of this section, and enforcement agents of the Alcohol Beverage Control Administration Commissioner may enforce the administrative retailer provisions of this section as relating to retail sales.

(3) The commissioner shall provide the requisite training necessary to enforce the criminal and administrative provisions of this section.

(4) The amendments to this subsection enacted during the 2024 Regular Legislative Session are effective from passage.

(m) Any person who manufactures, processes, distributes, sells, or offers for sale any hemp-derived cannabinoid product in this state without a permit to do so is guilty of a crime.

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

(2) A second or subsequent violation of this subsection is a felony and, upon conviction thereof, a person shall be fined not more than \$5,000, or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(n) Any person who processes, distributes, manufactures, sells, or offers to sell any hemp-derived product knowing or having reason to know that the product has been contaminated with a toxic or illegal substance is guilty of a felony and, upon conviction thereof, shall be fined not more than \$10,000, or imprisoned in a state correctional facility for not less than two nor more than 10 years, or both fined and imprisoned.

(o)(1) Any person who knowingly manufactures, processes, distributes, sells, or offers for sale any hemp-derived cannabinoid product which has not been approved by the commissioner is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000, or confined in jail for not more than one year, or both fined and confined.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, a second or subsequent violation of subdivision (1) of this subsection constitutes a felony and any person convicted thereof shall be fined not more than \$5,000, or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(p) Any person who knowingly distributes, offers for sale, or sells a contaminated hemp-derived cannabinoid product is guilty of a felony and, upon conviction thereof, shall be fined not less than \$10,000 nor more than \$25,000, or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(q) Any person who knowingly distributes or sells hemp-derived cannabinoid product to a person under the age of 21 is guilty of a felony and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned in a state correctional facility for

not less than one nor more than five years, or both fined and imprisoned.

(r)(1) Any person under the age of 21 who possesses hemp-derived cannabinoid product is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or confined in jail for not more than one year, or both fined and confined.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, second and subsequent violations of subdivision (1) of this subsection constitute a felony, and any person convicted thereof shall be fined not more than \$5,000, and imprisoned in a state correctional facility for not less than one nor more than three years, or both fined and imprisoned.

(s) Administrative sanctions.

(1) In the case of any person or entity holding a permit issued by the commissioner under this article charged with any criminal violation enumerated in this section, the commissioner, in addition to such criminal penalties imposed, may impose administrative sanctions including, but not limited to, permanent revocation of any one or more permits held by the violator, revocation of one or more permits held by the violator for a period of time to be determined by the commissioner, suspension of any one or more permits held by the violator for a period of time to be determined by the commissioner, a fine or fines to any one or more permits held by the violator not to exceed \$1,000 per each violation as determined by the commissioner, or non-issuance of a permit upon application of a violator. For purposes of this subsection, administrative sanctions may be imposed by the commissioner upon or against any alter ego, agent, representative, or person or entity acting on behalf of, or in the interest of, a violator.

(2) The commissioner may impose the administrative sanctions in subdivision (1) of this subsection upon any person or entity under indictment for any of the criminal violations during, and during the pendency, of a criminal trial therefor.

(t) Nothing in this article shall prohibit an authorized enforcement agent of the Alcohol Beverage Control Administration Commissioner or a person who is at least 18 years of age from purchasing or possessing hemp-derived cannabinoid products when he or she is acting upon the request of, or under the direction and control of, any member of a state, federal, or local law-enforcement agency or the Alcohol Beverage Control Administration Commissioner while the agency is conducting an investigation or other activity relating to the criminal or administrative enforcement of this section.

## **ARTICLE 12F. SELECT PLANT-BASED DERIVATIVES REGULATION ACT: KRATOM.**

### **§19-12F-1. Short title. Findings.**

(a) This article shall be known as the Select Plant-Based Derivatives Regulation Act: Kratom.

(b) The Legislature finds that the manufacturing, processing, distributing, and sale of kratom or kratom products is an activity deserving of particular, careful, and strict attention to the administration and enforcement of West Virginia standards designed to protect and safeguard the welfare and well-being of West Virginia citizens and residents. Therefore, the permitting, labeling, and other control and administration provisions of this article apply to businesses located within this state engaged in manufacturing, processing, distribution, or sale of kratom or kratom products and to businesses located outside of this state that are engaged in the remote distribution or remote retail sale of kratom or kratom products across state lines for delivery into this state.

### **§19-12F-3. Definitions.**

(1) "Alcohol Beverage Control Administration Commissioner" means the West Virginia Alcohol Beverage Control Administration Commissioner or his or her designee.

(2) "Commissioner" means the Commissioner of Agriculture or his or her designee.

(3) "Contaminated" means made impure and unsafe by biological, chemical, or physical additives.

(4) "Department" or "Department of Agriculture" means the West Virginia Department of Agriculture.

(5) "Kratom" means a psychoactive preparation that is composed of the crushed or powdered dried leaves of the *mitragyna speciosa*, a lowered tropical tree which contains the alkaloids mitragynine and 7-hydroxymitragynine.

(6) "Kratom product" means a food product, food ingredient, dietary ingredient, dietary supplement, or beverage intended or marketed for human consumption containing any part of the leaf of the plant *mitragyna speciosa*.

(7) "Grower" means a person or entity which grows kratom for commercial purposes.

(8) "Processor" or "manufacturer" means a person or entity that processes, compounds, or converts plant material from *mitragyna speciosa* into a kratom product. This also includes further processing, compounding, converting, or repackaging of existing kratom products.

(9) "Retailer" or "seller" means a person or entity that distributes, offers for sale, or sells kratom or kratom products to persons for personal consumption.

**§19-12F-4. Processor and retailer permits; regulations; permitting; and registration.**

(a) Any person manufacturing, processing, distributing, offering for sale, or selling any kratom or kratom products in this state shall have a permit issued by the commissioner and be otherwise authorized to do business in this state. The commissioner may issue manufacturer, processor, distributor, and retailer permits. The business activity subject to permitting under this article shall be treated as separate and distinct from manufacturing, processing, distribution, or sale of hemp-derived cannabinoid products addressed and administered under §19-12E-12 of this

code, or of hemp addressed and administered under §19-12E-1 *et seq.* of this code, or of medical cannabis addressed and administered under §16A-9-1 *et seq.* of this code.

(b) Persons engaged in manufacturing, processing, distribution, or sale of kratom or kratom products in this State must obtain a West Virginia business registration certificate as specified in §11-12-1 *et seq.* of this code and shall be subject to other administrative and regulatory requirements as set forth in this code.

(c) In the interest of protecting the safety, welfare, and well-being of West Virginia citizens and residents, West Virginia nexus and jurisdiction attaches for purposes of business registration, permitting, regulation and taxation with relation to the activity of distribution or sale of kratom or kratom products across State lines into this State. Persons located outside of this State that are engaged in distribution or sale of kratom or kratom products across state lines into this State must obtain a West Virginia business registration certificate as specified in §11-12-1 *et seq.* of this code and shall be subject to other administrative and regulatory requirements as set forth in this code.

(d) The Tax Commissioner may place a notation on the business registration certificate showing the status of the certificate holder as a person or entity holding a permit from the commissioner pursuant to this article.

(e) The commissioner shall keep a list of all persons and entities that have been issued permits pursuant to this article. Such list shall be public information and shall be published initially on or before June 30, 2024, by the commissioner on its website from time to time so as to reflect a current listing.

(f) The commissioner shall keep a list of any persons or entities that have been subject to a permit, revocation, withdrawal, suspension, non-renewal, or other process whereby the person or entity has ceased to be a permit holder in good standing with the commissioner.



(g) The commissioner shall keep a list of all kratom and kratom products that have been approved for sale or distribution in this State. Such list shall be public information and shall be published initially on or before June 30, 2024, by the commissioner on its website from time to time so as to reflect a current listing.

#### **§19-12F-7. Taxation; disposition of funds.**

(a) For the privilege of engaging or continuing within this state in the business of the retail sale of kratom or kratom products, there is hereby levied upon and collected from every person exercising the privilege a privilege tax equal to 11 percent of the retail sales price of kratom or kratom products sold during the reporting period. Such tax is imposed in addition to all other applicable taxes.

(b) The tax imposed by this article shall not be added by the retailer as a separate charge or line item on any sales slip, invoice, receipt, other statement, or memorandum of the price paid by a customer.

(c) The tax is due and payable on a quarterly basis as follows: On the 20th day of January, April, July, and October for the preceding calendar quarter. When the payment of tax is due, the person shall file a tax return in a form prescribed by the Tax Commissioner. The Tax Commissioner may require such forms, schedules, and returns and impose such filing and remittance requirements necessary or convenient for the efficient administration of taxes imposed by this subsection.

(d)(1) The taxes imposed by this subsection shall be paid to the Tax Commissioner by electronic funds transfer unless electronic payment is prohibited by state or federal law. Tax returns required by this subsection shall be filed electronically with the Tax Commissioner.

(2) The West Virginia use tax shall be collected from sellers, marketplace facilitators, and referrers engaged in making sales, facilitating sales, marketing, or referring sellers or purchasers for the purpose of making or furthering retail sales of kratom and kratom products into this state. The sellers, marketplace

facilitators, and referrers are subject to the taxation and other requirements of §11-15A-1 *et seq.* of this code, including §11-15A-6a and §11-15A-6b of this code. Application of §11-15A-6a and §11-15A-6b of this code shall not be limited to the thresholds specified in subsection §11-15A-6ba(e) of this code, but in the interest of protecting the safety, welfare, and well-being of West Virginia citizens and residents, West Virginia nexus and jurisdiction shall attach with relation to any such activity for the purpose of making or furthering retail sales of kratom and kratom products into this state.

(e) If any retailer does not renew its permit, relinquishes its permit, has its permit suspended or revoked, or otherwise ceases selling kratom and kratom products, then any tax, additions to tax, penalties, and interest imposed by this section and by §11-10-1 *et seq.* of this code shall become due and the retailer shall make a final return or returns and pay any tax which is due within 90 days of not renewing its permit, relinquishing its permit, having its permit suspended or revoked, or otherwise ceasing business. The unpaid amount of any tax is to be considered a lien.

(f) All money received from the privilege tax imposed under this section, including any interest and additions to tax paid under §11-10-1 *et seq.* of this code, less the amount of any refunds, and less the fee retained by the Tax Commissioner pursuant to §11-10-27 of this code, shall be deposited into the Agricultural Fees Fund created by §19-1-4c of this code.

(g) Persons or entities subject to the tax imposed by this subsection shall provide to the Tax Commissioner any information required by the Tax Commissioner to administer, collect, and enforce the tax imposed by this subsection.

(h) Notwithstanding any provision of §11-10-1 *et seq.* of this code or of this article to the contrary, the Tax Commissioner, the Alcohol Beverage Control Administration Commissioner, and the commissioner may enter into written agreements pursuant to which the Tax Commissioner may disclose to designated employees of the Alcohol Beverage Control Administration Commissioner or commissioner, or both, whether a particular retailer or permittee,

or applicant for a permit, is in good standing with the Tax Commissioner, and the commissioner may disclose to designated employees of the Tax Commissioner or the Alcohol Beverage Control Administration Commissioner, or both, information a retailer or permittee, or applicant for a permit, provides to the commissioner pursuant to this code and the Alcohol Beverage Control Administration Commissioner may disclose to designated employees of the Tax Commissioner, or the commissioner, or both, information a retailer or permittee, or applicant for a permit, provides to the Alcohol Beverage Control Administration Commissioner pursuant to this code. Tax information disclosed pursuant to a written agreement shall remain confidential in the hands of the receiver and shall not be disclosable under §29B-1-1 *et seq.* of this code. To the extent feasible, this information should be shared or exchanged electronically to ensure safe destruction, or as necessary, proper file retention practices.

(i) The Tax Commissioner may promulgate, in accordance with the provisions of §29A-3-1 *et seq.* of this code, any necessary legislative rules the Tax Commissioner determines necessary to the efficient administration of taxes imposed by this subsection.

(1) Funds from the tax imposed by the provisions of this article, less the fee retained by the Tax Commissioner pursuant to §11-10-27 of this code, and deposited into the Agricultural Fees Fund shall be divided and deposited as follows:

(2) Sixty-five percent shall remain in the Agriculture Fees Fund for the use of the commissioner in administering and enforcing the provisions of this article;

(3) Five percent shall be transferred to the Fight Substance Abuse Fund created by §60A-9-8 of this code; and

(4) Thirty percent shall be deposited in the Alcohol Beverage Control Enforcement Fund established by the provisions of §60-7-13 of this code.

(j) Notwithstanding any provision in §11-9-1 *et seq.* of this code to the contrary, and as relevant to the tax imposed by this

article, the West Virginia Tax Crimes and Penalties Act set forth in §11-9-1 *et seq.* of this code shall apply with like effect as if the said West Virginia Tax Crimes and Penalties Act were applicable only to the tax imposed by this article and were set forth in extenso in this article.

(k) Notwithstanding any provision of §11-10-1 *et seq.* of this code, or any other provision of this code to the contrary, the West Virginia Tax Procedure and Administration Act, as set forth in §11-10-1 *et seq.* of this code, applies to the tax imposed by this article with like effect as if the said West Virginia Tax Procedure and Administration Act were applicable only to the tax imposed by this article and were set forth in extenso in this article.

### **§19-12F-8. Application and registration fees.**

(a) Applicants for kratom and kratom manufacturer, processor, distributor, or retailer permits shall pay a non-refundable application fee of \$1,500 which shall be deposited with the State Treasurer to the credit of the Agricultural Fees Fund established by the provisions of §19-1-4c of this code for the use of the commissioner for administering and enforcing the provisions of this article.

(b) Processors, manufacturers, distributors, and retailer permit holders shall pay an annual fee of \$300 which shall be deposited with the State Treasurer to the credit of the Agricultural Fees Fund established by the provisions of §19-1-4c of this code for the use of the commissioner in administering and enforcing the provisions of this article.

(c) The business activity subject to application, registration, and permitting under this article shall be treated as separate and distinct from manufacturing, processing, distribution, or sale of hemp-derived cannabinoid products, or of hemp addressed and administered under §19-12E-1 *et seq.* of this code, or of medical cannabis addressed and administered under §16A-9-1 *et seq.* of this code.

(d) Persons engaged in the manufacturing, processing, distribution, or sale of kratom and kratom products in this state must obtain a West Virginia business registration certificate as specified in §11-12-1 *et seq.* of this code and shall be subject to other administrative and regulatory requirements as set forth in this code.

(e) In the interest of protecting the safety, welfare, and well-being of West Virginia citizens and residents, West Virginia nexus and jurisdiction attaches for purposes of business registration, permitting, regulation, and taxation with relation to the activity of distribution or sale of kratom and kratom products across state lines into this state. Persons located outside of this state that are engaged in distribution or sale of kratom and kratom products across state lines into this state must obtain a West Virginia business registration certificate as specified in §11-12-1 *et seq.* of this code and shall be subject to other administrative and regulatory requirements as set forth in this code.

(f) The Tax Commissioner may place a notation on the business registration certificate showing the status of the certificate holder as a person or entity holding a permit from the commissioner pursuant to this article.

(g) The commissioner shall keep a list of all persons and entities that have been issued permits pursuant to this article. Such list shall be public information and shall be published initially on or before June 30, 2024, by the commissioner on its website from time to time so as to reflect a current listing.

(h) The commissioner shall keep a list of any persons or entities that have been subject to a permit revocation, withdrawal, suspension, non-renewal, or other process whereby the person or entity has ceased to be a permit holder in good standing with the commissioner.

(i) The commissioner shall keep a list of all kratom and kratom products that have been approved for sale or distribution in this state. Such list shall be public information and shall be published

initially on or before June 30, 2024, by the commissioner on its website from time to time so as to reflect a current listing.

**§19-12F-9. Cooperative enforcement agreements.**

(a) The provisions of article related to retail sales shall be enforced by the commissioner with the assistance of the Alcohol Beverage Control Administration Commissioner.

(b) Pursuant to the labeling requirements under section 9a of this article, the commissioner and the Alcohol Beverage Control Administration Commissioner shall enter into a memorandum or memoranda of understanding to facilitate enforcement of this article.

(c) Procedure for contested cases. Any person or entity seeking to contest an administrative action of the commissioner under this article shall bring such contestation in writing within 14 days under the provisions of the Administrative Procedures Act set forth in §29A-5-1 *et seq.* of this code in administrative proceedings held by or before the commissioner, or his or her designee.

(d) In addition to any other memoranda, the commissioner, Commissioner of the Alcohol Beverage Control Administration, and the Tax Commissioner may enter into, they shall agree by memorandum to the following:

(1) To assist each other in enforcement of this article;

(2) To assist each other in training and cooperating with State and local law enforcement to develop a state-wide plan for implementing the provisions of this article;

(3) To confer among themselves and law enforcement about enforcement of this article on a monthly basis; and

(4) To jointly compile a report to be submitted to the Joint Committee on Government and Finance on or before January 1, 2025, as to actions undertaken to enforce this article and the results thereof.

**§19-12F-9a. Mandatory labeling.**

(a) The commissioner shall review labels to be used on kratom and kratom products to be sold in this state.

(b) The commissioner may require and prescribe such labeling as the commissioner may determine to be necessary and appropriate for kratom and kratom products to be sold to the final consumer in this state.

(c) Kratom and kratom products may not be sold to the final consumer in this state without an approved label.

**§19-12F-11. Criminal violations; penalties.**

(a) Any person who manufactures, processes, distributes, sells, or offers for sale any kratom or kratom product in this state without a permit is guilty of a crime.

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

(2) A second or subsequent violation of this subsection is a felony and, upon conviction thereof, a person shall be fined not more than \$5,000, or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(b) Any person who manufactures, processes, distributes, sells, or offers to sell any kratom or kratom product knowing or having reason to know that the product has been contaminated with a toxic or illegal substance is guilty of a felony and, upon conviction thereof, shall be fined not more than \$10,000, or imprisoned in a state correctional facility for not less than two nor more than 10 years, or both fined and imprisoned.

(c)(1) Any person who knowingly manufactures, processes, distributes, sells, or offers for sale any kratom or kratom product which has not been approved by the commissioner is guilty of a

misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000, or confined in jail for not more than one year, or both fined and confined.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, a second or subsequent violation of subdivision (1) of this subsection constitutes a felony and any person convicted thereof shall be fined not more than \$5,000 or imprisoned for not less than one nor more than five years, or both fined and imprisoned.

(d) Any person who knowingly manufactures, distributes, offers for sale, or sells contaminated kratom or kratom product is guilty of a felony and, upon conviction thereof, shall be fined not less than \$10,000 nor more than \$25,000, or imprisoned for not less than one nor more than five years, or both fined and imprisoned.

(e) Any person who knowingly distributes or sells kratom or a kratom product to a person under the age of 21 is guilty of a felony and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(f) (1) Any person under the age of 21 who possesses kratom or a kratom product is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or confined in jail for not more than one year, or both fined and confined.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, second and subsequent violations of subdivision (1) of this subsection constitute a felony and any person convicted thereof shall be fined not more than \$5,000, imprisoned in a state correctional facility for not less than one nor more than three years, or both fined and imprisoned.

(g) Administrative sanctions.

(1) In the case of any person or entity holding a permit issued by the commissioner under this article charged with any criminal violation enumerated in this section, in addition to such criminal penalties imposed, the commissioner may impose administrative



sanctions including, but not limited to, permanent revocation of any one or more permits held by the violator, revocation of one or more permits held by the violator for a period of time to be determined by the commissioner, suspension of any one or more permits held by the violator for a period of time to be determined by the commissioner, fine or fines to any one or more permits held by the violator not to exceed \$1,000 per each violation as determined by the commissioner, or non-issuance of a permit upon application of a violator. For purposes of this subsection, administrative sanctions may be imposed by the commissioner upon or against any alter ego, agent, representative, or person or entity acting on behalf of, or in the interest of, a violator.

(2) The commissioner may impose the administrative sanctions in subdivision (1) of this subsection upon any person or entity under indictment for any of the criminal violations during, and during the pendency of, a criminal trial therefor.

(h) Nothing in this article prohibits an authorized enforcement agent of the Alcohol Beverage Control Administration Commissioner or a person who is at least 18 years of age from purchasing or possessing kratom products when he or she is acting upon the request of, or under the direction and control of any member of a state, federal, or local law-enforcement agency or the Alcohol Beverage Control Administration Commissioner while the agency is conducting an investigation or other activity relating to the criminal or administrative enforcement of this article.

## **CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.**

### **ARTICLE 7. LICENSES TO PRIVATE CLUBS.**

#### **§60-7-13. Revocation or suspension of license; monetary penalty; hearing; assessment of costs; establishment of enforcement fund.**

(a) Upon a determination by the commissioner that a licensee has: (i) Violated the provisions of §11-16-1 *et seq.* of this code or of this chapter; (ii) acted in such a way as would have precluded

initial or renewal licensure; or (iii) violated any rule or order promulgated by the commissioner, the commissioner may impose any one or a combination of the following sanctions:

(1) Revoke the licensee's license;

(2) Suspend the licensee's license;

(3) Place the licensee on probationary status for a period not to exceed 12 months; and

(4) Impose a monetary penalty not to exceed \$1,000 for each violation where revocation is not imposed.

(b) Any monetary penalty assessed and collected by the commissioner shall be transmitted to the State Treasurer for deposit into the State Treasury to the credit of a special revenue fund designated the Alcohol Beverage Control Enforcement Fund, which is hereby continued. All moneys collected, received, and deposited in the Alcohol Beverage Control Enforcement Fund shall be kept and maintained for expenditures by the commissioner for the purpose of enforcement of the statutes and rules pertaining to alcoholic liquor, nonintoxicating beer as set forth in §11-16-1 *et seq.* of this code, hemp-derived cannabinoids as set forth in §19-12E-12 of this code, and kratom as set forth in §19-12F-1 *et seq.* of this code. The Alcohol Beverage Control Enforcement Fund shall not be treated by the State Treasurer or State Auditor as any part of the general revenue of the state. At the end of each fiscal year all funds in the Alcohol Beverage Control Enforcement Fund in excess of \$200,000 shall be transferred to the General Revenue Fund.

(c) In addition to the grounds for revocation, suspension, or other sanction of a license set forth in §60-7-13(a) of this code, conviction of the licensee of any offense constituting a violation of the laws of this state or of the United States relating to alcoholic liquor, nonintoxicating beer, or gambling shall be mandatory grounds for such sanctioning of a license. Conviction of the licensee of any violation of the laws of this state or of the United States relating to prostitution, or the sale, possession, or

distribution of narcotics or controlled substances, is mandatory grounds for revocation of the licensee's license for a period of at least one year.

(d) A licensee shall notify, in a timely manner, emergency medical services or law enforcement if a licensee knows, or has reason to know, of a life-threatening medical emergency occurring on the licensed premises. In addition to the grounds for revocation, suspension, or other sanction of a license set forth in this section, the commissioner may revoke, suspend, or otherwise sanction a licensee for failing to comply with the provisions of this section.

(e) If a life-threatening medical emergency occurs on a licensee's private premises requiring notification of emergency medical services or law enforcement under §60-7-13(d) of this code, the licensee shall notify the Alcohol Beverage Control Administration within 48 hours of the emergency's occurrence. The commissioner may revoke, suspend, or otherwise sanction a licensee for failing to comply with the 48-hour notification requirement.

(f) As used in this section, a life-threatening medical emergency includes, but is not limited to, respiratory distress or cessation of breathing, severe chest pains, shock, uncontrolled bleeding, poisoning, prolonged unconsciousness, overdose, any complaint or observation which indicates significant head or spinal injury, and life-threatening physical injury caused by a crime of violence against the person occupying or emanating from the licensed premises.

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## CHAPTER 4

**(Com. Sub. for S. B. 690 - By Senators Rucker, Barrett, Chapman, Clements, Deeds, Hamilton, Hunt, Karnes, Martin, Queen, Roberts, Smith, Stuart, Taylor, and Nelson)**

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[Passed March 7, 2024; in effect 90 days from passage (June 5, 2024)]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-36-6, relating to creating a commission on West Virginia Agritourism; providing for membership, appointment, and term lengths; clarifying members receive no compensation or reimbursement for expenses; providing for powers and duties; and requiring report to Legislature and Governor.

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

### **ARTICLE 36. AGRITOURISM RESPONSIBILITY ACT.**

#### **§19-36-6. West Virginia Agritourism Commission created; composition; appointment; terms in office; compensation and expenses; powers and duties.**

(a) There is hereby created the Agritourism Commission which shall consist of the Commissioner of Agriculture or designee, who shall serve as chair, and 10 members, who shall be residents and citizens of the state. The citizen members shall have experience in agritourism and represent the sectors of: (1) Economic development; (2) tourism; (3) agriculture extension service; (4) farm distilleries; (5) vineyards; (6) wineries; (7) small farms; (8) the Farm Bureau; (9) Equestrianism; and (10) Farm-to-Table.

(b) The citizen members shall be appointed by the Governor, by and with the advice and consent of the Senate, no later than July

1, 2025. No more than five members may belong to the same political party. The commission members shall serve a term concurrent with that of the Governor's term in office. Commission members may be reappointed to additional terms.

(c) The commission members shall review and investigate means of preserving our farmland and growing our agricultural tourism and agricultural economic development.

(d) Commission members shall not be compensated for their services or reimbursed for expenses.

(e) The commission:

(1) May meet with similar commissions or bodies of any of the several states whose purpose in their respective states is to preserve farmland, grow agricultural tourism, and agricultural economic development;

(2) Shall recommend appropriate legislation to the Legislature, including establishing regulatory and legislative relief to foster the development and growth of agritourism and successful farms; and

(3) Shall prepare an annual report to the Legislature and Governor, by the first day of the regular legislative session, concerning commission activities, recommendations, and other necessary information.

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## CHAPTER 5

### (S. B. 752 - By Senators Hamilton and Deeds)

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[Passed February 29, 2024; in effect 90 days from passage (May 29, 2024)]  
[Approved by the Governor on March 22, 2024.]

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AN ACT to amend and reenact §19-1-4 of the Code of West Virginia, 1931, as amended, relating to authorizing the Department of Agriculture to complete certain land transfers.

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

#### **ARTICLE 1. DEPARTMENT OF AGRICULTURE.**

##### **§19-1-4. Duties of commissioner.**

The Commissioner of Agriculture shall perform the following duties:

(a) Devise means of advancing the agricultural interests of the state and, in the performance of such duty, he or she shall have authority to call upon any state department, or officer of the state or county, to cooperate in promoting the agricultural interests of the state. It shall be the duty of any such department, or officer, upon request of the commissioner to render the assistance desired;

(b) Promote and encourage the organization of such societies and associations as have for their object the improvement and development of the state's agricultural, horticultural and kindred interests, especially in production, processing for market, and distribution;

(c) Conduct cooperative work with the United States Department of Agriculture in inspecting and determining the grade

and condition of farm produce at collecting centers, receiving centers, and shipping points;

(d) Induce the investment of capital in, and immigration into, this state by the dissemination of information relative to the soil, climate, health, natural resources, market opportunities, and advantages of the state;

(e) Investigate and report upon the kinds, conditions, and extent of the mineral products of the state and their value;

(f) Take charge of the museum of the Department of Agriculture, collect, preserve, and exhibit therein specimens of agricultural, horticultural, and kindred products, products of the forests, minerals, flora, and fauna of the state;

(g) Publish and distribute, from time to time, such reports and bulletins concerning agriculture, horticulture, and kindred subjects as may be of value to the farmers of the state and, as conditions may demand, publish a handbook giving the resources of the several counties of the state, the varieties of soil and products, both mineral and vegetable, and the adaptability of the different sections of the state to the different branches of agriculture, horticulture, and kindred interests;

(h) Submit a biennial report to the Governor and Legislature containing such information as to the operations of the department as may be helpful to the agricultural interests of the state, together with an itemized statement of all receipts and disbursements during the biennial period covered thereby and giving the name of every person employed during such period, the time employed, and the amount paid each employee;

(i) Perform such other duties and exercise such other powers as are provided in this chapter and by general law;

(j) Enter into an agreement with the Secretary of the Department of Veterans' Assistance to transfer without consideration all or part of the approximately 17 acres of Department of Agriculture property in Beckley, West Virginia, located adjacent to the Jackie Withrow Hospital which was

formerly known as Pinecrest Hospital, for construction of a veterans skilled nursing facility;

(k) Propose rules, including regulatory standards, for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code for the purpose of carrying out the requirements of this chapter;

(l) Cooperate with the State Resiliency Office to the fullest extent practicable to assist that office in fulfilling its duties;

(m) Notwithstanding any provision of this code to the contrary, transfer to the Village of Barboursville, without consideration, all the approximately 250 acres of land known as the Huntington State Hospital institutional farm, located at Barboursville, Cabell County, for the purpose of providing public services; and

(n) Notwithstanding any provision of this code to the contrary, transfer to the City of Ellenboro, without consideration, all the lots owned by the Department of Agriculture located in the City of Ellenboro, for public services.



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## CHAPTER 6

**(Com. Sub. for H. B. 4911 - By Delegates Hornby, Summers, Chiarelli, Thorne, Foster, DeVault and Dillon)**

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[Passed March 9, 2024; in effect ninety days from passage.]

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AN ACT to amend and reenact §19-1-7 of the Code of West Virginia, 1931, as amended, relating to raw milk; defining “raw milk”; authorizing intrastate sales of raw milk; imposing labeling requirements; and authorizing rulemaking.

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

### **ARTICLE 1. DEPARTMENT OF AGRICULTURE.**

#### **\*§19-1-7. Sale of raw milk.**

(a) For purposes of this section, “raw milk” means milk that has not been pasteurized as specified in 21 C.F.R. §1240.61.

(b) Notwithstanding any other provision of this code to the contrary, raw milk may be sold by a seller in West Virginia to a consumer in West Virginia: *Provided*, That any container of raw milk sold pursuant to this article shall be clearly labeled as “unpasteurized raw milk”, and shall include the name and physical address of the seller, the date of production, and the following warning: “Consuming unpasteurized raw milk may increase your risk of foodborne illness, especially for children, elderly, immunocompromised individuals, and persons with certain medical conditions”.

(c) The Commissioner of Agriculture, in consultation with the Department of Health, may propose rules for promulgation in accordance with the provisions of §29A-3-1 *et seq.* of this code in compliance with raw milk dairy industry standards.

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**\*NOTE:** This section was also amended by H. B. 4274 (Chapter 149), which passed prior to this Act.

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## CHAPTER 7

**(Com. Sub. for H. B. 5349 - By Delegates Thorne,  
Hillenbrand, Horst, Hornby, and Hite)**

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[Passed March 9, 2024; in effect ninety days from passage.]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-39-1, §19-39-2, and §19-39-3, all relating to the Truth in Food Product Labeling Act; defining terms; establishing what constitutes misbranding of a food product; providing exceptions; providing certain food products subject to federal law shall comply with rule; authorizing emergency and legislative rules; and providing for inapplicability of provision duplicating or conflicting with federal law.

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

### **ARTICLE 39. TRUTH IN FOOD PRODUCT LABELING ACT.**

#### **§19-39-1. Definitions.**

For purposes of this article:

(1) "Analogue product" means a food product derived by combining processed plant products, insects, or fungus with food additives to approximate the texture, flavor, appearance, or other aesthetic qualities or the chemical characteristics of any specific type of egg, egg product, fish, fishery product, meat, meat food product, poultry, or poultry product.

(2) "Cell-cultured product" means a food product derived by harvesting animal cells and artificially or chemically replicating

those cells in a growth medium in a laboratory to produce tissue to approximate the texture, flavor, appearance, or other aesthetic qualities or the chemical characteristics of any specific type of egg, egg product, fish, fishery product, meat, meat food product, poultry, or poultry product.

(3) "Egg" has the meaning assigned by 21 U.S.C. §1033(g) and by §19-10A-2(i) of this code. The term does not include an analogue product or a cell-cultured product.

(4) "Egg product" has the meaning assigned by 21 U.S.C. §1033(f). The term does not include an analogue product or a cell-cultured product.

(5) "Fish" has the meaning assigned by 21 C.F.R. §123.3 and by §19-29-2(a) of this code. The term does not include an analogue product or a cell-cultured product.

(6) "Fishery product" has the meaning assigned by 21 C.F.R. §123.3. The term does not include an analogue product or a cell-cultured product.

(7) "Food" means any egg, egg product, fish, fishery product, meat, meat food product, poultry, or poultry product, but does not include any analogue product or cell-cultured product.

(8) "Food product" means any analogue product or cell-cultured product, but does not include any egg, egg product, fish, fishery product, meat, meat product, poultry, or poultry product.

(8) "Meat" has the meaning assigned by 9 C.F.R. §301.2 and by §19-29-2(d) of this code. The term does not include an analogue product or a cell-cultured product.

(9) "Meat food product" has the meaning assigned by 21 U.S.C. §601(j). The term does not include an analogue product or a cell-cultured product.

(10) "Poultry" has the meaning assigned by 21 U.S.C. §453(e). The term does not include an analogue product or a cell-cultured product.

(11) "Poultry product" has the meaning assigned by 21 U.S.C. §453(f). The term does not include an analogue product or a cell-cultured product.

### **§19-39-2. Misbranded food.**

(a) A food product is misbranded:

(1) If its labeling is false or misleading in any manner, or fails to otherwise conform with the requirements of this article;

(2) If, in the case of a food product to which 21 U.S.C. §343 applies, its advertising is false or misleading in a material respect or its labeling is in violation of 21 U.S.C. §343;

(2) If it is offered for sale under the name of a food;

(3) If it is an imitation of a food, unless its label bears, in prominent type, the word "imitation" and immediately before or after the name of the food imitated;

(4) If it is an analogue product, unless its label bears in prominent type immediately before or after the name of the product one of the following:

(A) "Analogue";

(B) "Meatless";

(C) "Plant-based";

(D) "Made from plants"; or

(E) A similar, accurate qualifying term or disclaimer intended to clearly communicate to a consumer the contents of the product;

(5) If it is a cell-cultured product, unless its label bears in prominent type immediately before or after the name of the product using one of the following:

(A) "Cell-cultured";

(B) "Lab-grown"; or

(C) A similar, accurate qualifying term or disclaimer intended to clearly communicate to a consumer the contents of the product;

(6) If its container is made, formed, or filled in a manner that is misleading;

(7) If in package form, unless it bears a label containing:

(A) The name and place of business of the manufacturer, packer, or distributor; and

(B) An accurate statement, located on the principal display panel of the label, of the quantity of the contents in terms of weight, measure, or numerical count: *Provided*, That under this subsection, reasonable variations may be permitted and exemptions as to small packages may be established by rule;

(8) If any word, statement, or other information required by or under the authority of this chapter to appear on the label or labeling is not prominently placed on the label or labeling with such conspicuousness, as compared with other words, statements, designs, or devices in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(9) If it purports to be or is represented as a food or food product for which a definition and standard of identity has been prescribed by federal law or as otherwise provided by this chapter, unless:

(A) It conforms to such definition and standard; and

(B) Its label bears the name of the food or food product specified in the definition and standard, and, in so far as may be required by those regulations or rules, the common names of ingredients, other than spices, flavoring, and coloring, present in such food or food product;

(10) If it purports to be or is represented as:

(A) A food or food product for which a standard of quality has been prescribed by federal regulations or department rules as provided under this chapter, and its quality falls below such standard unless its label bears, in such manner and form as those regulations or rules specify, a statement that it falls below such standard; or

(B) A food or food product for which a standard or standards of fill of container have been prescribed by federal regulations or department rules, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as those regulations or rules specify, a statement that it falls below such standard;

(11) Unless its label bears:

(A) The common or usual name of the food product, if any, and

(B) In case it is fabricated from two or more ingredients, the common or usual name of each such ingredient, and if the food product purports to be a beverage containing vegetable or fruit juice, a statement with appropriate prominence on the information panel of the total percentage of the fruit or vegetable juice contained in the food; except that spices, flavorings, and colors not required to be certified under 21 U.S.C. §379e, other than those sold as such, may be designated as spices, flavorings, and colors, without naming each: *Provided*, That to the extent that compliance with the requirements of this paragraph is impractical or results in deception or unfair competition, exemptions shall be established by department rules;

(12) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the commissioner determines to be, and by rule prescribed, as necessary in order to fully inform purchasers as to its value for such uses;

(13) If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact: *Provided*, That, to the extent that compliance with the requirements of this subdivision is impracticable, exemptions shall be established by department rules. The provisions of this subdivision, §29-39-2(9) of this code, and §29-39-2(11) of this code with respect to artificial coloring do not apply in the case of butter, cheese, and ice cream;

(14) If it is a raw agricultural commodity that is the produce of the soil and bears or contains a pesticide chemical applied after harvest, unless the shipping container of the commodity bears labeling that declares the presence of the chemical in or on the commodity and the common or usual name and the function of the chemical, except that the declaration is not required while the commodity, after removal from the shipping container, is being held or displayed for sale at retail out of the container in accordance with the custom of the trade;

(15) If it is a product intended as an ingredient of another food or food product and if used according to the directions of the purveyor will result in the final food or food product being adulterated or misbranded;

(16) If it is a color additive, unless its packaging and labeling are in conformity with the packaging and labeling requirements applicable to the color additive as may be contained in regulations issued under 21 U.S.C. §379e;

(17) If its packaging or labeling is in violation of an applicable regulation issued under 15 U.S.C. §1472 and 15 U.S.C. §1473, the Poison Prevention Packaging Act of 1970;

(18) If it is a food product intended for human consumption and is offered for sale, unless its label or labeling bears nutrition information that provides:

(A) The serving size that is an amount customarily consumed and that is expressed in a common household measure that is appropriate to the food product; or

(B) If the use of the food product is not typically expressed in a serving size, the common household unit of measure that expresses the serving size of the food product;

(C) The number of servings or other units of measure per container;

(D) The total number of calories in each serving size or other unit of measure that are:

(i) Derived from any source; and

(ii) Derived from fat;

(E) The amount of total fat, saturated fat, cholesterol, sodium, total carbohydrates, complex carbohydrates, sugar, dietary fiber, and total protein contained in each serving size or other unit of measure; and

(F) Any vitamin, mineral, or other nutrient required to be placed on the label and labeling of food or food product under 21 U.S.C. §343; or

(G) If it is a food product distributed at retail in bulk display cases, or a food product received in bulk containers, unless it has nutrition labeling prescribed by the commissioner; and

(H) If the commissioner determines it is necessary, nutrition labeling will be mandatory for raw fruits, vegetables, and fish, including freshwater or marine finfish, crustaceans, mollusks



including shellfish, amphibians, and other forms of aquatic animal life;

(22) If it is a food product intended for human consumption and is offered for sale, and a claim is made on the label, labeling, or retail display relating to the nutrient content or a nutritional quality of the food product to a specific disease or condition of the human body, except as permitted by 21 U.S.C. §360ee; or

(23) If it is a food product intended for human consumption and its label, labeling, and retail display do not comply with the requirements of 21 U.S.C. §360ee pertaining to nutrient content and health claims.

(b) The provisions of §29-39-2(a)(18) of this code do not apply to a food product:

(1) That is served in restaurants or other establishments in which food or food product is served for immediate human consumption or that is sold for sale or use in those establishments;

(2) That is processed and prepared primarily in a retail establishment, that is ready for human consumption, that is of the type described in subdivision (1) of this subsection, that is offered for sale to consumers but not for immediate human consumption in the establishment, and that is not offered for sale outside the establishment;

(3) That is an infant formula subject to 21 U.S.C. §350a;

(4) That is a medical food as defined in 21 U.S.C. §360ee;

(5) If the commissioner determines by rule that compliance with §29-39-29(a)(18) of this code is impracticable because the package of the food product is too small to comply with the requirements of that subdivision and if the label of that food product does not contain any nutrition information;

(6) If the commissioner determines that a food product contains insignificant amounts of all the nutrients required by §19-39-2(18) of this code to be listed on the label or labeling of food products as long as the label, labeling, or advertising of the food product does not make any claim with respect to the nutritional value of the food product: *Provided*, That if the commissioner determines that a food product contains insignificant amounts of more than half the nutrients required by §19-39-2(18) of this code to be in the label or labeling of the food product, the amounts of those nutrients shall be stated in a simplified form prescribed by the commissioner; or

(7) If a food product is sold by a food distributor, as long as the food distributor principally sells the food product to restaurants or other establishments in which the food product is served for immediate human consumption and the food distributor does not manufacture, process, or repack the food product it sells.

(c) If a food product is subject to 21 U.S.C. §343, the food product shall comply with §29-39-2(18) of this code in a manner prescribed by rule.

(d) If a person offers a food product for sale and has annual gross sales made or business done in sales to consumers that is not more than \$500,000, or has annual gross sales made or business done in sales of the food product to consumers that is not more than \$50,000, the requirements of this section do not apply.

### **§19-39-3. Rulemaking; duplication or conflict with federal law.**

(a) The commissioner may propose emergency rules and rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to implement the provisions of this article, which may include, but are not limited to:

(1) Inspection requirements;

(2) Any other labeling information necessary to ensure that a misbranded food product will not have false, misleading, or inaccurate labeling and that the public will be informed of the manner of handling required to maintain the food product in a wholesome condition;

(3) Violations of this article and administrative fines or forfeitures therefor;

(4) Procedures for administrative enforcement of violations of this article; and

(5) Procedures for appeals of proceedings under this article.

(b) In the event any provision of this article duplicates or conflicts with federal law or regulation, that provision under this article shall not apply and the federal law or regulation controls.

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## CHAPTER 8

**(H. B. 4793 - By Delegates Smith, Hornby, Zatezalo, Riley, Hardy, Phillips, McGeehan, Chiarelli, Fehrenbacher, Bridges, and Westfall)**

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[Passed March 9, 2024; in effect ninety days from passage.]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §60-6-10 of the Code of West Virginia, 1931, as amended, relating to allowing a person to manufacture a stated amount of alcoholic liquor for personal consumption.

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

### **ARTICLE 6. MISCELLANEOUS PROVISIONS.**

#### **§60-6-10. Unlawful operation of plant manufacturing distilled spirits; exception for personal consumption.**

(a) A person who unlawfully owns, operates, or maintains a plant for the manufacture of distilled spirits, or aids or abets in the operation or maintenance of such a plant shall be guilty of a felony and, upon conviction shall be fined not less than \$100 nor more than \$1,000 or confined in the penitentiary not less than one nor more than five years.

(b) Notwithstanding the restriction of subsection (a) of this section, a person at least 21 years of age may manufacture alcoholic liquor for personal or family use. The aggregate amount of alcoholic liquor manufactured per household may not exceed 10 gallons per calendar year, if there are two or more persons over the age of 21 years, or 5 gallons per calendar year, if there is only one person over the age of 21 years in the household. Any alcoholic liquor manufactured under this section may not be sold or offered for sale.

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## CHAPTER 9

**(Com. Sub. for H. B. 5294 - By Delegates W. Clark, Espinosa, Howell, Hardy, Horst, Dittman, Miller, Householder, Hite, Crouse, and Hornby)**

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[Passed March 9, 2024; in effect May 1, 2024.]  
[Approved by the Governor on March 27, 2024.]

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AN ACT 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 of said code; 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 of said code; 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 wine, alcoholic liquors, hard cider and non-intoxicating beer generally; defining terms; 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 for off-premises consumption; clarifying that certain alcohol manufacturers may sell sealed bottles for off-premises consumption and on premises bottle service by the glass; modifying definition of close proximity to 300 feet; removing or limiting the ability of political subdivisions to regulate

certain conduct of alcohol manufacturers, distilleries, mini-distilleries, micro-distilleries, 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 treating fair and festival sales by licensees as on premises sales for the purpose of calculating the two percent of gross sales price of each retail liquor sale for market zone calculations; providing that temporary out of state licensees for one day events are not exempt from background checks required of full licensees; providing that certain licenses are not subject to specified background check requirements; allowing Class A wine licensees to serve food that does not require kitchen preparation; and allowing wineries or farm wineries providing hard cider samples to serve food that does not require kitchen preparation.

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

## **CHAPTER 11. TAXATION.**

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

#### **§11-16-6a. Brewer and resident brewer license to manufacture, sell, and provide 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 samples as permitted in subsection (c) of this section.

(c) *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 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 samples may be no greater than two ounces per sample per patron, and a sampling shall not exceed 10 two-ounce samples per patron per day. A licensed brewer or resident brewer providing samples shall provide complimentary food items to the patron consuming the samples; and prior to any

sampling, verify, using proper identification, that the patron 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 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 fairs and festivals, for on-premises consumption sales and off-premises consumption sales of only the brewer or resident brewer's 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 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. 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 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 is subject to the applicable penalties under §11-16-23 of this code for violations of this section.

(l) (1) *Alternating Proprietorship Agreements.* - A licensed brewer or resident brewer may enter into 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 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 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 its licensed facility, where it must come to rest tax determined. Any nonintoxicating beer or nonintoxicating craft beer manufactured pursuant to 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) Three separate and individual sample servings per brand, type, and flavor per customer verified to be 21 years of age or older; and

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

(2) 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 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 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, 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 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.*, §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 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 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 samples to patrons who are 21 years of age and older and who are not intoxicated. The 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 sample servings per customer verified to be 21 years of age or older; and

(2) 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 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-premises. Customers may consume wine 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 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 samples of wine manufactured by that licensed winery or farm winery for consumption on-premises 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 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.

(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.

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

(f) Samples may be provided only for on-premises consumption.

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

(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 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.

(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.

(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.

(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.

(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; 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.

(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.

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

(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.

(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 fairs and festivals, for on-premises consumption sales and off-premises consumption sales of only the winery or farm winery's 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 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 may provide, sell, and serve wine samples of its wine in the amounts set forth in subsection (b) of this section, wine by the glass or drink, or wine by the bottle, when consumed by the glass, for on-premises consumption to patrons who are 21 years of age and older and who are not intoxicated.

(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 samples of its wine on the winery or the farm winery premises; and

(4) The holder of a distillery, mini-distillery, or a micro-distillery license from serving samples of its alcoholic liquor 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 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 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 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 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 a club has been established, to which 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, 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) 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-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:

(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 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 within the restaurant where seating requirements for members and guests 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 manufacturers 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 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 food: *Provided*, That a licensee required by the provisions of this code to serve food on premises in order to lawfully serve alcoholic liquors, 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 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 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 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, tradeshow, 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 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, 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 interconnected 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 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.

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**\*NOTE:** This section was also amended by H. B. 5295 (Chapter 10), which passed prior to this Act.

(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. Nonintoxicating beer or nonintoxicating craft beer may be sold and served 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 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 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. 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 and §60-8A-5 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 which agrees to offer for sale and service 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 and §60-8A-5 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. 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 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 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, 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 sampling in accordance with §11-16-6a §60-4-3a and §60-4-3b of this code; and the selling 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 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 licensed representatives who 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 its respective license immediately suspended, and that conduct is grounds for revocation of 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 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 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 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 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 fair or festival.

(2) Notwithstanding subdivision (1) of this subsection, if the applicant for the 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 fair or festival.

(3) A licensed winery or a farm winery, which has the fair or festival licensee's written authorization and approval from the commissioner, may, in addition to, or in conjunction with the fair and festival licensee, exhibit, conduct complimentary tastings, or sell samples not to exceed six, three-fluid ounce, tastings or samples per patron, or serve wine by the glass for consumption on the premises during the operation of a 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: *Provided*, That for licensed wineries or farm wineries at a licensed 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 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 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 serving. 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 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 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 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 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 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-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-premises. The licensees may keep and maintain on 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 its location during regular hours of business. The wine specialty shop may serve up to six complimentary samples of wine, consisting of no more than three fluid ounces each, to any one consumer per day. Persons serving the 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 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, sell samples not to exceed six, 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-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, that is duly licensed in its domicile state, may pay a

\$150 nonrefundable and 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 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 licenses

for nonprofit events before an additional fee 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 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 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-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 samples as permitted in subsection (c) of this section, 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) *Samples.* — A licensed winery or farm winery with its principal place of business and manufacture located in the State of West Virginia may offer 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 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 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 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-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 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) 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 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 samples may be no greater than three fluid ounces per sample per patron, and a sampling shall not exceed six complimentary three fluid ounce samples per patron per day. A licensed winery or farm winery providing samples shall provide food, which may be pre-packaged food not requiring kitchen preparation, items to the patron consuming the 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 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.

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## CHAPTER 10

**(Com. Sub. for H. B. 5295 - By Delegates W. Clark, Willis, Marple, Young, Shamblin, Hornby, Hite, Hall, Maynor, E. Pritt, and Lucas)**

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[Passed March 4, 2024; in effect from passage.]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §8-12-26 of the Code of West Virginia, 1931, as amended; and to amend and reenact §60-7-2a, §60-7-8a, and §60-7-8g of said code, all relating to expressly authorizing a private outdoor designated area to simultaneously host multiple qualified permit holders, including but not limited to a special S2 licensed and properly insured private fair and festival; providing that private outdoor designated areas may simultaneously host multiple permit holders; defining a term; providing that the dual licensing of private fairs and festivals simultaneous to other qualified permit holders is permissible; and eliminating the joint and several liability of qualified permit holders.

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

### **CHAPTER 8. MUNICIPAL CORPORATIONS.**

#### **ARTICLE 12. GENERAL AND SPECIFIC POWERS, DUTIES AND ALLIED RELATIONS OF MUNICIPALITIES, GOVERNING BODIES AND MUNICIPAL OFFICERS AND EMPLOYEES; SUITS AGAINST MUNICIPALITIES.**

##### **§8-12-26. Authorizing municipalities to create private outdoor designated areas.**

(a) In addition to all other powers and duties conferred by law upon municipalities, municipalities are empowered and authorized



to pass an ordinance establishing private outdoor designated areas as described in §60-7-8g of this code.

(b) The municipality shall include in the ordinance, at a minimum, the following:

(1) Requirements for the purpose of ensuring compliance with all state and municipal laws, and public health and safety within a private outdoor designated area;

(2) The proposed outdoor designated area or proposed licensed premises shall be indicated on a submitted map or survey in sufficient detail to identify the boundaries of the area, subject to the limitations in subsection (b) of this section;

(3) A general statement of the nature and types of qualified permit holders that may operate within the proposed outdoor designated area;

(4) That certain public property that is legally demarcated by the ordinance is within the proposed private outdoor designated area and such area complies with the comprehensive plan or zoning ordinances of the municipality, if the municipality has so adopted, for the consumption of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer;

(5) The specific boundaries of the private outdoor designated area, including street addresses;

(6) The number, spacing, and type of signage identifying the private outdoor designated area;

(7) The days and hours of operation for the private outdoor designated area which may not be greater than, but may be less than authorized by §11-16-1 *et seq.* and §60-1-1 *et seq.* of this code, but may be less than;

(8) The estimated number of personnel needed to ensure public safety and efficient operations in the private outdoor designated area;

(9) A sanitation plan that will help maintain the appearance and public health of the private outdoor designated area, including the number of restrooms and trash receptacles;

(10) A requirement that liquor, wine, nonintoxicating beer, and nonintoxicating craft beer be served in non-glass containers, not greater than 18 fluid ounces, approved by the municipality and the commissioner as set forth in §60-7-8g of this code; and

(11) Public health and safety measures, and requirements to meet compliance with current health permitting and zoning requirements.

(c) The municipality shall provide to the commissioner notice of the approval of the private outdoor designated area and identify the qualified permit holders that will be applying for permits set forth in §60-7-8g of this code. As set forth in §60-7-2a of this code, a private outdoor designated area may simultaneously have multiple qualified permit holders as defined in §60-7-1 *et seq.* of the code, and is expressly authorized.

(d) The municipality shall be responsible for ensuring compliance with its ordinances and compliance with all criminal laws associated with the operation of a private outdoor designated area. The municipality shall provide the commissioner copies of all non-compliance and violations. The commissioner shall ensure all qualified permit holders operate in accordance with requirements set forth in §11-16-1 *et seq.* and chapter 60 of this code.

(e) The municipality shall have the authority to dissolve a private outdoor designated area by ordinance and further may suspend a private outdoor designated area immediately when in the interest of public safety.

## **CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.**

### **ARTICLE 7. LICENSES TO PRIVATE CLUBS.**

#### **§60-7-2a. Dual licensing permitted; conditions.**

(a) A private coliseum or center may permit a private fair and festival licensee to conduct the temporary special event, authorized by that license, within, or on the private coliseum or center licensee's licensed premises, in order to create tourism opportunities that will promote brewers, resident brewers, wineries, farm wineries, distilleries, mini-distilleries, and micro-distilleries in this state.

(b) A private coliseum or center licensee may host a special event for a private fair and festival licensee on the licensee's licensed premises if both licensees are in good standing with the commissioner and submit to the commissioner the temporary floorplan revisions of the private coliseum or center in which the special event would be held to comprise the special event's lawful premises, which shall only include spaces in buildings or rooms of the private coliseum or center's licensed premises. By contractual agreement between the private coliseum or center licensee and the private fair and festival licensee, the parties shall agree that the private coliseum or center maintains control of its licensed premises, but for a set contracted rental time period. The private fair and festival licensee shall safely account for the ingress and egress of the stated members and guests who will be attending the special event at the licensed premises. During the contracted rental time period, the private fair and festival licensee is wholly responsible and liable for the proper sale and serving of alcoholic liquors and nonintoxicating beer in the area designated as the private fair and festival's temporary floorplan, as set forth in this section. The private fair and festival's temporary floorplan shall comprise the private fair and festival's licensed premises for the temporary special event, which is authorized for the lawful sale, service, and consumption of alcoholic liquors and nonintoxicating beer throughout the private fair and festival's licensed premises during this dually licensed temporary special event: *Provided*, That the private fair and festival's licensed premises dually shared and licensed with the private coliseum or center shall:

- (1) Have facilities to prepare and serve food and alcohol;

(2) Have adequate restrooms and sufficient building facilities for the expected number of members and guests attending the event;

(3) Comply with all other requirements of its license in this article; and

(4) Comply with health, fire, safety, and zoning requirements.

(c) There is no limit on the number of private fair and festivals that may be held at a private coliseum or center.

(d) The ability for a private outdoor designated area as defined in §8-12-26 of the code to simultaneously have multiple qualified permit holders as defined in §60-7-1 *et seq.* of the code, is expressly authorized.

**\*§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, 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, 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.

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**\*NOTE:** This section was also amended by H. B. 5294 (Chapter 9), which passed subsequent to this Act.

(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 beer or nonintoxicating craft beer may be sold 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 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 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 or hard cider may be sold for off-premises consumption 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(c) of this code, who manufactures the wine or hard cider in this state. The 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 agrees to offer their wine or hard cider for off-premises consumption 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(c) 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 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 may be sold for off-premises consumption 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 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 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 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. 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 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 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 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 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 off-premises consumption. 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, dual licensing simultaneous to any other qualified permit holders as defined in §60-7-1 *et seq.* of the 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 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 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 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 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 respective license immediately suspended, and that conduct is grounds for revocation of their license.



**§60-7-8g. Special permit for a qualified permit holder in a private outdoor designated area; license fee and application; license subject to provisions of article.**

(a) There is hereby created a special permit, designated Class S4, for the sale of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer in a private outdoor designated area that has been approved by a municipality pursuant to §8-12-26 of this code. Each Class S4 permittee may sell, furnish, or serve liquor, wine, nonintoxicating beer, and nonintoxicating craft beer as provided in this section.

(b) Definitions:

(1) "Private outdoor designated area" means public property that has become a legally demarcated area established by a municipal ordinance as set forth in §8-12-26 of this code for the consumption of liquor, wine, nonintoxicating beer, and nonintoxicating craft beer.

(2) "Qualified permit holder" means the holder of a Class A, Class B, or Class S2 license issued under this article that elects to operate within a private outdoor designated area, and a Class S4 special permit pursuant to §60-7-1 *et seq.* of this code.

(c) To be eligible for the special permit authorized by subsection (a) of this section, the qualified permit holder shall:

(1) Operate in a private outdoor designated area created by municipal ordinance as set forth in §8-12-26 of this code, and provide the commissioner a copy of the certified ordinance from the municipality;

(2) Apply to the commissioner for the special permit prior to operating in an approved private outdoor designated area on an application provided by the commissioner;

(3) Pay a nonrefundable non-prorated annual special permit fee of \$100 to the commissioner;

(4) Be in compliance with all state and federal laws and be in good standing with the commissioner;

(5) Be approved by the municipality to operate in the private outdoor designated area;

(6) Provide the days and hours of operation in the private designated;

(7) Provide, in conjunction with the municipality, adequate restroom facilities, whether permanent or portable, to serve the members and guests who will be attending the private outdoor designated area;

(8) Provide a security plan for the private outdoor designated area indicating: All qualified permit holders' licensed premises where alcohol will be served in approved non-glass containers; all entrances and exits in order to verify members', patrons', and guests' ages, and to assess whether a member, patron, or guest is under 21 years of age or intoxicated; and a plan to provide for the public health and safety of members, patrons, and guests;

(9) Provide a floorplan for the private outdoor designated area indicating a legally demarcated area that is bounded or utilizes signage to safely account for the ingress and egress of members, patrons, and guests who will be within the private outdoor designated area and also be permitted to carry liquor, wine, nonintoxicating beer, and nonintoxicating craft beer on and off of the qualified permit holders' licensed premises and within the private outdoor designated area when contained in an approved non-glass container. The private outdoor designated area's floorplan does comprise a separate licensed premises authorized only for the lawful consumption of liquor, wine, nonintoxicating beer, or nonintoxicating craft beer throughout the licensed premises when lawfully purchased from a qualified permit holder;

(10) Meet and be subject to all other applicable license requirements;

(11) Provide a plan to prevent members, guests, and patrons from bringing, consuming, or selling alcohol not in an approved non-glass container in the private outdoor designated area; and

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

(d) As set forth in §8-12-26 of this code a municipality may, by ordinance, establish a private outdoor designated area where the municipality may zone, set requirements, and establish conditions for safe operation of private outdoor designated area by qualified permit holders.

(e) A municipality shall be responsible for the enforcement of any criminal violations occurring in a private outdoor designated area and shall report such violations to commissioner for a determination of any violation of §11-16-1 *et seq.* and chapter 60 of this code.

(f) The commissioner shall enforce any violations of §11-16-1 *et seq.* and chapter 60 of this code committed by qualified permit holders against their permit and their Class A, Class B, or Class S2 license.

(g) A qualified permit holder that is separately authorized for an outdoor dining area or sidewalk dining area may continue to operate those areas in conjunction with the private outdoor designated area subject to the commissioner's requirements. Notwithstanding any other section of the code, a private outdoor designated area is authorized to simultaneously host multiple qualified permit holders as defined in §60-7-1 *et seq.* of the code.

(h) A licensee permitted under this section is 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 required by the circumstances of for the operation of qualified permit holders in each private outdoor designated area. The commissioner may revoke or suspend immediately any permit 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.

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## CHAPTER 11

**(Com. Sub. for S. B. 200 - By Senators Blair (Mr. President)  
and Woelfel)**

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[Passed March 9, 2024; in effect from passage]  
[Approved by the Governor, with objections, on March 14, 2024.]

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AN ACT making appropriations of public money out of the Treasury in accordance with section 51, article VI of the Constitution.

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

### TITLE I – GENERAL PROVISIONS.

**Section 1. General policy.** – The purpose of this bill is to appropriate money necessary for the economical and efficient discharge of the duties and responsibilities of the state and its agencies during the fiscal year 2025.

**Sec. 2. Definitions.** — For the purpose of this bill:

“Governor” shall mean the Governor of the State of West Virginia.

“Code” shall mean the Code of West Virginia, one thousand nine hundred thirty-one, as amended.

“Spending unit” shall mean the department, bureau, division, office, board, commission, agency, or institution to which an appropriation is made.

The “fiscal year 2025” shall mean the period from July 1, 2024, through June 30, 2025.

“General revenue fund” shall mean the general operating fund of the state and includes all moneys received or collected by the state except as provided in W.V. Code §12-2-2 or as otherwise provided.

“Special revenue funds” shall mean specific revenue sources which by legislative enactments are not required to be accounted for as general revenue, including federal funds.

“From collections” shall mean that part of the total appropriation which must be collected by the spending unit to be available for expenditure. If the authorized amount of collections is not collected, the total appropriation for the spending unit shall be reduced automatically by the amount of the deficiency in the collections. If the amount collected exceeds the amount designated “from collections,” the excess shall be set aside in a special surplus fund and may be expended for the purpose of the spending unit as provided by Article 2, Chapter 11B of the Code.

**Sec. 3. Classification of appropriations.** — An appropriation for:

“Personal services” shall mean salaries, wages and other compensation paid to full-time, part-time and temporary employees of the spending unit but shall not include fees or contractual payments paid to consultants or to independent contractors engaged by the spending unit. “Personal services” shall include “annual increment” for “eligible employees” and shall be disbursed only in accordance with Article 5, Chapter 5 of the Code.

Unless otherwise specified, appropriations for “personal services” shall include salaries of heads of spending units.

“Employee benefits” shall mean social security matching, workers’ compensation, unemployment compensation, pension and retirement contributions, public employees insurance matching, personnel fees or any other benefit normally paid by the employer as a direct cost of employment. Should the appropriation be insufficient to cover such costs, the remainder of such cost shall be paid by each spending unit from its “unclassified” appropriation,

or its “current expenses” appropriation or other appropriate appropriation. Each spending unit is hereby authorized and required to make such payments in accordance with the provisions of Article 2, Chapter 11B of the Code.

Each spending unit shall be responsible for all contributions, payments or other costs related to coverage and claims of its employees for unemployment compensation and workers compensation. Such expenditures shall be considered an employee benefit.

“BRIM Premiums” shall mean the amount charged as consideration for insurance protection and includes the present value of projected losses and administrative expenses. Premiums are assessed for coverages, as defined in the applicable policies, for claims arising from, inter alia, general liability, wrongful acts, property, professional liability, and automobile exposures.

Should the appropriation for “BRIM Premium” be insufficient to cover such cost, the remainder of such costs shall be paid by each spending unit from its “unclassified” appropriation, its “current expenses” appropriation or any other appropriate appropriation to the Board of Risk and Insurance Management. Each spending unit is hereby authorized and required to make such payments. If there is no appropriation for “BRIM Premium” such costs shall be paid by each spending unit from its “current expenses” appropriation, “unclassified” appropriation or other appropriate appropriation.

West Virginia Council for Community and Technical College Education and Higher Education Policy Commission entities operating with special revenue funds and/or federal funds shall pay their proportionate share of the Board of Risk and Insurance Management total insurance premium cost for their respective institutions.

“Current expenses” shall mean operating costs other than personal services and shall not include equipment, repairs and alterations, buildings, or lands. Each spending unit shall be responsible for and charged monthly for all postage meter service and shall reimburse the appropriate revolving fund monthly for all

such amounts. Such expenditures shall be considered a current expense.

“Equipment” shall mean equipment items which have an appreciable and calculable period of usefulness in excess of one year.

“Repairs and alterations” shall mean routine maintenance and repairs to structures and minor improvements to property which do not increase the capital assets.

“Buildings” shall include new construction and major alteration of existing structures and the improvement of lands and shall include shelter, support, storage, protection, or the improvement of a natural condition.

“Lands” shall mean the purchase of real property or interest in real property.

“Capital outlay” shall mean and include buildings, lands or buildings and lands, with such category or item of appropriation to remain in effect as provided by W.V. Code §12-3-12.

From appropriations made to the spending units of state government, upon approval of the Governor there may be transferred to a special account an amount sufficient to match federal funds under any federal act.

Appropriations classified in any of the above categories shall be expended only for the purposes as defined above and only for the spending units herein designated: *Provided*, That the secretary of each department shall have the authority to transfer within the department those general revenue funds appropriated to the various agencies of the department: *Provided, however*, That no more than five percent of the general revenue funds appropriated to any one agency or board may be transferred to other agencies or boards within the department: and no funds may be transferred to a “Personal Services and Employee Benefits” appropriation unless the source funds are also wholly from a “Personal Services and Employee Benefits” line, or unless the source funds are from another appropriation that has exclusively funded employment

expenses for at least twelve consecutive months prior to the time of transfer and the position(s) supported by the transferred funds are also permanently transferred to the receiving agency or board within the department: *Provided further*, Notwithstanding any previous provision no more than twenty-five percent of the general revenue funds appropriated to the following funds 0401, 0402, 0408, 0409, 0410, 0411, 0412, 0413, 0414 and 0415 within the Department of Health Facilities may be transferred between the aforementioned funds: and no funds may be transferred to a “Personal Services and Employee Benefits” appropriation unless the source funds are also wholly from a “Personal Services and Employee Benefits” line, or unless the source funds are from another appropriation that has exclusively funded employment expenses for at least twelve consecutive months prior to the time of transfer and the position(s) supported by the transferred funds are also permanently transferred to the receiving agency or board within the department: *Provided further*, That the secretary of each department and the director, commissioner, executive secretary, superintendent, chairman or any other agency head not governed by a departmental secretary as established by Chapter 5F of the Code shall have the authority to transfer funds appropriated to “Personal Services and Employee Benefits,” “Current Expenses,” “Repairs and Alterations,” “Equipment,” “Other Assets,” “Land,” “Buildings,” “Contract Nursing” and “Unclassified: to other appropriations within the same account and no funds from other appropriations shall be transferred to the “Personal Services and Employee Benefits” or the “Unclassified” appropriation except that during Fiscal Year 2025, and upon approval from the State Budget Office, agencies with the appropriation “Salary and Benefits of Cabinet Secretary and Agency Heads” and “Salary and Benefits of Elected Officials” may transfer between this appropriation and the appropriation “Personal Services and Employee Benefits” an amount to cover annualized salaries and employee benefits for the fiscal year ending June 30, 2025, as provided by W.V. Code §6-7-2a: *And provided further*, That no authority exists hereunder to transfer funds into appropriations to which no funds are legislatively appropriated: *And provided further*, That if the Legislature creates new, consolidates, reorganizes or terminates agencies, boards or



functions, within any fiscal year the secretary or other appropriate agency head, or in the case of the termination of a spending unit of the state, the Director of the State Budget Office, in the absence of general law providing otherwise, may transfer the funds formerly appropriated to such agency, board or function, allocating items of appropriation as may be necessary if only part of the item may be allocated, in order to implement such consolidation, reorganization or termination. No funds may be transferred from a Special Revenue Account, dedicated account, capital expenditure account or any other account or fund specifically exempted by the Legislature from transfer, except that the use of the appropriations from the State Road Fund for the office of the Secretary of the Department of Transportation is not a use other than the purpose for which such funds were dedicated and is permitted.

Appropriations otherwise classified shall be expended only where the distribution of expenditures for different purposes cannot well be determined in advance or it is necessary or desirable to permit the spending unit the freedom to spend an appropriation for more than one of the above classifications.

**Sec. 4. Method of expenditure.** — Money appropriated by this bill, unless otherwise specifically directed, shall be appropriated, and expended according to the provisions of Article 3, Chapter 12 of the Code or according to any law detailing a procedure specifically limiting that article.

**Sec. 5. Maximum expenditures.** — No authority or requirement of law shall be interpreted as requiring or permitting an expenditure in excess of the appropriations set out in this bill.

## TITLE II – APPROPRIATIONS.

### ORDER OF SECTIONS

SECTION 1. Appropriations from general revenue.

SECTION 2. Appropriations from state road fund.

- SECTION 3. Appropriations from other funds.
- SECTION 4. Appropriations from lottery net profits.
- SECTION 5. Appropriations from state excess lottery revenue.
- SECTION 6. Appropriations of federal funds.
- SECTION 7. Appropriations from federal block grants.
- SECTION 8. Awards for claims against the state.
- SECTION 9. Appropriations from general revenue fund surplus accrued.
- SECTION 10. Appropriations from lottery net profits surplus accrued.
- SECTION 11. Appropriations from state excess lottery revenue surplus accrued.
- SECTION 12. Special revenue appropriations.
- SECTION 13. State improvement fund appropriations.
- SECTION 14. Specific funds and collection accounts.
- SECTION 15. Appropriations for refunding erroneous payment.
- SECTION 16. Sinking fund deficiencies.
- SECTION 17. Appropriations for local governments.
- SECTION 18. Total appropriations.
- SECTION 19. General school fund.

**Section 1. Appropriations from general revenue.** – From the State Fund, General Revenue, there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B the following amounts, as itemized, for expenditure during the fiscal year 2025.

**LEGISLATIVE***1 - Senate*Fund 0165 FY 2025 Org 2100

	<b>Appropriation</b>	<b>General Revenue Fund</b>
Compensation of Members (R).....	00300	\$ 1,010,000
Compensation and Per Diem of Officers and Employees (R) .....	00500	4,111,332
Current Expenses		
and Contingent Fund (R) .....	02100	321,392
Repairs and Alterations (R) .....	06400	35,000
Technology Repair		
and Modernization (R).....	29800	80,000
Expenses of Members (R).....	39900	550,000
BRIM Premium (R) .....	91300	<u>44,482</u>
Total.....		\$ 6,152,206

The appropriations for the Senate for the fiscal year 2024 are to remain in full force and effect and are hereby reappropriated to June 30, 2025. Any balances so reappropriated may be transferred and credited to the fiscal year 2024 accounts.

Upon the written request of the Clerk of the Senate, the Auditor shall transfer amounts between items of the total appropriation in order to protect or increase the efficiency of the service.

The Clerk of the Senate, with the approval of the President, is authorized to draw his or her requisitions upon the Auditor, payable out of the Current Expenses and Contingent Fund of the Senate, for any bills for supplies and services that may have been incurred by the Senate and not included in the appropriation bill, for supplies and services incurred in preparation for the opening, the conduct of the business and after adjournment of any regular or extraordinary session, and for the necessary operation of the Senate offices, the requisitions for which are to be accompanied by bills to be filed with the Auditor.

The Clerk of the Senate, with the approval of the President, or the President of the Senate shall have authority to employ such staff personnel during any session of the Legislature as shall be needed in addition to staff personnel authorized by the Senate resolution adopted during any such session. The Clerk of the Senate, with the approval of the President, or the President of the Senate shall have authority to employ such staff personnel between sessions of the Legislature as shall be needed, the compensation of all staff personnel during and between sessions of the Legislature, notwithstanding any such Senate resolution, to be fixed by the President of the Senate. The Clerk is hereby authorized to draw his or her requisitions upon the Auditor for the payment of all such staff personnel for such services, payable out of the appropriation for Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the Senate.

For duties imposed by law and by the Senate, the Clerk of the Senate shall be paid a monthly salary as provided by the Senate resolution, unless increased between sessions under the authority of the President, payable out of the appropriation for Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the Senate.

Included in the above appropriation for Senate (fund 0165, appropriation 02100), an amount not less than \$5,000 is to be used for the West Virginia Academy of Family Physicians - Doc of the Day Program.

## *2 - House of Delegates*

### Fund 0170 FY 2025 Org 2200

Compensation of Members (R).....	00300	\$	3,500,000
Compensation and Per Diem of Officers and Employees (R) .....	00500		575,000
Current Expenses and Contingent Fund (R) .....	02100		6,000,000
Expenses of Members (R).....	39900		1,350,000
Capital Outlay, Repairs and Equipment (R).....	58900		500,000

BRIM Premium (R) .....	91300	<u>60,000</u>
Total.....		\$ 11,985,000

The appropriations for the House of Delegates for the fiscal year 2024 are to remain in full force and effect and are hereby reappropriated to June 30, 2025. Any balances so reappropriated may be transferred and credited to the fiscal year 2024 accounts.

Upon the written request of the Clerk of the House of Delegates, the Auditor shall transfer amounts between items of the total appropriation in order to protect or increase the efficiency of the service.

The Clerk of the House of Delegates, with the approval of the Speaker, is authorized to draw his or her requisitions upon the Auditor, payable out of the Current Expenses and Contingent Fund of the House of Delegates, for any bills for supplies and services that may have been incurred by the House of Delegates and not included in the appropriation bill, for bills for services and supplies incurred in preparation for the opening of the session and after adjournment, and for the necessary operation of the House of Delegates' offices, the requisitions for which are to be accompanied by bills to be filed with the Auditor.

The Speaker of the House of Delegates shall have authority to employ such staff personnel during and between sessions of the Legislature as shall be needed, in addition to personnel designated in the House resolution, and the compensation of all personnel shall be as fixed in such House resolution for the session or fixed by the Speaker during and between sessions of the Legislature, notwithstanding such House resolution. The Clerk of the House of Delegates is hereby authorized to draw requisitions upon the Auditor for such services, payable out of the appropriation for the Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the House of Delegates.

For duties imposed by law and by the House of Delegates, including salary allowed by law as keeper of the rolls, the Clerk of the House of Delegates shall be paid a monthly salary as provided in the House resolution, unless increased between sessions under the authority of the Speaker and payable out of the appropriation

for Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the House of Delegates.

Included in the above appropriation for House of Delegates (fund 0170, appropriation 02100), an amount not less than \$5,000 is to be used for the West Virginia Academy of Family Physicians - Doc of the Day Program.

### *3 - Joint Expenses*

(W.V. Code Chapter 4)

Fund 0175 FY 2025 Org 2300

Joint Committee on Government and Finance (R).....	10400	\$ 8,725,138
Legislative Printing (R).....	10500	260,000
Legislative Rule-Making Review Committee (R).....	10600	147,250
Legislative Computer System (R).....	10700	1,447,500
Legislative Dues and Fees (R) .....	10701	600,000
BRIM Premium (R) .....	91300	<u>60,569</u>
Total.....		\$ 11,240,457

The appropriations for the Joint Expenses for the fiscal year 2024 are to remain in full force and effect and are hereby reappropriated to June 30, 2025. Any balances reappropriated may be transferred and credited to the fiscal year 2024 accounts.

Upon the written request of the Clerk of the Senate, with the approval of the President of the Senate, and the Clerk of the House of Delegates, with the approval of the Speaker of the House of Delegates, and a copy to the Legislative Auditor, the Auditor shall transfer amounts between items of the total appropriation in order to protect or increase the efficiency of the service.

## **JUDICIAL**

### *4 - Supreme Court –*

#### *General Judicial*

Fund 0180 FY 2025 Org 2400

## Personal Services

and Employee Benefits (R).....	00100	\$ 140,730,477
Repairs and Alterations (R) .....	06400	45,000
Equipment (R).....	07000	1,812,000
Military Services Members Court (R)....	09002	300,000
Judges' Retirement System (R).....	11000	1,220,000
Current Expenses (R) .....	13000	21,482,914
Buildings (R).....	25800	10,000
Other Assets (R).....	69000	80,000
BRIM Premium (R) .....	91300	<u>636,118</u>
Total.....		\$ 166,316,509

The appropriations to the Supreme Court of Appeals for the fiscal years 2021, 2022, 2023 and 2024 are to remain in full force and effect and are hereby reappropriated to June 30, 2025. Any balances so reappropriated may be transferred and credited to the fiscal year 2024 accounts.

This fund shall be administered by the Administrative Director of the Supreme Court of Appeals, who shall draw requisitions for warrants in payment in the form of payrolls, making deductions therefrom as required by law for taxes and other items.

The appropriation for the Judges' Retirement System (fund 0180, appropriation 11000) is to be transferred to the Consolidated Public Retirement Board, in accordance with the law relating thereto, upon requisition of the Administrative Director of the Supreme Court of Appeals.

**EXECUTIVE***5 - Governor's Office*

(W.V. Code Chapter 5)

Fund 0101 FY 2025 Org 0100

## Personal Services

and Employee Benefits.....	00100	\$ 3,334,423
Salary and Benefits		
of Elected Officials.....	00200	201,802

Repairs and Alterations.....	06400	25,000
Equipment.....	07000	1,000
National Governors Association.....	12300	60,700
Current Expenses (R).....	13000	799,000
Herbert Henderson Office		
of Minority Affairs .....	13400	396,726
Community Food Program .....	18500	1,000,000
Office of Resiliency (R).....	18600	623,744
BRIM Premium.....	91300	<u>183,645</u>
Total.....		\$ 6,626,040

Any unexpended balances remaining in the appropriations for Unclassified (fund 0101, appropriation 09900), Current Expenses (fund 0101, appropriation 13000), Office of Resiliency (fund 0101, appropriation 18600) and Posey Perry Emergency Food Band Fund – Surplus (fund 0101, appropriation 42399) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

The above appropriation for Herbert Henderson Office of Minority Affairs (fund 0101, appropriation 13400) shall be transferred to the Minority Affairs Fund (fund 1058).

**6 - Governor's Office –**

*Custodial Fund*

(W.V. Code Chapter 5)

**Fund 0102 FY 2025 Org 0100**

**Personal Services**

and Employee Benefits.....	00100	\$ 427,269
Repairs and Alterations.....	06400	5,000
Equipment.....	07000	1,000
Current Expenses (R).....	13000	<u>182,158</u>
Total.....		\$ 615,427

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0102, appropriation 13000) at the close of



the fiscal year 2024 is hereby reappropriated for expenditure during the fiscal year 2025.

Appropriations are to be used for current general expenses, including compensation of employees, household maintenance, cost of official functions, and additional household expenses occasioned by such official functions.

*7 - Governor's Office –*

*Civil Contingent Fund*

(W.V. Code Chapter 5)

Fund 0105 FY 2025 Org 0100

Congressional Earmark

Maintenance of Effort.....	XXXXXX	\$	0
Directed Transfer .....	70000		0
Milton Flood Wall (R) .....	75701		3,500,000
Local Economic			
Development Assistance (R) .....	81900		<u>5,000,000</u>
Total.....		\$	8,500,000

Any unexpended balances remaining in the appropriations for Business and Economic Development Stimulus – Surplus (fund 0105, appropriation 08400), Civil Contingent Fund – Total (fund 0105, appropriation 11400), 2012 Natural Disasters – Surplus (fund 0105, appropriation 13500), Congressional Earmark Maintenance of Effort – Surplus (fund 0105, appropriation 22599), Civil Contingent Fund – Total – Surplus (fund 0105, appropriation 23800), Civil Contingent Fund – Surplus (fund 0105, appropriation 26300), Local Economic Development Assistance – Surplus (fund 0105, appropriation 26600), Business and Economic Development Stimulus (fund 0105, appropriation 58600), Civil Contingent Fund (fund 0105, appropriation 61400), Milton Flood Wall (fund 0105, appropriation 75701), Milton Flood Wall – Surplus (fund 0105, appropriation 75799), Natural Disasters – Surplus (fund 0105, appropriation 76400), Local Economic Development Assistance (fund 0105, appropriation 81900), and Federal Funds/Grant Match – Surplus (fund 0105, appropriation 85700) at the close of the fiscal

year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

From this fund there may be expended, at the discretion of the Governor, an amount not to exceed \$1,000 as West Virginia's contribution to the Interstate Oil Compact Commission.

The above fund is intended to provide contingency funding for accidental, unanticipated, emergency, or unplanned events which may occur during the fiscal year and is not to be expended for the normal day-to-day operations of the Governor's Office.

*8 - Auditor's Office –*

*General Administration*

(W.V. Code Chapter 12)

Fund 0116 FY 2025 Org 1200

Personal Services

and Employee Benefits.....	00100	\$ 2,526,780
Salary and Benefits of Elected Officials	00200	172,237
Current Expenses (R).....	13000	13,429
BRIM Premium.....	91300	<u>12,077</u>
Total.....		\$ 2,724,523

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0116, appropriation 13000) at the close of the fiscal year 2024 is hereby reappropriated for expenditure during the fiscal year 2025.

*9 - Treasurer's Office*

(W.V. Code Chapter 12)

Fund 0126 FY 2025 Org 1300

Personal Services

and Employee Benefits.....	00100	\$ 2,673,991
Salary and Benefits of Elected Officials.....	00200	179,158

Unclassified.....	09900	31,463
Abandoned Property Program.....	11800	41,794
Current Expenses (R).....	13000	572,684
Other Assets.....	69000	10,000
ABLE Program .....	69201	150,000
BRIM Premium.....	91300	59,169
Total.....		\$ 3,718,259

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0126, appropriation 13000) at the close of the fiscal year 2024 is hereby reappropriated for expenditure during the fiscal year 2025.

*10 - Department of Agriculture*

(W.V. Code Chapter 19)

Fund 0131 FY 2025 Org 1400

Personal Services

and Employee Benefits.....	00100	\$ 7,126,454
Salary and Benefits		
of Elected Officials.....	00200	158,702
Animal Identification Program .....	03900	140,226
State Farm Museum .....	05500	87,759
Gypsy Moth Program (R) .....	11900	1,156,460
WV Farmers Market .....	12801	150,467
Current Expenses (R).....	13000	848,115
Black Fly Control.....	13700	462,894
HEMP Program.....	13701	393,442
Donated Foods Program .....	36300	45,000
Veterans to Agriculture Program (R)...	36301	276,314
Predator Control (R) .....	47000	176,400
Bee Research.....	69100	77,071
Microbiology Program.....	78500	109,024
Moorefield Agriculture Center .....	78600	1,106,427
Chesapeake Bay Watershed.....	83000	127,793
Livestock Care Standards Board.....	84300	8,820
BRIM Premium.....	91300	138,905
State FFA-FHA		

Camp and Conference Center.....	94101	809,507
Threat Preparedness .....	94200	80,708
WV Food Banks.....	96900	426,000
Senior's Farmers' Market		
Nutrition Coupon Program .....	97000	<u>55,835</u>
Total.....		\$ 13,962,323

Any unexpended balances remaining in the appropriations for Gypsy Moth Program (fund 0131, appropriation 11900), Current Expenses (fund 0131, appropriation 13000), Veterans to Agriculture Program (fund 0131, appropriation 36301), Predator Control (fund 0131, appropriation 47000), and Agricultural Disaster and Mitigation Needs – Surplus (fund 0131, appropriation 85000) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

The above appropriation for Predator Control (fund 0131, appropriation 47000) is to be made available to the United States Department of Agriculture, Wildlife Services to administer the Predator Control Program.

A portion of the Current Expenses appropriation may be transferred to a special revenue fund for the purpose of matching federal funds for marketing and development activities.

From the above appropriation for WV Food Banks (fund 0131, appropriation 96900), \$20,000 is for House of Hope and the remainder of the appropriation shall be allocated to the Huntington Food Bank and the Mountaineer Food Bank in Braxton County.

### *11 - West Virginia Conservation Agency*

(W.V. Code Chapter 19)

Fund 0132 FY 2025 Org 1400

#### Personal Services

and Employee Benefits.....	00100	\$	914,027
Unclassified.....	09900		77,059
Soil Conservation Projects (R).....	12000		10,293,335
Current Expenses (R).....	13000		317,848

BRIM Premium.....	91300	<u>34,428</u>
Total.....		\$ 11,636,697

Any unexpended balances remaining in the appropriations for Soil Conservation Projects (fund 0132, appropriation 12000), Current Expenses (fund 0132, appropriation 13000), and Soil Conservation Projects – Surplus (fund 0132, appropriation 26900) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

*12 - Department of Agriculture –*

*Meat Inspection Fund*

(W.V. Code Chapter 19)

Fund 0135 FY 2025 Org 1400

Personal Services

and Employee Benefits .....	00100	\$ 1,079,845
Unclassified.....	09900	7,090
Current Expenses .....	13000	<u>82,605</u>
Total.....		\$ 1,169,540

Any part or all of this appropriation may be transferred to a special revenue fund for the purpose of matching federal funds for the above-named program.

*13 - Department of Agriculture –*

*Agricultural Awards Fund*

(W.V. Code Chapter 19)

Fund 0136 FY 2025 Org 1400

Programs and Awards

for 4-H Clubs and FFA/FHA .....	57700	\$ 15,000
Commissioner's Awards		
and Programs .....	73700	<u>39,250</u>
Total.....		\$ 54,250

*14 - Department of Agriculture –**West Virginia Agricultural Land Protection Authority*

(W.V. Code Chapter 8A)

Fund 0607 FY 2025 Org 1400

Personal Services			
and Employee Benefits .....	00100	\$	108,743
Unclassified.....	09900		<u>950</u>
Total.....		\$	109,693

*15 - Attorney General*

(W.V. Code Chapters 5, 14, 46A and 47)

Fund 0150 FY 2025 Org 1500

Personal Services			
and Employee Benefits (R).....	00100	\$	3,599,891
Salary and Benefits			
of Elected Officials .....	00200		156,799
Repairs and Alterations.....	06400		1,000
Equipment .....	07000		7,500
Unclassified (R) .....	09900		24,428
Current Expenses (R) .....	13000		681,295
Criminal Convictions			
and Habeas Corpus Appeals (R)....	26000		1,010,387
Better Government Bureau .....	74000		292,286
BRIM Premium.....	91300		<u>120,654</u>
Total.....		\$	5,894,240

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits (fund 0150, appropriation 00100), Unclassified (fund 0150, appropriation 09900), Current Expenses (fund 0150, appropriation 13000), Criminal Convictions and Habeas Corpus Appeals (fund 0150, appropriation 26000), and Agency Client Revolving Liquidity Pool (fund 0150, appropriation 36200) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

When legal counsel or secretarial help is appointed by the Attorney General for any state spending unit, this account shall be reimbursed from such spending units specifically appropriated account or from accounts appropriated by general language contained within this bill: *Provided*, That the spending unit shall reimburse at a rate and upon terms agreed to by the state spending unit and the Attorney General: *Provided, however*, That if the spending unit and the Attorney General are unable to agree on the amount and terms of the reimbursement, the spending unit and the Attorney General shall submit their proposed reimbursement rates and terms to the Governor for final determination.

*16 - Secretary of State*

(W.V. Code Chapters 3, 5, and 59)

Fund 0155 FY 2025 Org 1600

Salary and Benefits			
of Elected Officials.....	00200	\$	158,702
Unclassified (R) .....	09900		8,352
Current Expenses (R) .....	13000		781,584
BRIM Premium.....	91300		<u>34,500</u>
Total.....		\$	983,138

Any unexpended balances remaining in the appropriations for Unclassified (fund 0155, appropriation 09900) and Current Expenses (fund 0155, appropriation 13000) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

*17 - State Election Commission*

(W.V. Code Chapter 3)

Fund 0160 FY 2025 Org 1601

Personal Services			
and Employee Benefits .....	00100	\$	2,477
Unclassified.....	09900		75
Current Expenses .....	13000		<u>4,956</u>
Total.....		\$	7,508

**DEPARTMENT OF ADMINISTRATION***18 - Department of Administration –**Office of the Secretary*

(W.V. Code Chapter 5F)

Fund 0186 FY 2025 Org 0201

## Personal Services

and Employee Benefits .....	00100	\$	494,563
Salary and Benefits of Cabinet Secretary			
and Agency Heads .....	00201		153,400
Repairs and Alterations .....	06400		100
Equipment .....	07000		1,000
Unclassified .....	09900		9,177
Current Expenses .....	13000		86,009
Financial Advisor (R) .....	30400		27,546
Lease Rental Payments .....	51600		14,850,000
Design-Build Board .....	54000		4,000
Other Assets .....	69000		100
BRIM Premium .....	91300		5,736
Total .....		\$	15,631,631

Any unexpended balance remaining in the appropriation for Financial Advisor (fund 0186, appropriation 30400) at the close of the fiscal year 2024 is hereby reappropriated for expenditure during the fiscal year 2025.

The appropriation for Lease Rental Payments (fund 0186, appropriation 51600) shall be disbursed as provided by W.V. Code §31-15-6b.

*19 - Consolidated Public Retirement Board*

(W.V. Code Chapter 5)

Fund 0195 FY 2025 Org 0205

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 retirement costs for their respective divisions. When specific appropriations are not made, such payments may be made from the balances in the various special revenue funds in excess of specific appropriations.

*20 - Division of Finance*

(W.V. Code Chapter 5A)

Fund 0203 FY 2025 Org 0209

Personal Services

and Employee Benefits .....	00100	\$	67,855
Unclassified.....	09900		1,400
GAAP Project (R) .....	12500		667,274
Current Expenses .....	13000		61,563
BRIM Premium.....	91300		<u>12,675</u>
Total.....		\$	810,767

Any unexpended balance remaining in the appropriation for GAAP Project (fund 0203, appropriation 12500) at the close of the fiscal year 2024 is hereby reappropriated for expenditure during the fiscal year 2025.

*21 - Division of General Services*

(W.V. Code Chapter 5A)

Fund 0230 FY 2025 Org 0211

Personal Services

and Employee Benefits .....	00100	\$	3,147,415
Repairs and Alterations.....	06400		500
Equipment.....	07000		5,000
Unclassified.....	09900		20,000
Fire Service Fee .....	12600		14,000
Current Expenses .....	13000		1,148,349
Preservation and Maintenance of Statues and Monuments on Capitol Grounds.....	37100		68,000

Capital Outlay, Repairs and Equipment (R).....	58900	21,610,888
BRIM Premium.....	91300	<u>379,983</u>
Total.....		\$ 26,394,135

Any unexpended balance remaining in the appropriation for Capital Outlay, Repairs and Equipment (fund 0230, appropriation 58900), Capital Outlay, Repairs and Equipment – Surplus (fund 0230, appropriation 67700), and Consolidated State Laboratory – Surplus (fund 0230, appropriation 37799) at the close of the fiscal year 2024 is hereby reappropriated for expenditure during the fiscal year 2025.

From the above appropriation for Preservation and Maintenance of Statues and Monuments on Capitol Grounds (fund 0230, appropriation 37100), the Division shall consult the Division of Culture and History and Capitol Building Commission in all aspects of planning, assessment, maintenance, and restoration.

The above appropriation for Capital Outlay, Repairs and Equipment (fund 0230, appropriation 58900) shall be expended for capital improvements, maintenance, repairs, and equipment for state-owned buildings.

## *22 - Division of Purchasing*

(W.V. Code Chapter 5A)

### Fund 0210 FY 2025 Org 0213

Personal Services		
and Employee Benefits.....	00100	\$ 1,138,111
Repairs and Alterations.....	06400	200
Unclassified.....	09900	144
Current Expenses .....	13000	1,285
BRIM Premium.....	91300	<u>6,922</u>
Total.....		\$ 1,146,662

The Division of Highways shall reimburse Fund 2031 within the Division of Purchasing for all actual expenses incurred pursuant to the provisions of W.V. Code §17-2A-13.

*23 - Travel Management*

(W.V. Code Chapter 5A)

Fund 0615 FY 2025 Org 0215

## Personal Services

and Employee Benefits .....	00100	\$	866,731
Repairs and Alterations .....	06400		1,000
Equipment .....	07000		5,000
Unclassified .....	09900		12,032
Current Expenses .....	13000		440,247
Buildings .....	25800		100
Other Assets .....	69000		100
Total .....		\$	1,325,210

*24 - Commission on Uniform State Laws*

(W.V. Code Chapter 29)

Fund 0214 FY 2025 Org 0217

Current Expenses .....	13000	\$	45,550
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To pay expenses for members of the Commission on Uniform State Laws.

*25 - West Virginia Public Employees Grievance Board*

(W.V. Code Chapter 6C)

Fund 0220 FY 2025 Org 0219

## Personal Services

and Employee Benefits .....	00100	\$	1,058,141
Equipment .....	07000		50
Unclassified .....	09900		1,000
Current Expenses .....	13000		146,035
BRIM Premium .....	91300		8,000
Total .....		\$	1,213,226

*26 - Ethics Commission*

(W.V. Code Chapter 6B)

Fund 0223 FY 2025 Org 0220

Personal Services		
and Employee Benefits.....	00100	\$ 660,353
Repairs and Alterations.....	06400	500
Unclassified.....	09900	2,200
Current Expenses .....	13000	105,501
Other Assets.....	69000	100
BRIM Premium.....	91300	<u>4,574</u>
Total.....		\$ 773,228

*27 - Public Defender Services*

(W.V. Code Chapter 29)

Fund 0226 FY 2025 Org 0221

Personal Services		
and Employee Benefits.....	00100	\$ 2,007,935
Salary and Benefits of Cabinet Secretary		
and Agency Heads .....	00201	119,000
Unclassified.....	09900	333,300
Current Expenses .....	13000	12,740
Public Defender Corporations.....	35200	23,021,081
Appointed Counsel Fees (R).....	78800	12,691,113
BRIM Premium.....	91300	<u>10,575</u>
Total.....		\$ 38,195,744

Any unexpended balance remaining in the appropriation for Appointed Counsel Fees - Surplus (fund 0226, appropriation 43500) and Appointed Counsel Fees (fund 0226, appropriation 78800) at the close of the fiscal year 2024 is hereby reappropriated for expenditure during the fiscal year 2025.

The Director shall have the authority to transfer funds from the appropriation to Public Defender Corporations (fund 0226,

appropriation 35200) to Appointed Counsel Fees (fund 0226, appropriation 78800

*28 - Division of Personnel*

(W.V. Code Chapter 29)

Fund 0206 FY 2025 Org 0222

Directed Transfer .....	70000	\$	1,800,000
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The above appropriation for Directed Transfer (fund 0206, appropriation 70000) shall be transferred to the Division of Personnel (fund 2440).

*29 - Committee for the Purchase of*

*Commodities and Services from the Handicapped*

(W.V. Code Chapter 5A)

Fund 0233 FY 2025 Org 0224

Personal Services			
and Employee Benefits .....	00100	\$	3,187
Current Expenses .....	13000		<u>868</u>
Total .....		\$	4,055

*30 - West Virginia Prosecuting Attorneys Institute*

(W.V. Code Chapter 7)

Fund 0557 FY 2025 Org 0228

Forensic Medical Examinations (R) ....	68300	\$	571,016
Federal Funds/Grant Match (R) .....	74900		<u>117,028</u>
Total .....		\$	688,044

Any unexpended balances remaining in the appropriations for Forensic Medical Examinations (fund 0557, appropriation 68300) and Federal Funds/Grant Match (fund 0557, appropriation 74900) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

**31 - Office of Technology**

(W.V. Code Chapter 5A)

Fund 0204 FY 2025 Org 0231

Directed Transfer .....	70000	\$	5,000,000
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The above appropriation for Directed Transfer (fund 0204, appropriation 70000) shall be transferred to the Information Services and Communication Fund (~~fund 2440~~)\*.

**32 - Real Estate Division**

(W.V. Code Chapter 5A)

Fund 0610 FY 2025 Org 0233

Personal Services			
and Employee Benefits .....	00100	\$	752,882
Repairs and Alterations.....	06400		100
Equipment.....	07000		2,500
Unclassified.....	09900		124
Current Expenses .....	13000		138,881
BRIM Premium.....	91300		8,284
Total.....		\$	902,771

**DEPARTMENT OF COMMERCE****33 - Division of Forestry**

(W.V. Code Chapter 19)

Fund 0250 FY 2025 Org 0305

Personal Services			
and Employee Benefits .....	00100	\$	5,235,593
Salary and Benefits of Cabinet Secretary			
and Agency Heads .....	00201		111,674
Repairs and Alterations.....	06400		80,000
Unclassified.....	09900		21,435
Current Expenses .....	13000		558,024

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\*NOTE: The Governor deleted the incorrect reference to "(fund 2440)".

BRIM Premium.....	91300	<u>98,754</u>
Total.....		\$ 6,105,480

Out of the above appropriations a sum may be used to match federal funds for cooperative studies or other funds for similar purposes.

Any unexpended balances remaining in the appropriations for Current Expenses – Surplus (fund 0250, appropriation 13099) and Equipment – Surplus (fund 0250, appropriation 34100) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

### *34 - Geological and Economic Survey*

(W.V. Code Chapter 29)

Fund 0253 FY 2025 Org 0306

Personal Services		
and Employee Benefits.....	00100	\$ 1,895,457
Salary and Benefits of Cabinet Secretary		
and Agency Heads .....	00201	112,753
Repairs and Alterations.....	06400	968
Unclassified.....	09900	27,678
Current Expenses .....	13000	51,524
Mineral Mapping System (R) .....	20700	1,215,510
BRIM Premium.....	91300	<u>24,486</u>
Total.....		\$ 3,328,376

Any unexpended balance remaining in the appropriation for Mineral Mapping System (fund 0253, appropriation 20700) at the close of the fiscal year 2024 is hereby reappropriated for expenditure during the fiscal year 2025.

The above Unclassified and Current Expenses appropriations include funding to secure federal and other contracts and may be transferred to a special revolving fund (fund 3105) for the purpose of providing advance funding for such contracts.

**35 - Division of Labor**

(W.V. Code Chapters 21 and 47)

Fund 0260 FY 2025 Org 0308

Personal Services		
and Employee Benefits.....	00100	\$ 1,738,911
Repairs and Alterations.....	06400	28,000
Unclassified.....	09900	15,000
Current Expenses .....	13000	227,000
BRIM Premium.....	91300	<u>8,500</u>
Total.....		\$ 2,017,411

**36 - Division of Natural Resources**

(W.V. Code Chapter 20)

Fund 0265 FY 2025 Org 0310

Personal Services		
and Employee Benefits.....	00100	\$ 21,378,594
Salary and Benefits of Cabinet Secretary		
and Agency Heads .....	00201	113,188
Repairs and Alterations.....	06400	100
Equipment.....	07000	100
Unclassified.....	09900	184,711
Current Expenses .....	13000	529,654
Buildings (R).....	25800	100
Capital Outlay – Parks (R).....	28800	6,000,000
Litter Control Conservation Officers ...	56400	156,980
Upper Mud River Flood Control (R) ...	65400	176,930
Other Assets.....	69000	100
Land (R).....	73000	100
Law Enforcement.....	80600	2,731,281
BRIM Premium.....	91300	<u>45,141</u>
Total.....		\$ 31,316,979

Any unexpended balances remaining in the appropriations for Equine Enrichment - Surplus (fund 0265, appropriation 22899), Buildings (fund 0265, appropriation 25800), Capital Outlay –



Parks (fund 0265, appropriation 28800), Upper Mud River Flood Control (fund 0265, appropriation 65400), Current Expenses – Surplus (fund 0265, appropriation 13099), Capital Outlay, Repairs and Equipment – Surplus (fund 0265, appropriation 67700), Land (fund 0265, appropriation 73000), and State Park Improvements – Surplus (fund 0265, appropriation 76300) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

Any revenue derived from mineral extraction at any state park shall be deposited in a special revenue account of the Division of Natural Resources, first for bond debt payment purposes and with any remainder to be for park operation and improvement purposes.

*37 - Division of Miners' Health, Safety and Training*

(W.V. Code Chapter 22A)

Fund 0277 FY 2025 Org 0314

Personal Services

and Employee Benefits .....	00100	\$ 10,244,651
Unclassified.....	09900	111,016
Current Expenses .....	13000	1,396,141
Coal Dust and Rock Dust Sampling ....	27000	509,584
BRIM Premium.....	91300	<u>80,668</u>
Total.....		\$ 12,342,060

Included in the above appropriation for Current Expenses (fund 0277, appropriation 13000) is \$500,000 to be used for coal mine training activities at an established mine training facility in southern West Virginia.

*38 - Board of Coal Mine Health and Safety*

(W.V. Code Chapter 22A)

Fund 0280 FY 2025 Org 0319

Personal Services

and Employee Benefits.....	00100	\$ 248,931
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Unclassified.....	09900	3,480
Current Expenses .....	13000	<u>118,138</u>
Total.....		\$ 370,549

Included in the above appropriation for Current Expenses (fund 0280, appropriation 13000) up to \$29,000 shall be used for the Coal Mine Safety and Technical Review Committee.

### *39 - WorkForce West Virginia*

(W.V. Code Chapter 21A)

Fund 0572 FY 2025 Org 0323

Personal Services		
and Employee Benefits.....	00100	\$ 51,433
Unclassified.....	09900	584
Current Expenses .....	13000	<u>23,683</u>
Total.....		\$ 75,700

### *40 - Department of Commerce –*

*Office of the Secretary*

(W.V. Code Chapter 5B)

Fund 0606 FY 2025 Org 0327

Personal Services		
and Employee Benefits.....	00100	\$ 1,469,368
Salary and Benefits of Cabinet Secretary		
and Agency Heads .....	00201	153,750
Unclassified.....	09900	1,490
Current Expenses .....	13000	<u>353,147</u>
Total.....		\$ 1,977,755

Any unexpended balance remaining in the appropriation for Jobs for WV Graduates - Surplus (fund 0606, appropriation 86399) at the close of the fiscal year 2024 is hereby reappropriated for expenditure during the fiscal year 2025.

*41 - State Board of Rehabilitation –**Division of Rehabilitation Services*

(W.V. Code Chapter 18)

Fund 0310 FY 2025 Org 0932

## Personal Services

and Employee Benefits .....	00100	\$ 12,795,976
Independent Living Services.....	00900	429,418
Current Expenses .....	13000	558,815
Workshop Development .....	16300	1,817,427
Supported Employment		
Extended Services.....	20600	77,960
Ron Yost Personal Assistance Fund ....	40700	333,828
Employment Attendant Care Program ...	59800	131,575
BRIM Premium.....	91300	<u>77,464</u>
Total.....		\$ 16,222,463

The above appropriation for Workshop Development (fund 0310, appropriation 16300) shall be used exclusively with the private nonprofit community rehabilitation program organizations known as work centers or sheltered workshops. The appropriation shall also be used to continue the support of the program, services, and individuals with disabilities currently in place at those organizations.

**DEPARTMENT OF TOURISM***42 - Department of Tourism –**Office of the Secretary*

(W.V. Code Chapter 5B)

Fund 0246 FY 2025 Org 0304

Tourism – Brand Promotion (R) .....	61803	\$ 8,000,000
Tourism – Public Relations (R) .....	61804	1,500,000
Tourism –		
Events and Sponsorships (R) .....	61805	500,000

Tourism – Industry Development (R) ....	61806	2,500,000
State Parks and Recreation		
Advertising (R) .....	61900	<u>1,500,000</u>
Total .....		\$ 14,000,000

Any unexpended balances remaining in the appropriations for Tourism – Development Opportunity Fund (fund 0246, appropriation 11601), Tourism – Brand Promotion (fund 0246, appropriation 61803), Tourism – Public Relations (fund 0246, appropriation 61804), Tourism – Events and Sponsorships (fund 0246, appropriation 61805), Tourism – Industry Development (fund 0246, appropriation 61806), State Parks and Recreation Advertising (fund 0246, appropriation 61900), Tourism – Brand Promotion – Surplus (fund 0246, appropriation 61893), and Tourism – Industry Development – Surplus (fund 0246, appropriation 61896 at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

The Secretary of the Department of Tourism shall have the authority to transfer between the above items of appropriation.

## DEPARTMENT OF ECONOMIC DEVELOPMENT

### *43 - Department of Economic Development –*

#### *Office of the Secretary*

(W.V. Code Chapter 5B)

Fund 0256 FY 2025 Org 0307

Personal Services		
and Employee Benefits .....	00100	\$ 4,403,988
Unclassified .....	09900	108,055
Current Expenses .....	13000	4,738,464
National Youth Science Camp .....	13200	241,570
Local Economic Development		
Partnerships (R) .....	13300	1,250,000
ARC Assessment .....	13600	152,585
Global Economic Development		
Partnerships (R) .....	20201	150,000

Guaranteed Work Force Grant (R).....	24200	994,970
Mainstreet Program.....	79400	176,663
Marshall University		
Research Corporation .....	80701	500,000
BRIM Premium.....	91300	3,157
Hatfield McCoy Recreational Trail.....	96000	<u>198,415</u>
Total.....		\$ 12,917,867

Any unexpended balances remaining in the appropriations for Unclassified – Surplus (fund 0256, appropriation 09700), Partnership Grants (fund 0256, appropriation 13100), Local Economic Development Partnerships (fund 0256, appropriation 13300), Global Economic Development Partnerships (fund 0256, appropriation 20201), Guaranteed Work Force Grant (fund 0256, appropriation 24200), and Current Expenses – Surplus (fund 0256, appropriation 13099) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

From the above appropriation for Current Expenses (fund 0256, appropriation 13000), \$50,000 shall be used for the Western Potomac Economic Partnership, \$100,000 shall be used for Advantage Valley, \$750,000 shall be used for the Robert C. Byrd Institute, \$548,915 shall be used for West Virginia University, and \$298,915 shall be used for Southern West Virginia Community and Technical College for the Mine Training and Energy Technologies Academy.

The above appropriation to Local Economic Development Partnerships (fund 0256, appropriation 13300) shall be used by the Department of Economic Development for the award of funding assistance to county and regional economic development corporations or authorities participating in the Certified Development Community Program developed under the provisions of W.V. Code §5B-2-14. The Department of Economic Development shall award the funding assistance through a matching grant program, based upon a formula whereby funding assistance may not exceed \$30,000 per county served by an economic development or redevelopment corporation or authority.

The above appropriation for Directed Transfer (fund 0256, appropriation 70000) shall be transferred to the Economic Enhancement Grant Fund (fund 3382).

## **DEPARTMENT OF EDUCATION**

### *44 - State Board of Education –*

#### *School Lunch Program*

(W.V. Code Chapters 18 and 18A)

Fund 0303 FY 2025 Org 0402

Personal Services		
and Employee Benefits.....	00100	\$ 378,654
Current Expenses .....	13000	<u>2,118,865</u>
Total.....		\$ 2,497,519

### *45 - State Board of Education –*

#### *State Department of Education*

(W.V. Code Chapters 18 and 18A)

Fund 0313 FY 2025 Org 0402

Personal Services		
and Employee Benefits.....	00100	\$ 4,965,309
Teachers' Retirement Savings		
Realized .....	09500	38,166,000
Unclassified (R) .....	09900	420,000
Center for		
Professional Development (R).....	11500	150,000
Current Expenses (R) .....	13000	4,580,000
Increased Enrollment .....	14000	10,440,000
Safe Schools.....	14300	4,432,241
Attendance Incentive Bonus (R).....	15001	2,262,389
National Teacher Certification (R) .....	16100	300,000
Jobs & Hope – Childhood		
Drug Prevention Education.....	21901	5,000,000
Technology Repair		

and Modernization .....	29800	951,003
Hope Scholarship Program .....	30401	18,222,183
HVAC Technicians .....	35500	555,872
Early Retirement		
Notification Incentive .....	36600	300,000
MATH Program .....	36800	886,532
Assessment Programs (R) .....	39600	4,002,567
Benedum Professional Development		
Collaborative (R) .....	42700	429,775
Governor's Honors Academy (R) .....	47800	1,059,270
21 <sup>st</sup> Century Fellows .....	50700	274,899
English as a Second Language .....	52800	96,000
Teacher Reimbursement .....	57300	297,188
Hospitality Training .....	60000	281,051
Youth in Government .....	61600	100,000
High Acuity Special Needs (R) .....	63400	1,500,000
Foreign Student Education .....	63600	102,133
State Board of Education		
Administrative Costs .....	68400	289,328
IT Academy (R) .....	72100	500,000
Early Literacy Program .....	75600	5,724,015
School Based Truancy Prevention (R) ...	78101	2,084,385
Communities in Schools (R) .....	78103	4,912,637
Mastery Based Education .....	78104	125,000
Mountain State		
Digital Literacy Program .....	86401	415,500
21 <sup>st</sup> Century Learners (R) .....	88600	1,859,919
BRIM Premium .....	91300	342,859
21 <sup>st</sup> Century Assessment		
and Professional Development .....	93100	2,015,254
21 <sup>st</sup> Century Technology		
Infrastructure Network		
Tools and Support (R) .....	93300	10,042,723
Special Olympic Games .....	96600	25,000
Educational Program Allowance .....	99600	<u>516,250</u>
Total .....		\$ 128,627,282

The above appropriations include funding for the State Board of Education and its executive office.

From the above appropriation for Current Expenses (fund 0313, appropriation 13000), \$2,000,000 shall be used for the Department of Education Child Nutrition Program – Non-traditional Child Hunger Solutions.

Any unexpended balances remaining in the appropriations for Unclassified (fund 0313, appropriation 09900), Current Expenses (fund 0313, appropriation 13000), Center for Professional Development (fund 0313, appropriation 11500), Attendance Incentive Bonus (fund 0313, appropriation 15001), National Teacher Certification (fund 0313, appropriation 16100), Hope Scholarship Program (fund 0313, appropriation 30401), Assessment Programs (fund 0313, appropriation 39600), Benedum Professional Development Collaborative (fund 0313, appropriation 42700), Governor's Honors Academy (fund 0313, appropriation 47800), High Acuity Special Needs (fund 0313, appropriation 63400), IT Academy (fund 0313, appropriation 72100), School Based Truancy Prevention (fund 0313, appropriation 78101), Communities in Schools (fund 0313, appropriation 78103), 21<sup>st</sup> Century Learners (fund 0313, appropriation 88600), 21<sup>st</sup> Century Technology Infrastructure Network Tools and Support (fund 0313, appropriation 93300), and Communities in Schools – Surplus (fund 0313, appropriation 78199) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

The above appropriation for Teachers' Retirement Savings Realized (fund 0313, appropriation 09500) shall be transferred to the Employee Pension and Health Care Benefit Fund (fund 2044).

From the above appropriation for Unclassified (fund 0313, appropriation 09900), \$120,000 shall be for assisting low income students with AP and CLEP exam fees.

From the above appropriation for MATH Program (fund 0313, appropriation 36800), \$50,000 shall be for Math Counts.

The above appropriation for Hospitality Training (fund 0313, appropriation 60000), shall be allocated only to entities that have a plan approved for funding by the Department of Education, at the funding level determined by the State Superintendent of Schools.



Plans shall be submitted to the State Superintendent of Schools to be considered for funding.

From the above appropriation for Educational Program Allowance (fund 0313, appropriation 99600), \$100,000 shall be expended for the Morgan County Board of Education for Paw Paw Schools; \$150,000 shall be for the Randolph County Board of Education for Pickens School; \$100,000 shall be for the Preston County Board of Education for the Aurora School; \$100,000 shall be for the Fayette County Board of Education for Meadow Bridge; and \$66,250 is for Project Based Learning in STEM fields.

*46 - State Board of Education –*

*Aid for Exceptional Children*

(W.V. Code Chapters 18 and 18A)

Fund 0314 FY 2025 Org 0402

Special Education – Counties .....	15900	\$	7,425,757
Special Education – Institutions.....	16000		4,289,257
Education of Juveniles			
Held in Predispositional			
Juvenile Detention Centers .....	30200		731,666
Education of Institutionalized Juveniles			
and Adults (R).....	47200		<u>22,666,536</u>
Total.....		\$	35,113,216

Any unexpended balance remaining in the appropriation for Education of Institutionalized Juveniles and Adults (fund 0314, appropriation 47200) at the close of the fiscal year 2024 is hereby reappropriated for expenditure during the fiscal year 2025.

From the above appropriations, the Superintendent shall have authority to expend funds for the costs of special education for those children residing in out-of-state placements.

*47 - State Board of Education –*

*State Aid to Schools*

## (W.V. Code Chapters 18 and 18A)

Fund 0317 FY 2025 Org 0402

Other Current Expenses .....	02200	\$ 200,472,511
Advanced Placement.....	05300	716,707
Professional Educators.....	15100	968,229,854
Service Personnel.....	15200	384,280,888
Fixed Charges .....	15300	116,946,777
Transportation.....	15400	99,231,183
Improved Instructional Programs.....	15600	64,052,249
Professional Student Support Services	65500	66,746,268
21 <sup>st</sup> Century Strategic Technology		
Learning Growth.....	93600	50,599,261
Teacher and Leader Induction.....	93601	<u>29,634,380</u>
Basic Foundation Allowances.....		1,980,910,078
Less Local Share .....		(597,038,264)
Adjustments .....		<u>8,212,243</u>
Total Basic State Aid .....		1,392,084,057
Public Employees'		
Insurance Matching .....	01200	292,043,423
Teachers' Retirement System .....	01900	71,801,418
Retirement Systems –		
Unfunded Liability.....	77500	<u>283,652,958</u>
Total.....		\$ 2,039,581,856

*48 - State Board of Education –**Vocational Division*

## (W.V. Code Chapters 18 and 18A)

Fund 0390 FY 2025 Org 0402

Personal Services		
and Employee Benefits.....	00100	\$ 1,447,535
Unclassified.....	09900	268,800
Current Expenses .....	13000	883,106
Wood Products –		
Forestry Vocational Program.....	14600	88,600
Albert Yanni Vocational Program .....	14700	132,123

Vocational Aid.....	14800	24,826,517
Adult Basic Education .....	14900	5,905,442
Jobs & Hope (R) .....	14902	6,256,170
Program Modernization .....	30500	884,313
High School Equivalency		
Diploma Testing (R).....	72600	820,630
FFA Grant Awards.....	83900	11,496
Pre-Engineering Academy Program ....	84000	<u>265,294</u>
Total.....		\$ 41,790,026

Any unexpended balances remaining in the appropriations for Jim's Dream (fund 0390, appropriation 14901), Jobs and Hope (fund 0390, appropriation 14902), High School Equivalency Diploma Testing (fund 0390, appropriation 72600), and Jobs & Hope – Surplus (fund 0390, appropriation 14099) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

*49 - State Board of Education –*

*West Virginia Schools for the Deaf and the Blind*

(W.V. Code Chapters 18 and 18A)

Fund 0320 FY 2025 Org 0403

Personal Services

and Employee Benefits.....	00100	\$ 11,281,982
Repairs and Alterations.....	06400	164,675
Equipment.....	07000	77,000
Unclassified (R) .....	09900	110,000
Current Expenses (R).....	13000	2,250,696
Buildings (R).....	25800	45,000
Capital Outlay and Maintenance (R) ...	75500	1,670,000
BRIM Premium.....	91300	<u>130,842</u>
Total.....		\$ 15,730,195

Any unexpended balances remaining in the appropriations for Unclassified (fund 0320, appropriation 09900), Current Expenses (fund 0320, appropriation 13000), Buildings (fund 0320, appropriation 25800) and Capital Outlay and Maintenance (fund

0320, appropriation 75500) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

*50 - State Board of Education –*

*School Building Authority*

(W.V. Code Chapters 18 and 18A)

Fund 0318 FY 2025 Org 0404

School Building Authority .....	45300	\$ 24,000,000
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The above appropriation for School Building Authority (fund 0318, appropriation 45300) shall be transferred to the School Construction Fund (fund 3952).

**DEPARTMENT OF ARTS, CULTURE, AND HISTORY**

*51 - Division of Culture and History*

(W.V. Code Chapter 29)

Fund 0293 FY 2025 Org 0432

Personal Services		
and Employee Benefits .....	00100	\$ 4,356,187
Salary and Benefits of Cabinet Secretary		
and Agency Heads .....	00201	120,106
Repairs and Alterations .....	06400	1,000
Equipment .....	07000	1
Unclassified (R) .....	09900	28,483
Current Expenses .....	13000	610,843
WV Humanities Council .....	16800	250,000
Buildings .....	25800	1
Other Assets .....	69000	1
Educational Enhancements .....	69500	73,500
Land .....	73000	1
Culture and History Programming .....	73200	231,573
Capital Outlay and Maintenance (R) ...	75500	19,600
Historical Highway Marker Program...	84400	57,548
BRIM Premium .....	91300	39,337
Total .....		\$ 5,788,181

Any unexpended balances remaining in the appropriations for Unclassified (fund 0293, appropriation 09900), Capital Outlay, Repairs and Equipment (fund 0293, appropriation 58900), Capital Improvements – Surplus (fund 0293, appropriation 66100), Capital Outlay, Repairs and Equipment – Surplus (fund 0293, appropriation 67700), Capital Outlay and Maintenance (fund 0293, appropriation 75500), and Current Expenses – Surplus (fund 0293, appropriation 13099) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

From the above appropriation for Educational Enhancements (fund 0293, appropriation 69500) \$73,500 shall be used for the Clay Center.

The Current Expenses appropriation includes funding for the arts funds, department programming funds, grants, fairs and festivals, and Camp Washington Carver; and shall be expended only upon authorization of the Division of Culture and History and in accordance with the provisions of Chapter 5A, Article 3, and Chapter 12 of the W.V. Code.

### *52 - Library Commission*

(W.V. Code Chapter 10)

#### Fund 0296 FY 2025 Org 0432

#### Personal Services

and Employee Benefits.....	00100	\$ 1,206,111
Salary and Benefits of Cabinet Secretary		
and Agency Heads .....	00201	112,000
Repairs and Alterations.....	06400	6,500
Current Expenses .....	13000	139,624
Services to Blind & Handicapped.....	18100	161,717
BRIM Premium.....	91300	<u>18,205</u>
Total.....		\$ 1,644,157

### *53 - Educational Broadcasting Commission*

(W.V. Code Chapter 10)

Fund 0300 FY 2025 Org 0439

Personal Services		
and Employee Benefits .....	00100	\$ 3,542,948
Salary and Benefits of Cabinet Secretary		
and Agency Heads .....	00201	120,106
Current Expenses .....	13000	113,844
Mountain Stage .....	24900	450,000
Capital Outlay and Maintenance (R) ...	75500	49,250
BRIM Premium.....	91300	<u>47,727</u>
Total.....		\$ 4,323,875

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 0300, appropriation 75500) at the close of the fiscal year 2024 is hereby reappropriated for expenditure during the fiscal year 2025.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION***54 - Environmental Quality Board*

(W.V. Code Chapter 20)

Fund 0270 FY 2025 Org 0311

Personal Services		
and Employee Benefits .....	00100	\$ 100,930
Repairs and Alterations.....	06400	800
Equipment .....	07000	500
Current Expenses .....	13000	28,453
Other Assets .....	69000	400
BRIM Premium.....	91300	<u>791</u>
Total.....		\$ 131,874

*55 - Division of Environmental Protection*

(W.V. Code Chapter 22)

Fund 0273 FY 2025 Org 0313

Personal Services		
and Employee Benefits .....	00100	\$ 4,428,232

Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201	168,000
Water Resources		
Protection and Management .....	06800	596,832
Current Expenses .....	13000	85,816
Environmental Response and Cleanups.....	27101	91,888
Dam Safety.....	60700	258,751
West Virginia Stream Partners Program .....	63700	77,396
West Virginia Drinking Water Treatment Revolving Fund – Transfer.....	68900	647,500
W.V. Contributions to River Commissions.....	77600	148,485
Office of Water Resources		
Non-Enforcement Activity .....	85500	<u>1,119,545</u>
Total.....		\$ 7,622,445

*56 - Air Quality Board*

(W.V. Code Chapter 16)

Fund 0550 FY 2025 Org 0325

Personal Services		
and Employee Benefits.....	00100	\$ 60,737
Repairs and Alterations.....	06400	800
Equipment.....	07000	400
Current Expenses .....	13000	11,612
Other Assets .....	69000	200
BRIM Premium.....	91300	<u>2,304</u>
Total.....		\$ 76,053

**DEPARTMENT OF HEALTH**

*57 - Department of Health –*

*Central Office*

(W.V. Code Chapter 16)

Fund 0407 FY 2025 Org 0506

Personal Services		
and Employee Benefits .....	00100	\$ 3,362,243
Salary and Benefits of Cabinet Secretary		
and Agency Heads .....	00201	358,400
Chief Medical Examiner (R) .....	04500	0
Unclassified .....	09900	6,459
Current Expenses .....	13000	225,201
State Aid for Local and		
Basic Public Health Services .....	18400	0
Safe Drinking Water Program (R) .....	18700	0
Women, Infants and Children .....	21000	0
Early Intervention .....	22300	0
Cancer Registry .....	22500	0
Office of Drug Control Policy .....	35401	0
Statewide EMS Program Support (R) ....	38300	0
Office of Medical Cannabis (R) .....	42001	0
Black Lung Clinics .....	46700	0
Vaccine for Children .....	55100	0
Tuberculosis Control .....	55300	0
Maternal and Child Health Clinics,		
Clinicians and		
Medical Contracts and Fees (R) ....	57500	0
Epidemiology Support .....	62600	0
Primary Care Support .....	62800	0
Commission for the Deaf		
and Hard of Hearing .....	70400	0
Sexual Assault Intervention		
and Prevention .....	72300	0
Health Right Free Clinics .....	72700	0
Capital Outlay and Maintenance (R) ...	75500	70,000
Healthy Lifestyles .....	77800	0
Maternal Mortality Review .....	83400	0
Diabetes Education and Prevention .....	87300	0
BRIM Premium .....	91300	169,791
State Trauma and Emergency		
Care System .....	91800	0
WVU Charleston		
Poison Control Hotline .....	94400	0
Total .....		\$ 4,192,094



Any unexpended balances remaining in the appropriations for Capital Outlay and Maintenance (fund 0407, appropriation 75500), Emergency Response Entities – Special Projects (fund 0407, appropriation 82200), Tobacco Education Program (fund 0407, appropriation 90600), and Pregnancy Centers – Surplus (fund 0407, appropriation 49999) the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

Any unexpended balances remaining in the appropriation Chief Medical Examiner (fund 0407, appropriation 04500) at the close of fiscal year 2024 shall be transferred to Chief Medical Examiner appropriation (fund xxxx, appropriation 04500).

Any unexpended balances remaining in the appropriation Safe Drinking Water Program (fund 0407, appropriation 18700) at the close of fiscal year 2024 shall be transferred to Environmental Health Services appropriation (fund xxxx, appropriation xxxxx).

Any unexpected balances remaining in the appropriation Statewide EMS Program Support (fund 0407, appropriation 38300) at the close of fiscal year 2024 shall be transferred to Statewide EMS Program Support appropriation (fund xxxx appropriation 38300)

Any unexpended balances remaining in the appropriation Office of Medical Cannabis (fund 0407, appropriation 42001) at the close of fiscal year 2024 shall be transferred to Office of Medical Cannabis appropriation (fund xxxx, appropriation 42001).

Any unexpended balances remaining in the appropriation Office of Medical Cannabis - Surplus (fund 0407, appropriation 42009) at the close of fiscal year 2024 shall be transferred to Office of Medical Cannabis - Surplus appropriation (fund xxxx, appropriation 42099).

Any unexpended balances remaining in the appropriation Vaccine for Children (fund 0407, appropriation 55100) at the close of fiscal year 2024 shall be transferred to Vaccine for Children appropriation (fund xxxx, appropriation 55100).

Any unexpended balances remaining in the appropriation Maternal and Child Health Clinics, Clinicians and Medical Contracts and Fees (fund 0407, appropriation 57500) at the close of fiscal year 2024 shall be transferred to the Maternal and Child Health Clinics, Clinicians and Medical Contracts and Fees appropriation (fund xxxx, appropriation 57500).

Any unexpended balances remaining in the appropriations Office of Drug Control Policy (fund 0407, appropriation 35401) at the close of fiscal year 2024 shall be transferred to Office of Drug Control Policy (fund 0403, appropriation 35401).

Any unexpended balances remaining in the appropriations Office of Drug Control Policy – Surplus (fund 0407, appropriation 35402) at the close of fiscal year 2024 shall be transferred to Office of Drug Control Policy – Surplus (fund 0403, appropriation 35402).

Notwithstanding the provisions of Title I, section three of this bill, the Secretary of the Department of Health shall have the authority to transfer funds within the above appropriations: *Provided*, That no more than five percent of the funds appropriated to one appropriation may be transferred to other appropriations: *Provided, however*, That no funds from other appropriations shall be transferred to the Personal Services and Employee Benefits appropriation: *Provided, further, notwithstanding the above*, that for Fiscal Year 2025 the Secretary of the Department of Health shall have additional authority to transfer appropriations between Personal Services and Employee Benefits and other dedicated appropriations within the respective departments to effectuate the 5% average salary increases granted during the 2024 regular legislative session.

*58 - Department of Health–*

*Office of the Shared Administration*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0506

Personal Services		
and Employee Benefits .....	00100	\$ 4,149,452
Unclassified.....	09900	62,815
Current Expenses .....	13000	<u>1,083,876</u>
Total.....		\$ 5,296,143

*59 - Bureau for Public Health –*

*Office of the Commissioner*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0506

Personal Services		
and Employee Benefits .....	00100	\$ 2,456,006
Unclassified.....	09900	594,893
Maternal and Child Health Clinics, Clinicians and		
Medical Contracts and Fees (R) ....	57500	<u>834,807</u>
Total.....		\$ 3,885,706

Any unexpended balances remaining in the appropriations for Maternal and Child Health Clinics, Clinicians and Medical Contracts and Fees (fund xxxx, appropriation 57500), at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

*60 - Bureau for Public Health –*

*Health Statistics Center*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0506

Personal Services		
and Employee Benefits .....	00100	\$ 459,923
Current Expenses .....	13000	<u>76,026</u>
Total.....		\$ 535,949

*61 - Bureau for Public Health –**Office of Community Health and Health Promotion*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0506

Black Lung Clinics .....	46700	\$	170,885
Primary Care Support .....	62800		2,001,696
Health Right Free Clinic .....	72700		4,250,000
Healthy Lifestyles .....	77800		907,229
Diabetes Education and Prevention .....	87300		<u>97,125</u>
Total.....		\$	7,426,935

From the above appropriation for Primary Care Support (fund xxxx, appropriation 62800), an amount not less than \$100,000 shall be used for the West Virginia Cancer Coalition

*62 - Bureau for Public Health –**Office of Environmental Health Services -*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0506

Environmental Health Services (R) .....	xxxxxx		2,771,537
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Any unexpended balances remaining in the appropriations for Environmental Health Services (fund xxxx, appropriation 18700), at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

*63 - Bureau for Public Health –**Office of Epidemiology and Prevention Services -*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0506

Cancer Registry.....	22500	\$	221,211
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Vaccine for Children (R) .....	55100	341,261
Tuberculosis Control.....	55300	350,013
Epidemiology Support .....	62600	<u>1,967,979</u>
Total.....		\$ 2,880,464

From the above appropriation for Epidemiology Support (fund xxxx, appropriation 62600), \$50,000 shall be used for the West Virginia AIDS Coalition; and \$100,000 shall be used for Adolescent Immunization Education

Any unexpended balances remaining in the appropriations for Vaccine for Children (fund xxxx, appropriation 55100), at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

**64 - Bureau for Public Health –**

*Office of Laboratory Services -*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0506

Laboratory Services .....	xxxxx	\$ 3,275,870
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**65 - Bureau for Public Health –**

*Office of Maternal, Child, and Family Health -*

*Children's Specialty Care*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0506

Children's Specialty Care .....	xxxxx	\$ 1,500,830
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**66 - Bureau for Public Health –**

*Office of Maternal, Child, and Family Health -*

*Infant, Child, Adolescent, and Young Adult Health*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0506

Sexual Assault Intervention and Prevention .....	72300	\$	2,000,000
Infant, Child Adolescent and Young Adult Health and Administration .....	xxxxx		<u>27,036</u>
Total .....		\$	2,027,036

*67 - Bureau for Public Health –**Office of Maternal, Child, and Family Health -**Maternal, Child, and Family Health Epidemiology*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0506

Maternal Mortality Review .....	83400	\$	51,660
Maternal, Child and Family Health Epidemiology .....	xxxxx		<u>360,076</u>
Total .....		\$	411,736

*68 - Bureau for Public Health –**Office of Maternal, Child and Family Health -**Community Health*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0506

Maternal and Child Health Community Health .....	xxxxx	\$	382,989
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From the above appropriation for Maternal and Child Health Community Health and Fees (fund xxxx, appropriation xxxxx) \$11,000 shall be used for the Marshall County Health Department for dental services.

*69 - Bureau for Public Health –**Office of Maternal Child and Family Health -**Women's and Family Health*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0506

Women's and Family Health .....	xxxxx	\$	2,300,505
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From the above appropriation for Women's and Family Health (fund xxxx, appropriation xxxxx) up to \$400,000 may be transferred to the Breast and Cervical Cancer Diagnostic Treatment Fund (fund 5197).

*70 - Bureau for Public Health –**Office of Maternal Child and Family Health -**West Virginia Birth to Three*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0506

West Virginia Birth to Three .....	xxxxx	\$	9,291,855
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*71 - Bureau for Public Health –**Office of Medical Cannabis -*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0506

Office of Medical Cannabis (R).....	42001		1,020,075
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Any unexpended balances remaining in the appropriations for Office of Medical Cannabis fund xxxx, appropriation 42001), and Office of Drug Control Policy – Surplus (fund xxxx, appropriation

42099) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

*72 - Bureau for Public Health –*

*Office of Nutrition Services -*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0506

Women, Infants, and Children .....	21000	\$	38,621
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*73 - Deaf and Hard of Hearing*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0506

Commission for Deaf and Hard of Hearing .....	70400	\$	238,259
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*74 - Center for Local Health–*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0506

State Aid for Local and Basic Public Health Services .....	18400		15,571,992
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*75 - Office of Chief Medical Examiner*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0506

Chief Medical Examiner (R).....	04500		13,852,264
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Any unexpended balances remaining in the appropriations for Chief Medical Examiner (fund xxxx, appropriation 04500), at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.



*76 - Office of Emergency Medical Services*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0506

Statewide EMS Program Support (R) ....	38300	\$	1,664,582
State Trauma and Emergency Care System .....	91800		1,954,953
WVU Charleston Poison Control Hotline .....	94400		712,942
Telestroke.....	xxxxx		<u>1,000,000</u>
Total.....		\$	5,332,477

Any unexpended balances remaining in the appropriations for Statewide EMS Program Support (fund xxxx, appropriation 38300), at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

*77 - Office of Threat Preparedness*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0506

Threat Preparedness and Administration .....	xxxxx	\$	5,036
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*78 - Office of the Inspector General*

(W.V. Code Chapter 16B)

Fund xxxx FY 2025 Org xxxx

Personal Services and Employee Benefits .....	00100	\$	5,583,690
Unclassified.....	09900		57,469
Current Expenses .....	13000		<u>1,583,603</u>
Total.....		\$	7,224,762

From the above appropriation for Current Expenses (fund xxxx, appropriation 13000), \$73,065 shall be used for informal dispute resolution relating to nursing home administrative appeals.

*79 - Human Rights Commission*

(W.V. Code Chapter 5)

Fund 0416 FY 2025 Org 0510

Personal Services		
and Employee Benefits .....	00100	\$ 1,107,869
Salary and Benefits of Cabinet Secretary		
and Agency Heads .....	00201	114,091
Unclassified.....	09900	4,024
Current Expenses .....	13000	331,304
BRIM Premium.....	91300	<u>10,764</u>
Total.....		\$ 1,568,052

**DEPARTMENT OF HUMAN SERVICES***80 - Division of Human Services*

(W.V. Code Chapters 9, 48, and 49)

Fund 0403 FY 2025 Org 0511

Personal Services		
and Employee Benefits .....	00100	\$ 32,554,845
Salary and Benefits of Cabinet Secretary		
and Agency Heads .....	00201	159,250
Unclassified.....	09900	5,120,050
Current Expenses .....	13000	5,557,409
Child Care Development.....	14400	3,138,536
Jobs & Hope.....	14902	2,357,000
Medical Services .....	18900	0
Social Services .....	19500	46,136
Family Preservation Program .....	19600	0
Behavioral Health Program (R) .....	21900	66,864,419
Family Resource Networks.....	27400	1,762,464
Substance Abuse		
Continuum of Care (R).....	35400	1,656,000
Office of Drug Control Policy (R) .....	35401	567,875
Domestic Violence		
Legal Services Fund .....	38400	0

James "Tiger" Morton		
Catastrophic Illness Fund .....	45500	373,424
I/DD Waiver.....	46600	0
Child Protective Services		
Case Workers.....	46800	0
Title XIX Waiver for Seniors.....	53300	0
WV Teaching Hospitals		
Tertiary/Safety Net .....	54700	0
In-Home Family Education.....	68800	1,000,000
WV Works Separate State Program.....	69800	1,381,500
Child Support Enforcement .....	70500	6,227,186
Temporary Assistance for		
Needy Families/		
Maintenance of Effort.....	70700	23,237,186
Child Care –		
Maintenance of Effort Match.....	70800	5,693,743
Grants for Licensed Domestic Violence		
Programs and Statewide		
Prevention.....	75000	0
Capital Outlay and Maintenance (R) ...	75500	11,875
Community Based Services		
and Pilot Programs for Youth.....	75900	0
Medical Services Administrative Costs.....	78900	58,017
Traumatic Brain Injury Waiver.....	83500	0
Indigent Burials (R) .....	85100	1,550,000
CHIP Administrative Costs.....	85601	633,107
CHIP Services.....	85602	12,122,368
BRIM Premium.....	91300	945,891
Rural Hospitals Under 150 Beds.....	94000	0
Children's Trust Fund – Transfer.....	95100	220,000
PATH .....	95400	0
Total.....		\$ 173,258,504

~~From the above appropriation of Current Expenses (fund 0403, appropriation 13000), \$300,000 shall be used for Green Acres Regional Center, Inc.\*~~

Any unexpended balances remaining in the appropriations for Behavioral Health Program (fund 0403, appropriation 21900),

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\*NOTE: The Governor deleted this sentence in its entirety.

Substance Abuse Continuum of Care (fund 0403, appropriation 35400), Office of Drug Control Policy (fund 0403, appropriation 35401), Capital Outlay and Maintenance (fund 0403, appropriation 75500), Indigent Burials (fund 0403, appropriation 85100), and Office of Drug Control Policy – Surplus (fund 0403, appropriation 35402) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

Notwithstanding the provisions of Title I, section three of this bill, the Secretary of the Department of Human Services shall have the authority to transfer funds within the above appropriations: *Provided*, That no more than five percent of the funds appropriated to one appropriation may be transferred to other appropriations: *Provided, however*, That no funds from other appropriations shall be transferred to the Personal Services and Employee Benefits appropriation: *Provided, further, notwithstanding the above*, that for Fiscal Year 2025 the Secretary of the Department of Human Services shall have additional authority to transfer appropriations between Personal Services and Employee Benefits and other dedicated appropriations within the respective departments to effectuate the 5% average salary increases granted during the 2024 regular legislative session.

The Secretary shall have authority to expend funds for the educational costs of those children residing in out-of-state placements, excluding the costs of special education programs.

The above appropriation for James “Tiger” Morton Catastrophic Illness Fund (fund 0403, appropriation 45500) shall be transferred to the James “Tiger” Morton Catastrophic Illness Fund (fund 5454) as provided by Article 5Q, Chapter 16 of the WV Code.

The above appropriation for WV Works Separate State Program (fund 0403, appropriation 69800) shall be transferred to the WV Works Separate State College Program Fund (fund 5467) and the WV Works Separate State Two-Parent Program Fund (fund 5468) as determined by the Secretary of the Department of Human Services.

From the above appropriation for Child Support Enforcement (fund 0403, appropriation 70500), an amount not to exceed \$300,000 may be transferred to a local banking depository to be utilized to offset funds determined to be uncollectible.

Included in the appropriation for Behavioral Health Program (fund 0403, appropriation 21900), is \$100,000 for Recovery Point of Huntington.

The above appropriation for Children's Trust Fund – Transfer (fund 0403, appropriation 95100) shall be transferred to the Children's Trust Fund (fund 5469).

From the above appropriation for Substance Abuse Continuum of Care (fund 0403, appropriation 35400), the funding will be consistent with the goal areas outlined in the Comprehensive Substance Abuse Strategic Action Plan.

*81 - Department of Human Services–*

*Office of the Shared Administration*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0511

Personal Services

and Employee Benefits .....	00100	\$ 9,445,934
Unclassified.....	09900	252,842
Current Expenses .....	13000	6,417,369
PATH .....	95400	<u>7,282,925</u>
Total.....		\$ 23,399,070

*82 - Bureau for Medical Services –*

*Office of the Commissioner*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0511

Personal Services		
and Employee Benefits .....	00100	\$ 389,895
Current Expenses .....	13000	<u>405,621</u>
Total .....		\$ 795,516

**83 - Bureau for Medical Services –**

*Medical Services Administration*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0511

Personal Services		
and Employee Benefits .....	00100	\$ 7,939
Current Expenses .....	13000	1,057
Medical Services		
Administration Costs .....	78900	<u>42,290,777</u>
Total .....		\$ 42,299,773

**84 - Bureau for Medical Services –**

*Policy and Programming*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0511

Medical Services .....	18900	\$ 67,704,620
WV Teaching Hospitals		
Tertiary/Safety Net .....	54700	5,720,400
Rural Hospitals Under 150 Beds.....	94000	2,336,400
Case Management .....	xxxxx	110,938
Chiropractic Services .....	xxxxx	5,206
Clinic Services .....	xxxxx	144,471
Dental Services .....	xxxxx	166,390
Diagnostic, Screening, Preventive and Rehabilitative Services.....	xxxxx	3,176
Health Homes for Enrollees		
with Chronic Conditions.....	xxxxx	127,329
Hospice .....	xxxxx	1,398,793

Institution for Mental Disease Services	xxxxx	1,276,985
Intermediate Care Facility Services .....	xxxxx	3,233,567
Managed Care Organizations.....	xxxxx	113,493,869
Prescription Drugs .....	xxxxx	19,740,698
Physical and Occupational Therapy.....	xxxxx	68,792
Podiatry Services, Optometry		
Services and Prosthetics .....	xxxxx	31,078
Private Duty Nurses, Personal Care		
and Other Practitioner Services .....	xxxxx	11,847,294
Respiratory Care Services.....	xxxxx	10,083
Speech, Hearing, and Language Disorders	xxxxx	12,813
Total.....		\$ 227,432,902

The Commissioner of the Bureau for Medical Services shall have the authority to transfer between the above items of appropriation.

*85 - Bureau for Medical Services –  
Home and Community Based Waiver Programs*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0511

I/DD Waiver.....	46600	\$ 97,687,562
Title XIX for Seniors Citizens .....	53300	13,593,620
Traumatic Brain Injury Waiver.....	83500	720,000
Substance Use Disorder Waiver .....	xxxxx	842,151
Total.....		\$ 112,843,333

*86 - Bureau for Social Services –  
Office of the Commissioner*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0511

Personal Services		
and Employee Benefits.....	00100	\$ 8,319,214
Current Expenses .....	13000	1,869,474
Social Services .....	19500	6,308,727

Domestic Violence		
Legal Services Fund .....	38400	400,000
Child Protective Services		
Case Workers.....	46800	6,337,162
Grants for Licensed Domestic Violence		
Programs and		
Statewide Prevention .....	75000	<u>2,500,000</u>
Total.....		\$ 25,734,577

Included in the above appropriation for Social Services (fund xxxx, appropriation 19500) is funding for continuing education requirements relating to the practice of social work.

The above appropriation for Domestic Violence Legal Services Fund (fund xxxx, appropriation 38400) shall be transferred to the Domestic Violence Legal Services Fund (fund 5455).

From the above appropriation for the Grants for Licensed Domestic Violence Programs and Statewide Prevention (fund xxxx, appropriation 75000), 50 percent of the total shall be divided equally and distributed among the 14 licensed programs and the West Virginia Coalition Against Domestic Violence (WVCADV). The balance remaining in the appropriation for Grants for Licensed Domestic Violence Programs and Statewide Prevention (fund xxxx, appropriation 75000), shall be distributed according to the formula established by the Family Protection Services Board

### *87 - Bureau for Social Services –*

#### *Children's Services*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0511

Social Services .....	19500	\$ 36,472,739
Family Preservation Program .....	19600	1,408,500
Current Expenses .....	13000	1,800
Community Based Services		
and Pilot Program for Youth.....	75900	<u>0</u>
Total.....		\$ 37,883,039



**88 - Bureau for Social Services –***Adoption*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0511

Social Services.....	19500	\$ 39,855,069
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**89 - Bureau for Social Services –***Foster Care*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0511

Social Services.....	19500	\$ 110,230,811
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**90 - Bureau for Social Services –***Adult Services*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0511

Social Services.....	19500	\$ 5,450,513
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**91 - Bureau for Social Services –***Child Protective Services Case Workers*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0511

Social Services.....	19500	\$ 4,334,300
Child Protective Services		
Case Workers.....	46800	<u>22,079,385</u>
Total.....		\$ 26,770,365

*92 - Bureau for Social Services –**Social Service Case Workers*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0511

Personal Services		
and Employee Benefits .....	00100	1,860,603
Current Expenses .....	13000	227,280
Social Services .....	19500	6,370,702
Child Protective Services		
Case Workers.....	46800	<u>2,000,000</u>
Total.....		\$ 10,458,585

*93 - Bureau for Social Services –**Adult Protective Services Case Workers*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0511

Personal Services		
and Employee Benefits .....	00100	\$ 3,803,727
Current Expenses .....	13000	<u>181,267</u>
Total.....		\$ 3,984,994

*94 - Bureau for Social Services –**Youth Service Case Workers*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0511

Personal Services		
and Employee Benefits .....	00100	693,745
Current Expenses .....	13000	123,159
Social Services .....	19500	<u>3,881,340</u>
Total.....		\$ 4,698,244

**DEPARTMENT OF HEALTH FACILITIES****95 - Health Facilities –***Central Office*

(W.V. Code Chapter 16)

Fund 0401 FY 2025 Org 0512

## Personal Services

and Employee Benefits .....	00100	\$	1,710,519
Salary and Benefits of Cabinet Secretary			
and Agency Heads .....	00201		245,000
Shared Administration .....	xxxxx		1
Current Expenses .....	13000		1,257,327
BRIM Premium.....	91300		<u>442,849</u>
Total.....		\$	3,655,696

**96 - Health Facilities –***Health Facilities Capital Projects Fund*

(W.V. Code Chapter 16)

Fund 0402 FY 2025 Org 0512

Capital Outlay and Maintenance ..... 75500 \$ 550,000

The Secretary shall have the ability to transfer between appropriations for Capital Outlay and Maintenance within the funds 0402, 0408, 0409, 0410, 0411, 0412, 0413, 0414 and 0415 as needed.

**97 - Health Facilities –***Hopemont Hospital*

(W.V. Code Chapter 16)

Fund 0408 FY 2025 Org 0512

## Personal Services

and Employee Benefits (R).....	00100	\$ 6,580,740
Repairs and Alterations (R) .....	06400	90,001
Equipment (R).....	07000	1
Current Expenses (R) .....	13000	2,173,082
Buildings (R).....	25800	1
Other Assets (R).....	69000	1
Contract Nursing (R).....	72301	3,893,811
Capital Outlay and Maintenance (R) ...	75500	50,000
BRIM Premium (R) .....	91300	<u>40,000</u>
Total.....		\$ 12,827,637

Any unexpended balances remaining in Personal Services and Employee Benefits (fund 0408, appropriation 00100), Repairs and Alterations (fund 0408, appropriation 06400), Equipment (0408, appropriation 07000), Current Expenses (fund 0408, appropriation 13000), Buildings (fund 0408, appropriation 25800), Other Assets (fund 0408, appropriation 69000), Contract Nursing (fund 0408, appropriation 72301), Capital Outlay and Maintenance (fund 0408, appropriation 75500), and BRIM Premium (fund 0408, appropriation 91300) at the close of fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

The Secretary of the Department of Health Facilities shall have the authority to transfer between the items of appropriation in order to maintain staffing and other issues that arise in a timely manner.

*98 - Health Facilities –**Lakin Hospital*

(W.V. Code Chapter 16)

Fund 0409 FY 2025 Org 0512

## Personal Services

and Employee Benefits (R).....	00100	\$ 8,368,450
Repairs and Alterations (R) .....	06400	60,001
Equipment (R).....	07000	1
Current Expenses (R) .....	13000	2,363,676
Buildings (R).....	25800	1

Other Assets (R).....	69000	1
Contract Nursing (R).....	72301	3,539,262
Capital Outlay and Maintenance (R) ...	75500	50,000
BRIM Premium (R) .....	91300	<u>70,000</u>
Total.....		\$ 14,451,392

Any unexpended balances remaining in Personal Services and Employee Benefits (fund 0409, appropriation 00100), Repairs and Alterations (fund 0409, appropriation 06400), Equipment (0409, appropriation 07000), Current Expenses (fund 0409, appropriation 13000), Buildings (fund 0409, appropriation 25800), Other Assets (fund 0409, appropriation 69000), Contract Nursing (fund 0409, appropriation 72301), Capital Outlay and Maintenance (fund 0409, appropriation 75500), and BRIM Premium (fund 0409, appropriation 91300) at the close of fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

The Secretary of the Department of Health Facilities shall have the authority to transfer between the items of appropriation in order to maintain staffing and other issues that arise in a timely manner.

*99 - Health Facilities –*

*John Manchin Senior Health Care Center*

(W.V. Code Chapter 16)

Fund 0410 FY 2025 Org 0512

Personal Services

and Employee Benefits (R).....	00100	\$ 4,199,228
Repairs and Alterations (R) .....	06400	50,001
Equipment (R).....	07000	1
Current Expenses (R) .....	13000	1,471,878
Buildings (R).....	25800	1
Other Assets (R).....	69000	1
Contract Nursing (R).....	72301	2,907,556
Capital Outlay and Maintenance (R) ...	75500	50,000
BRIM Premium (R) .....	91300	<u>25,000</u>
Total.....		\$ 8,703,666

Any unexpended balances remaining in Personal Services and Employee Benefits (fund 0410, appropriation 00100), Repairs and Alterations (fund 0410, appropriation 06400), Equipment (0410, appropriation 07000), Current Expenses (fund 0410, appropriation 13000), Buildings (fund 0410, appropriation 25800), Other Assets (fund 0410, appropriation 69000), Contract Nursing (fund 0410, appropriation 72301), Capital Outlay and Maintenance (fund 0410, appropriation 75500), and BRIM Premium (fund 0410, appropriation 91300) at the close of fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

The Secretary of the Department of Health Facilities shall have the authority to transfer between the items of appropriation in order to maintain staffing and other issues that arise in a timely manner.

*100 - Health Facilities –*

*Jackie Withrow Hospital*

(W.V. Code Chapter 16)

Fund 0411 FY 2025 Org 0512

Personal Services

and Employee Benefits (R) .....	00100	\$	7,380,957
Repairs and Alterations (R) .....	06400		200,001
Equipment (R).....	07000		1
Current Expenses (R) .....	13000		2,655,893
Buildings (R).....	25800		1
Other Assets (R).....	69000		1
Contract Nursing (R).....	72301		2,000,311
Capital Outlay and Maintenance (R) ...	75500		50,000
BRIM Premium (R) .....	91300		50,000
Total.....		\$	12,337,165

Any unexpended balances remaining in Personal Services and Employee Benefits (fund 0411, appropriation 00100), Repairs and Alterations (fund 0411, appropriation 06400), Equipment (0411, appropriation 07000), Current Expenses (fund 0411, appropriation 13000), Buildings (fund 0411, appropriation 25800), Other Assets (fund 0411, appropriation 69000), Contract Nursing (fund 0411,

appropriation 72301), Capital Outlay and Maintenance (fund 0411, appropriation 75500), and BRIM Premium (fund 0411, appropriation 91300) at the close of fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

The Secretary of the Department of Health Facilities shall have the authority to transfer between the items of appropriation in order to maintain staffing and other issues that arise in a timely manner.

*101 - Health Facilities –*

*Welch Community Hospital*

(W.V. Code Chapter 16)

Fund 0412 FY 2025 Org 0512

Personal Services

and Employee Benefits (R).....	00100	\$ 15,111,349
Repairs and Alterations (R) .....	06400	1
Equipment (R).....	07000	1
Current Expenses (R) .....	13000	13,199,285
Buildings (R).....	25800	1
Other Assets (R).....	69000	1
Contract Nursing (R).....	72301	2,576,401
Capital Outlay and Maintenance (R) ...	75500	50,000
BRIM Premium (R) .....	91300	<u>120,000</u>
Total.....		\$ 31,057,039

Any unexpended balances remaining in Personal Services and Employee Benefits (fund 0412, appropriation 00100), Repairs and Alterations (fund 0412, appropriation 06400), Equipment (0412, appropriation 07000), Current Expenses (fund 0412, appropriation 13000), Buildings (fund 0412, appropriation 25800), Other Assets (fund 0412, appropriation 69000), Contract Nursing (fund 0412, appropriation 72301), Capital Outlay and Maintenance (fund 0412, appropriation 75500), and BRIM Premium (fund 0412, appropriation 91300) at the close of fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

The Secretary of the Department of Health Facilities shall have the authority to transfer between the items of appropriation in order to maintain staffing and other issues that arise in a timely manner.

*102 - Health Facilities –*

*William R. Sharpe Jr. Hospital*

(W.V. Code Chapter 16)

Fund 0413 FY 2025 Org 0512

Personal Services

and Employee Benefits (R) .....	00100	\$ 26,497,231
Repairs and Alterations (R) .....	06400	350,001
Equipment (R).....	07000	1
Current Expenses (R) .....	13000	10,280,300
Buildings (R).....	25800	1
Other Assets (R).....	69000	1
Contract Nursing (R).....	72301	41,969,835
Capital Outlay and Maintenance (R) ...	75500	50,000
BRIM Premium (R) .....	91300	<u>260,000</u>
Total.....		\$ 79,407,370

Any unexpended balances remaining in Personal Services and Employee Benefits (fund 0413, appropriation 00100), Repairs and Alterations (fund 0413, appropriation 06400), Equipment (0413, appropriation 07000), Current Expenses (fund 0413, appropriation 13000), Buildings (fund 0413, appropriation 25800), Other Assets (fund 0413, appropriation 69000), Contract Nursing (fund 0413, appropriation 72301), Capital Outlay and Maintenance (fund 0413, appropriation 75500), and BRIM Premium (fund 0413, appropriation 91300) at the close of fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

The Secretary of the Department of Health Facilities shall have the authority to transfer between the items of appropriation in order to maintain staffing and other issues that arise in a timely manner.

The above appropriation for Personal Services and Employee Benefits (fund 0413, appropriation 00100) contains prior year salary increases due to the Hartley court order in the amount of \$2,202,013.



*103 - Health Facilities –**Mildred Mitchell-Bateman Hospital*

(W.V. Code Chapter 16)

Fund 0414 FY 2025 Org 0512

## Personal Services

and Employee Benefits (R).....	00100	\$ 25,016,184
Repairs and Alterations (R) .....	06400	300,001
Equipment (R).....	07000	1
Current Expenses (R).....	13000	2,967,683
Buildings (R).....	25800	1
Other Assets (R).....	69000	1
Contract Nursing (R).....	72301	24,957,520
Capital Outlay and Maintenance (R) ...	75500	50,000
BRIM Premium (R) .....	91300	<u>215,000</u>
Total.....		\$ 53,506,391

Any unexpended balances remaining in Personal Services and Employee Benefits (fund 0414, appropriation 00100), Repairs and Alterations (fund 0414, appropriation 06400), Equipment (0414, appropriation 07000), Current Expenses (fund 0414, appropriation 13000), Buildings (fund 0414, appropriation 25800), Other Assets (fund 0414, appropriation 69000), Contract Nursing (fund 0414, appropriation 72301), Capital Outlay and Maintenance (fund 0414, appropriation 75500), and BRIM Premium (fund 0414, appropriation 91300) at the close of fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

The Secretary of the Department of Health Facilities shall have the authority to transfer between the items of appropriation in order to maintain staffing and other issues that arise in a timely manner.

The above appropriation for Personal Services and Employee Benefits (fund 0414, appropriation 00100) contains prior year salary increases due to the Hartley court order in the amount of \$2,067,984.

*104 - Health Facilities –**William R. Sharpe Jr. Hospital -*

*Transitional Living Facility*

(W.V. Code Chapter 16)

Fund 0415 FY 2025 Org 0512

## Personal Services

and Employee Benefits (R).....	00100	\$ 1,594,131
Repairs and Alterations (R) .....	06400	2,001
Equipment (R).....	07000	1
Current Expenses (R) .....	13000	171,794
Buildings (R).....	25800	1
Other Assets (R).....	69000	1
Contract Nursing (R).....	72301	10,000
Capital Outlay and Maintenance (R) ...	75500	50,000
BRIM Premium (R) .....	91300	<u>20,000</u>
Total.....		\$ 1,847,929

Any unexpended balances remaining in Personal Services and Employee Benefits (fund 0415, appropriation 00100), Repairs and Alterations (fund 0415, appropriation 06400), Equipment (0415, appropriation 07000), Current Expenses (fund 0415, appropriation 13000), Buildings (fund 0415, appropriation 25800), Other Assets (fund 0415, appropriation 69000), Contract Nursing (fund 0415, appropriation 72301), Capital Outlay and Maintenance (fund 0415, appropriation 75500), and BRIM Premium (fund 0415, appropriation 91300) at the close of fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

The Secretary of the Department of Health Facilities shall have the authority to transfer between the items of appropriation in order to maintain staffing and other issues that arise in a timely manner.

**DEPARTMENT OF HOMELAND SECURITY***105 - Department of Homeland Security –**Office of the Secretary*

(W.V. Code Chapter 5F)

Fund 0430 FY 2025 Org 0601

## Personal Services

and Employee Benefits .....	00100	\$	695,143
Salary and Benefits of Cabinet Secretary			
and Agency Heads .....	00201		168,000
Repairs and Alterations .....	06400		500
Equipment .....	07000		500
Unclassified (R) .....	09900		30,000
Current Expenses .....	13000		91,636
Fusion Center (R) .....	46900		3,052,318
Other Assets .....	69000		500
Directed Transfer .....	70000		32,000
BRIM Premium .....	91300		22,563
WV Fire and EMS			
Survivor Benefit (R) .....	93900		<u>200,000</u>
Total .....		\$	4,293,160

Any unexpended balances remaining in the appropriations for Unclassified (fund 0430, appropriation 09900), Current Expenses – Surplus (fund 0430, appropriation 09900), Fusion Center (fund 0430, appropriation 46900), Justice Reinvestment Training – Surplus (fund 0430, appropriation 69900), WV Fire and EMS Survivor Benefit (fund 0430, appropriation 93900), and Homeland State Security Administrative Agency (fund 0430, appropriation 95300) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

The above appropriation for Directed Transfer (fund 0430, appropriation 70000) shall be transferred to the Law-Enforcement, Safety and Emergency Worker Funeral Expense Payment Fund (fund 6003).

*106 - Division of Emergency Management*

(W.V. Code Chapter 15)

Fund 0443 FY 2025 Org 0606

## Personal Services

and Employee Benefits .....	00100	\$	2,294,279
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Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201	61,250
Repairs and Alterations.....	06400	600
Unclassified.....	09900	21,022
Current Expenses .....	13000	51,065
Radiological Emergency Preparedness	55400	17,052
SIRN....	55401	600,000
Federal Funds/Grant Match (R) .....	74900	1,538,775
Mine and Industrial Accident Rapid Response Call Center.....	78100	530,392
Early Warning Flood System (R) .....	87700	1,480,890
BRIM Premium.....	91300	96,529
Total.....		\$ 6,691,854

Any unexpended balances remaining in the appropriations for Federal Funds/Grant Match (fund 0443, appropriation 74900), and Early Warning Flood System (fund 0443, appropriation 87700) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

*107 - Division of Corrections and Rehabilitation –*

*West Virginia Parole Board*

(W.V. Code Chapter 62)

Fund 0440 FY 2025 Org 0608

Personal Services and Employee Benefits .....	00100	\$ 317,039
Unclassified.....	09900	10,000
Current Expenses .....	13000	334,440
Salaries of Members of West Virginia Parole Board .....	22700	786,374
BRIM Premium.....	91300	6,149
Total.....		\$ 1,454,002

The above appropriation for Salaries of Members of West Virginia Parole Board (fund 0440, appropriation 22700) includes funding for salary, annual increment (as provided for in W.V. Code §5-5-1), and related employee benefits of board members.

*108 - Division of Corrections and Rehabilitation –**Central Office*

(W.V. Code Chapter 15A)

Fund 0446 FY 2025 Org 0608

Personal Services		
and Employee Benefits .....	00100	\$ 256,747
Salary and Benefits of Cabinet Secretary and		
Agency Heads .....	00201	126,000
Current Expenses .....	13000	<u>2,400</u>
Total .....		\$ 385,147

*109 - Division of Corrections and Rehabilitation –**Correctional Units*

(W.V. Code Chapter 15A)

Fund 0450 FY 2025 Org 0608

Employee Benefits .....	01000	\$ 1,258,136
Children's Protection Act (R) .....	09000	838,437
Unclassified .....	09900	1,578,800
Current Expenses (R) .....	13000	57,690,483
Facilities Planning		
and Administration (R) .....	38600	1,274,200
Charleston Correctional Center .....	45600	4,041,521
Beckley Correctional Center .....	49000	3,018,511
Anthony Correctional Center .....	50400	6,905,924
Huttonsville Correctional Center .....	51400	23,165,663
Northern Correctional Center .....	53400	9,593,719
Inmate Medical Expenses (R) .....	53500	62,226,064
Pruntytown Correctional Center .....	54300	10,310,325
Corrections Academy .....	56900	2,106,862
Information Technology Services .....	59901	2,759,052
Martinsburg Correctional Center .....	66300	5,358,718
Parole Services .....	68600	6,512,380
Special Services .....	68700	6,317,554

Directed Transfer .....	70000	7,432,686
Investigative Services .....	71600	3,743,303
Capital Outlay and Maintenance (R) ...	75500	2,000,000
Salem Correctional Center .....	77400	13,168,692
McDowell County Correctional Center.....	79000	2,542,590
Stevens Correctional Center.....	79100	7,863,195
Parkersburg Correctional Center.....	82800	7,511,290
St. Mary's Correctional Center .....	88100	17,061,358
Denmar Correctional Center .....	88200	6,018,233
Ohio County Correctional Center .....	88300	2,629,742
Mt. Olive Correctional Complex .....	88800	27,136,647
Lakin Correctional Center.....	89600	12,619,819
BRIM Premium.....	91300	<u>2,527,657</u>
Total.....		\$ 317,211,561

Any unexpended balances remaining in the appropriations for Children's Protection Act (fund 0450, appropriation 09000), Unclassified – Surplus (fund 0450, appropriation 09700), Current Expenses (fund 0450, appropriation 13000), Facilities Planning and Administration (fund 0450, appropriation 38600), Inmate Medical Expenses (fund 0450, appropriation 53500), Capital Improvements – Surplus (fund 0450, appropriation 66100), Capital Outlay and Maintenance (fund 0450, appropriation 75500), Security System Improvements – Surplus (fund 0450, appropriation 75501), and Roof Repairs and Mechanical System Upgrades (fund 0450, appropriation 75502) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

The Commissioner of Corrections and Rehabilitation shall have the authority to transfer between appropriations.

From the above appropriation to Current Expenses (fund 0450, appropriation 13000), payment shall be made to house Division of Corrections and Rehabilitation inmates in federal, county, and/or regional jails.

The above appropriation for Directed Transfer (fund 0450, appropriation 70000) shall be transferred to the Regional Jails Operating Cash Control Account (fund 6678).

Any realized savings from Energy Savings Contract may be transferred to Facilities Planning and Administration (fund 0450, appropriation 38600).

*110 - Division of Corrections and Rehabilitation –*

*Bureau of Juvenile Services*

(W.V. Code Chapter 15A)

Fund 0570 FY 2025 Org 0608

Statewide Reporting Centers.....	26200	\$ 7,507,863
Robert L. Shell Juvenile Center .....	26700	3,081,514
Resident Medical Expenses (R) .....	53501	3,604,999
Central Office.....	70100	1,898,385
Capital Outlay and Maintenance (R) ...	75500	250,000
Gene Spadaro Juvenile Center .....	79300	3,274,266
BRIM Premium.....	91300	115,967
Kenneth Honey Rubenstein		
Juvenile Center (R).....	98000	6,613,974
Vicki Douglas Juvenile Center .....	98100	3,142,823
Northern Regional Juvenile Center.....	98200	2,876,302
Lorrie Yeager Jr. Juvenile Center .....	98300	2,993,572
Sam Perdue Juvenile Center .....	98400	3,214,598
Tiger Morton Center .....	98500	3,195,339
Donald R. Kuhn Juvenile Center .....	98600	6,177,512
J.M. “Chick” Buckbee Juvenile Center ....	98700	<u>3,260,770</u>
Total.....		\$ 51,207,884

Any unexpended balances remaining in the appropriations for Resident Medical Expenses (fund 0570, appropriation 53501), Capital Outlay and Maintenance (fund 0570, appropriation 75500), Roof Repairs and Mechanical System Upgrades (fund 0570, appropriation 75502), and Kenneth Honey Rubenstein Juvenile Center (fund 0570, appropriation 98000) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

The Director of Juvenile Services shall have the authority to transfer between appropriations to the individual juvenile centers

above including Statewide Reporting Centers and Central Office and may transfer funds from the individual juvenile centers to Resident Medical Expenses (fund 0570, appropriation 53501).

*111 - West Virginia State Police*

(W.V. Code Chapter 15)

Fund 0453 FY 2025 Org 0612

Personal Services		
and Employee Benefits .....	00100	\$ 79,006,727
Salary and Benefits of Cabinet Secretary		
and Agency Heads .....	00201	139,300
Repairs and Alterations.....	06400	450,523
Children's Protection Act .....	09000	1,109,123
Current Expenses .....	13000	10,384,394
Trooper Class .....	52100	3,207,832
Barracks Lease Payments .....	55600	237,898
Communications		
and Other Equipment (R).....	55800	1,070,968
Trooper Retirement Fund.....	60500	14,319,315
Handgun Administration Expense .....	74700	87,088
Capital Outlay and Maintenance (R) ...	75500	250,000
Retirement Systems –		
Unfunded Liability.....	77500	8,633,000
Automated Fingerprint		
Identification System .....	89800	2,260,695
BRIM Premium.....	91300	<u>5,743,921</u>
Total.....		\$ 126,900,784

Any unexpended balances remaining in the appropriations for Communications and Other Equipment (fund 0453, appropriation 55800) and Capital Outlay and Maintenance (fund 0453, appropriation 75500) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

From the above appropriation for Personal Services and Employee Benefits (fund 0453, appropriation 00100), an amount not less than \$25,000 shall be expended to offset the costs



associated with providing police services for the West Virginia State Fair.

*112 - Fire Commission*

(W.V. Code Chapter 15A)

Fund 0436 FY 2025 Org 0619

Current Expenses .....	13000	\$	63,061
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*113 - Division of Protective Services*

(W.V. Code Chapter 5F)

Fund 0585 FY 2025 Org 0622

Personal Services

and Employee Benefits .....	00100	\$	3,473,329
Repairs and Alterations .....	06400		8,500
Equipment (R) .....	07000		64,171
Unclassified (R) .....	09900		21,991
Current Expenses .....	13000		422,981
BRIM Premium .....	91300		<u>32,602</u>
Total .....		\$	4,023,574

Any unexpended balances remaining in the appropriations for Equipment (fund 0585, appropriation 07000) and Unclassified (fund 0585, appropriation 09900) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

*114 - Division of Administrative Services -*

*Criminal Justice Fund*

(W.V. Code Chapter 15A)

Fund 0546 FY 2025 Org 0623

Personal Services

and Employee Benefits .....	00100	\$	639,264
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Repairs and Alterations.....	06400	1,804
Current Expenses .....	13000	233,360
Child Advocacy Centers (R).....	45800	2,214,361
Community Corrections (R) .....	56100	4,614,368
Statistical Analysis Program.....	59700	50,739
Sexual Assault Forensic Examination Commission (R).....	71400	283,351
Qualitative Analysis and Training for Youth Services (R).....	76200	90,373
Law Enforcement Professional Standards.....	83800	182,512
Justice Reinvestment Initiative (R).....	89501	2,344,040
BRIM Premium.....	91300	<u>2,123</u>
Total.....		\$ 10,656,295

Any unexpended balances remaining in the appropriations for Victims of Crime Act (fund 0546, appropriation 21601), Child Advocacy Centers (fund 0546, appropriation 45800), Community Corrections (fund 0546, appropriation 56100), Sexual Assault Forensic Examination Commission (fund 0546 appropriation 71400), Qualitative Analysis and Training for Youth Services (fund 0546, appropriation 76200), Justice Reinvestment Initiative (fund 0546, appropriation 89501) and Victims of Crime Act – Surplus (fund 0546, appropriation 21099) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

From the above appropriation for Current Expenses (fund 0546, appropriation 13000), \$100,000 shall be used for Court Appointed Special Advocates.

From the above appropriation for Child Advocacy Centers (fund 0546, appropriation 45800), the Division may retain an amount not to exceed four percent of the appropriation for administrative purposes.

### *115 - Division of Administrative Services*

(W.V. Code Chapter 15A)

Fund 0619 FY 2025 Org 0623

Personal Services		
and Employee Benefits .....	00100	\$ 5,675,223
Unclassified.....	09900	50,000
Current Expenses .....	13000	<u>555,000</u>
Total.....		\$ 6,280,223

**DEPARTMENT OF REVENUE***116 - Office of the Secretary*

(W.V. Code Chapter 11)

Fund 0465 FY 2025 Org 0701

Personal Services		
and Employee Benefits .....	00100	\$ 388,713
Salary and Benefits of Cabinet Secretary		
and Agency Heads .....	00201	168,000
Repairs and Alterations.....	06400	1,262
Equipment.....	07000	8,000
Unclassified.....	09900	437
Current Expenses .....	13000	81,594
Other Assets .....	69000	<u>500</u>
Total.....		\$ 648,506

Any unexpended balance remaining in the appropriation for Unclassified – Total (fund 0465, appropriation 09600) at the close of the fiscal year 2024 is hereby reappropriated for expenditure during the fiscal year 2025.

*117 - Tax Division*

(W.V. Code Chapter 11)

Fund 0470 FY 2025 Org 0702

Personal Services		
and Employee Benefits (R).....	00100	\$ 20,505,046
Salary and Benefits of Cabinet Secretary		
and Agency Heads .....	00201	147,000

Repairs and Alterations.....	06400	10,150
Equipment.....	07000	54,850
Tax Technology Upgrade .....	09400	3,700,000
Unclassified (R) .....	09900	174,578
Current Expenses (R).....	13000	6,823,635
Multi State Tax Commission .....	65300	77,958
Other Assets.....	69000	10,000
BRIM Premium.....	91300	<u>15,579</u>
Total.....		\$ 31,518,796

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits (fund 0470, appropriation 00100), Unclassified (fund 0470, appropriation 09900), Current Expenses (fund 0470, appropriation 13000), and Integrated Tax Assessment System (fund 0470, appropriation 29200) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

*118 - State Budget Office*

(W.V. Code Chapter 11B)

Fund 0595 FY 2025 Org 0703

Personal Services

and Employee Benefits.....	00100	\$ 1,055,236
Unclassified (R) .....	09900	9,200
Current Expenses (R).....	13000	<u>119,449</u>
Total.....		\$ 1,183,885

Any unexpended balances remaining in the appropriations for Unclassified (fund 0595, appropriation 09900) and Current Expenses (fund 0595, appropriation 13000) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

*119 - West Virginia Office of Tax Appeals*

(W.V. Code Chapter 11)

Fund 0593 FY 2025 Org 0709

## Personal Services

and Employee Benefits .....	00100	\$	976,887
Unclassified.....	09900		5,255
Current Expenses (R).....	13000		229,374
BRIM Premium.....	91300		<u>3,062</u>
Total.....		\$	1,214,578

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0593, appropriation 13000) at the close of the fiscal year 2024 is hereby reappropriated for expenditure during the fiscal year 2025.

*120 - State Athletic Commission*

(W.V. Code Chapter 29)

Fund 0523 FY 2025 Org 0933

## Personal Services

and Employee Benefits .....	00100	\$	7,200
Current Expenses .....	13000		<u>29,611</u>
Total.....		\$	36,811

**DEPARTMENT OF TRANSPORTATION***121 - Division of Multimodal Transportation Facilities –*

*State Rail Authority*

(W.V. Code Chapter 17)

Fund 0506 FY 2025 Org 0810

## Personal Services

and Employee Benefits .....	00100	\$	385,773
Current Expenses .....	13000		287,707
Other Assets (R).....	69000		1,270,019
BRIM Premium.....	91300		<u>201,541</u>
Total.....		\$	2,145,040

Any unexpended balance remaining in the appropriation for Other Assets (fund 0506, appropriation 69000) at the close of the

fiscal year 2024 is hereby reappropriated for expenditure during the fiscal year 2025.

*122 - Division of Multimodal Transportation Facilities –*

*Public Transit*

(W.V. Code Chapter 17)

Fund 0510 FY 2025 Org 0810

Equipment (R).....	07000	\$ 100,000
Current Expenses (R).....	13000	2,042,989
Buildings (R).....	25800	100,000
Other Assets (R).....	69000	<u>50,000</u>
Total.....		\$ 2,292,989

Any unexpended balances remaining in the appropriations for Equipment (fund 0510, appropriation 07000), Current Expenses (fund 0510, appropriation 13000), Buildings (fund 0510, appropriation 25800), and Other Assets (fund 0510, appropriation 69000) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

From the above appropriation for Current Expenses (fund 0510, appropriation 13000) \$30,000 will be used to support the Sistersville Ferry.

*123 - Division of Multimodal Transportation Facilities –*

(W.V. Code Chapter 17)

Fund 0580 FY 2025 Org 0810

Personal Services		
and Employee Benefits (R).....	00100	\$ 713,763
Current Expenses (R).....	13000	750,000
BRIM Premium.....	91300	<u>7,500</u>
Total.....		\$ 1,471,263

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits (fund 0580,

appropriation 00100), and Current Expenses (fund 0580, appropriation 13000) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

*124 - Division of Multimodal Transportation Facilities –*

*Aeronautics Commission*

(W.V. Code Chapter 17)

Fund 0582 FY 2025 Org 0810

Personal Services

and Employee Benefits.....	00100	\$	235,249
Repairs and Alterations.....	06400		100
Current Expenses (R).....	13000		791,839
BRIM Premium.....	91300		4,438
Total.....		\$	1,031,626

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0582, appropriation 13000) at the close of the fiscal year 2024 is hereby reappropriated for expenditure during the fiscal year 2025.

**DEPARTMENT OF VETERANS' ASSISTANCE**

*125 - Department of Veterans' Assistance*

(W.V. Code Chapter 9A)

Fund 0456 FY 2025 Org 0613

Personal Services

and Employee Benefits.....	00100	\$	2,560,846
Salary and Benefits of Cabinet Secretary			
and Agency Heads.....	00201		110,880
Repairs and Alterations.....	06400		5,000
Unclassified.....	09900		20,000
Current Expenses.....	13000		161,450
Veterans' Field Offices (R).....	22800		405,550
Veterans' Nursing Home (R).....	28600		11,294,373
Veterans' Toll Free Assistance Line....	32800		2,015

Veterans' Reeducation Assistance (R).	32900	40,000
Veterans' Grant Program (R).....	34200	560,000
Veterans' Grave Markers.....	47300	10,000
Veterans' Cemetery (R) .....	80800	420,079
BRIM Premium.....	91300	<u>50,000</u>
Total.....		\$ 15,640,193

Any unexpended balances remaining in the appropriations for Veterans' Field Offices (fund 0456, appropriation 22800), Buildings – Surplus (fund 0456, appropriation 25899), Veterans' Nursing Home (fund 0456, appropriation 28600), Veterans' Reeducation Assistance (fund 0456, appropriation 32900), Veterans' Grant Program (fund 0456, appropriation 34200), Veterans' Bonus – Surplus (fund 0456, appropriation 34400), Veterans' Cemetery (fund 0456, appropriation 80800), and Educational Opportunities for Children of Deceased Veterans (fund 0456, appropriation 85400) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

*126 - Department of Veterans' Assistance –*

*Veterans' Home*

(W.V. Code Chapter 9A)

Fund 0460 FY 2025 Org 0618

Personal Services

and Employee Benefits.....	00100	\$ 1,525,632
Current Expenses (R).....	13000	46,759
Veterans Outreach Programs .....	61700	<u>213,377</u>
Total.....		\$ 1,785,768

Any unexpended balances remaining in the appropriations for Current Expenses (fund 0460, appropriation 13000) and Capital Outlay, Repairs and Equipment – Surplus (fund 0460, appropriation 67700) are hereby reappropriated for expenditure during the fiscal year 2025.



**BUREAU OF SENIOR SERVICES***127 - Bureau of Senior Services*

(W.V. Code Chapter 29)

Fund 0420 FY 2025 Org 0508

Transfer to Division of Human Services  
 for Health Care and Title XIX Waiver  
 for Senior Citizens ..... 53900 \$ 6,580,366

The above appropriation for Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens (fund 0420, appropriation 53900) along with the federal moneys generated thereby shall be used for reimbursement for services provided under the program.

The above appropriation is in addition to funding provided in fund 5405 for this program.

**WEST VIRGINIA COUNCIL FOR COMMUNITY  
AND TECHNICAL COLLEGE EDUCATION***128 - West Virginia Council for**Community and Technical College Education –**Control Account*

(W.V. Code Chapter 18B)

Fund 0596 FY 2025 Org 0420

West Virginia Council for Community and Technical Education (R) .....	39200	\$	761,164
Transit Training Partnership .....	78300		34,293
Community College			
Workforce Development (R) .....	87800		2,791,367
College Transition Program .....	88700		278,222
West Virginia Advance			
Workforce Development (R) .....	89300		3,126,336

Technical Program Development (R) ....	89400	1,800,735
WV Invests Grant Program (R) .....	89401	<u>7,046,959</u>
Total.....		\$ 15,839,076

Any unexpended balances remaining in the appropriations for West Virginia Council for Community and Technical Education (fund 0596, appropriation 39200), Capital Improvements – Surplus (fund 0596, appropriation 66100), Community College Workforce Development (fund 0596, appropriation 87800), West Virginia Advance Workforce Development (fund 0596, appropriation 89300), Technical Program Development (fund 0596, appropriation 89400), and WV Invests Grant Program (fund 0596, appropriation 89401) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

*129 - Mountwest Community and Technical College*

(W.V. Code Chapter 18B)

Fund 0599 FY 2025 Org 0444

Mountwest Community and Technical College .....	48700	\$ 7,062,120
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*130 - New River Community and Technical College*

(W.V. Code Chapter 18B)

Fund 0600 FY 2025 Org 0445

New River Community and Technical College .....	35800	\$ 6,569,820
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*131 - Pierpont Community and Technical College*

(W.V. Code Chapter 18B)

Fund 0597 FY 2025 Org 0446

Pierpont Community and Technical College .....	93000	\$ 8,613,156
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*132 - Blue Ridge Community and Technical College*

(W.V. Code Chapter 18B)

Fund 0601 FY 2025 Org 0447

Blue Ridge Community and Technical College .....	88500	\$	8,972,984
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*133 - West Virginia University at Parkersburg*

(W.V. Code Chapter 18B)

Fund 0351 FY 2025 Org 0464

West Virginia University – Parkersburg .....	47100	\$	11,561,838
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*134 - Southern West Virginia Community and Technical College*

(W.V. Code Chapter 18B)

Fund 0380 FY 2025 Org 0487

Southern West Virginia Community and Technical College .....	44600	\$	9,217,907
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*135 - West Virginia Northern Community and Technical College*

(W.V. Code Chapter 18B)

Fund 0383 FY 2025 Org 0489

West Virginia Northern Community and Technical College .....	44700	\$	8,252,020
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*136 - Eastern West Virginia Community and Technical College*

(W.V. Code Chapter 18B)

Fund 0587 FY 2025 Org 0492

Eastern West Virginia Community and Technical College .....	41200	\$	2,412,016
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*137 - BridgeValley Community and Technical College*

(W.V. Code Chapter 18B)

Fund 0618 FY 2025 Org 0493

BridgeValley Community and Technical College .....	71700	\$	8,888,187
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**HIGHER EDUCATION POLICY COMMISSION***138 - Higher Education Policy Commission –**Administration –**Control Account*

(W.V. Code Chapter 18B and 18C)

Fund 0589 FY 2025 Org 0441

Personal Services			
and Employee Benefits .....	00100	\$	2,914,927
RHI Program and Site Support – RHEP			
Program Administration (R) .....	03700		80,000
Mental Health Provider			
Loan Repayment (R).....	11301		330,000
Current Expenses .....	13000		1,096,902
Higher Education Grant Program .....	16400		40,619,864
Tuition Contract Program (R).....	16500		1,225,676
Underwood-Smith Scholarship			
Program-Student Awards.....	16700		1,478,349
Facilities Planning and Administration.....	38600		1,760,254
Dual Enrollment Program .....	42201		5,810,625
Higher Education System Initiatives....	48801		1,651,889
PROMISE Scholarship – Transfer.....	80000		18,500,000
HEAPS Grant Program (R).....	86700		5,025,376
Health Professionals’			
Student Loan Program (R).....	86701		547,470
BRIM Premium.....	91300		<u>17,817</u>
Total.....		\$	81,059,149

Any unexpended balances remaining in the appropriations for RHI Program and Site Support – RHEP Program Administration (fund 0589, 03700), Mental Health Provider Loan Repayment (fund 0589, appropriation 11301), Tuition Contract Program (fund 0589, appropriation 16500), Dual Enrollment Program (fund 0589, appropriation 42201), HEAPS Grant Program (fund 0589, appropriation 86700), and Health Professionals’ Student Loan Program (fund 0589, appropriation 86701) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

The above appropriation for Facilities Planning and Administration (fund 0589, appropriation 38600) is for operational expenses of the West Virginia Regional Technology Park between construction and full occupancy.

The above appropriation for Higher Education Grant Program (fund 0589, appropriation 16400) shall be transferred to the Higher Education Grant Fund (fund 4933) established by W.V. Code §18C-5-3.

The above appropriation for Underwood-Smith Scholarship Program - Student Awards (fund 0589, appropriation 16700) shall be transferred to the Underwood-Smith Teaching Scholars Program Fund (4922) established by W.V. Code §18C-4-1.

The above appropriation for PROMISE Scholarship-Transfer (fund 0589, appropriation 80000) shall be transferred to the PROMISE Scholarship Fund (fund 4296) established by W.V. Code §18C-7-7.

The above appropriation for Dual Enrollment Program (fund 0589, appropriation 42201) shall be used for the Dual Enrollment Program established by House Bill 2005 during the 2023 Regular Session.

*139 - West Virginia University –*

*School of Medicine*

*Medical School Fund*

## (W.V. Code Chapter 18B)

Fund 0343 FY 2025 Org 0463

WVU School of Health Science –		
Eastern Division.....	05600	\$ 2,426,012
WVU – School of Health Sciences.....	17400	16,155,605
WVU – School of Health Sciences –		
Charleston Division .....	17500	2,478,576
Rural Health Outreach Programs (R)...	37700	170,278
West Virginia University		
School of Medicine		
BRIM Subsidy .....	46000	<u>1,203,087</u>
Total.....		\$ 22,433,558

Any unexpended balances remaining in the appropriations for Rural Health Outreach Programs (fund 0343, appropriation 37700) at the close of fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

*140 - West Virginia University –**General Administrative Fund*

## (W.V. Code Chapter 18B)

Fund 0344 FY 2025 Org 0463

West Virginia University .....	45900	\$ 95,189,730
West Virginia University		
Land Grant Match.....	45101	8,549,644
Jackson's Mill (R).....	46100	513,760
West Virginia University		
Institute of Technology.....	47900	8,915,719
State Priorities – Brownfield		
Professional Development (R).....	53100	816,556
Energy Express (R).....	86100	382,935
West Virginia University –		
Potomac State .....	99400	<u>5,138,046</u>
Total.....		\$ 119,506,390

From the above appropriation for Jackson's Mill (fund 0344, appropriation 46100), \$250,000 shall be used for the West Virginia State Fire Training Academy.

Any unexpended balances remaining in the appropriations for Jackson's Mill (fund 0344, appropriation 46100), State Priorities – Brownfield Professional Development (fund 0344, appropriation 53100), National Cancer Institute - Surplus (fund 0344, appropriation 65399), and Energy Express (fund 0344, appropriation 86100) and at the close of fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

*141 - Marshall University –*

*School of Medicine*

(W.V. Code Chapter 18B)

Fund 0347 FY 2025 Org 0471

Marshall Medical School .....	17300	\$ 8,357,258
Rural Health Outreach Programs (R)...	37700	160,732
Forensic Lab (R) .....	37701	227,415
Center for Rural Health (R) .....	37702	169,390
Marshall University Medical School		
BRIM Subsidy .....	44900	<u>872,612</u>
Total.....		\$ 9,787,407

Any unexpended balances remaining in the appropriations for Rural Health Outreach Programs (fund 0347, appropriation 37700), Forensic Lab (fund 0347, appropriation 37701), and Center for Rural Health (fund 0347, appropriation 37702) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

*142 - Marshall University –*

*General Administration Fund*

(W.V. Code Chapter 18B)

Fund 0348 FY 2025 Org 0471

Marshall University .....	44800	\$ 53,411,505
Marshall University Minority Health Institute .....	42301	100,000
Luke Lee Listening Language and Learning Lab (R).....	44801	157,901
VISTA E-Learning (R) .....	51900	229,019
State Priorities – Brownfield Professional Development (R).....	53100	809,606
Marshall University Graduate College Writing Project (R) .....	80700	25,412
WV Autism Training Center (R) .....	93200	<u>1,992,337</u>
Total.....		\$ 56,725,780

Any unexpended balances remaining in the appropriations for Luke Lee Listening Language and Learning Lab (fund 0348, appropriation 44801), VISTA E-Learning (fund 0348, appropriation 51900), State Priorities – Brownfield Professional Development (fund 0348, appropriation 53100), Marshall University Graduate College Writing Project (fund 0348, appropriation 80700), WV Autism Training Center (fund 0348, appropriation 93200), Marshall University Minority Health Institute (fund 0348, appropriation 42301), and Marshall University Cybersecurity Program – Surplus (fund 0348, appropriation 42302) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

*143 - West Virginia School of Osteopathic Medicine*

(W.V. Code Chapter 18B)

Fund 0336 FY 2025 Org 0476

West Virginia School of Osteopathic Medicine .....	17200	\$ 5,588,340
Rural Health Outreach Programs (R)...	37700	174,997
West Virginia School of Osteopathic Medicine BRIM Subsidy .....	40300	153,405
Rural Health Initiative – Medical Schools Support.....	58100	<u>415,363</u>



Total..... \$ 6,332,105

Any unexpended balance remaining in the appropriation for Rural Health Outreach Programs (fund 0336, appropriation 37700), and West Virginia School of Osteopathic Medicine – Surplus (fund 0336, appropriation 17299) at the close of fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

*144 - Bluefield State University*

(W.V. Code Chapter 18B)

Fund 0354 FY 2025 Org 0482

Bluefield State University..... 40800 \$ 7,081,263

*145 - Concord University*

(W.V. Code Chapter 18B)

Fund 0357 FY 2025 Org 0483

Concord University..... 41000 \$ 11,491,763

*146 - Fairmont State University*

(W.V. Code Chapter 18B)

Fund 0360 FY 2025 Org 0484

Fairmont State University..... 41400 \$ 20,671,494

*147 - Glenville State University*

(W.V. Code Chapter 18B)

Fund 0363 FY 2025 Org 0485

Glenville State University..... 42800 \$ 7,420,879

*148 - Shepherd University*

(W.V. Code Chapter 18B)

Fund 0366 FY 2025 Org 0486

Shepherd University.....	43200	\$ 13,734,975
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*149 - West Liberty University*

(W.V. Code Chapter 18B)

Fund 0370 FY 2025 Org 0488

West Liberty University.....	43900	\$ 10,380,743
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*150 - West Virginia State University*

(W.V. Code Chapter 18B)

Fund 0373 FY 2025 Org 0490

West Virginia State University .....	44100	\$ 11,969,170
Healthy Grandfamilies (R).....	62101	800,000
West Virginia State University		
Land Grant Match.....	95600	<u>5,000,000</u>
Total.....		\$ 17,769,170

Any unexpended balance remaining in the appropriation for Healthy Grandfamilies (fund 0373, appropriation 62101) at the close of fiscal year 2024 is hereby reappropriated for expenditure during the fiscal year 2025.

*151 - Higher Education Policy Commission –**Administration -**West Virginia Network for Educational Telecomputing (WVNET)*

(W.V. Code Chapter 18B)

Fund 0551 FY 2025 Org 0495

WVNET .....	16900	\$ 1,946,515
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**MISCELLANEOUS BOARDS AND COMMISSIONS***152 - Adjutant General –**State Militia*

(W.V. Code Chapter 15)

Fund 0433 FY 2025 Org 0603

Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201	\$	189,000
Unclassified (R) .....	09900		106,798
College Education Fund.....	23200		4,000,000
Civil Air Patrol.....	23400		249,664
Armory Board Transfer.....	70015		2,317,555
Mountaineer ChalleNGe Academy .....	70900		3,570,640
Military Authority (R).....	74800		6,621,038
Drug Enforcement and Support .....	74801		<u>1,592,221</u>
Total.....		\$	18,646,916

Any unexpended balances remaining in the appropriations for Unclassified (fund 0433, appropriation 09900), Military Authority (fund 0433, appropriation 74800), Armory Board Transfers – Surplus (fund 0433, appropriation 70299), Military Authority – Surplus (fund 0433, appropriation 74899), and Federal Funds/Grant Match (fund 0433, appropriation 85700) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

From the above appropriations an amount approved by the Adjutant General may be transferred to the State Armory Board for operation and maintenance of National Guard Armories.

The Adjutant General shall have the authority to transfer between appropriations.

From the above appropriation and other state and federal funding, the Adjutant General shall provide an amount not less than \$3,570,640 to the Mountaineer ChalleNGe Academy to meet anticipated program demand.

*153 - Adjutant General –**Military Fund*

(W.V. Code Chapter 15)

Fund 0605 FY 2025 Org 0603

## Personal Services

and Employee Benefits .....	00100	\$	100,000
Current Expenses .....	13000		<u>57,775</u>
Total .....		\$	157,775

Total TITLE II, Section 1 – General Revenue

(Including claims against the state) \$ 4,996,598,939

**Sec. 2. Appropriations from state road fund.** — From the state road fund there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of the Code the following, amounts, as itemized, for expenditure during the fiscal year 2025.

**DEPARTMENT OF TRANSPORTATION***154 - Division of Motor Vehicles*

(W.V. Code Chapters 17, 17A, 17B, 17C, 17D, 20, and 24A)

Fund 9007 FY 2025 Org 0802

	<b>Appro- priation</b>	<b>State Road Fund</b>
Personal Services		
and Employee Benefits .....	00100	\$ 43,505,517
Salary and Benefits of Cabinet Secretary		
and Agency Heads .....	00201	129,500
Repairs and Alterations .....	06400	144,000
Equipment .....	07000	1,080,000
Current Expenses .....	13000	22,556,730
Buildings .....	25800	10,000

Other Assets .....	69000	2,480,000
BRIM Premium .....	91300	<u>110,000</u>
Total .....		\$ 70,015,747

*155 - Division of Highways*

(W.V. Code Chapters 17 and 17C)

Fund 9017 FY 2025 Org 0803

Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201	\$ 200,000
Debt Service .....	04000	143,000,000
Maintenance .....	23700	565,235,315
Inventory Revolving .....	27500	4,000,000
Equipment Revolving .....	27600	52,950,166
General Operations .....	27700	186,166,680
Interstate Construction .....	27800	275,000,000
Other Federal Aid Programs .....	27900	450,000,000
Appalachian Programs .....	28000	250,000,000
Highway Litter Control .....	28200	<u>1,650,000</u>
Total .....		\$ 1,928,202,161

The above appropriations are to be expended in accordance with the provisions of Chapters 17 and 17C of the W.V. Code.

The Commissioner of Highways shall have the authority to operate revolving funds within the State Road Fund for the operation and purchase of various types of equipment used directly and indirectly in the construction and maintenance of roads and for the purchase of inventories and materials and supplies.

There is hereby appropriated in addition to the above appropriations, sufficient money for the payment of claims, accrued or arising during this budgetary period, to be paid in accordance with Sections 17 and 18, Article 2, Chapter 14 of the W.V. Code.

It is the intent of the Legislature to capture and match all federal funds available for expenditure on the Appalachian highway system at the earliest possible time. Therefore, should amounts in

excess of those appropriated be required for the purposes of Appalachian Programs, funds in excess of the amount appropriated may be made available upon recommendation of the Commissioner and approval of the Governor. Further, for the purpose of Appalachian Programs, funds appropriated by appropriation may be transferred to other appropriations upon recommendation of the Commissioner and approval of the Governor.

Total TITLE II, Section 2 – State Road Fund

(Including claims against the state) \$ 1,998,604,764

**Sec. 3. Appropriations from other funds.** — From the funds designated there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized, for expenditure during the fiscal year 2025.

## LEGISLATIVE

### *156 - Crime Victims Compensation Fund*

(W.V. Code Chapter 14)

Fund 1731 FY 2025 Org 2300

	Appro- priation	Other Funds
Personal Services		
and Employee Benefits.....	00100	\$ 498,020
Repairs and Alterations.....	06400	1,000
Current Expenses .....	13000	133,903
Economic Loss Claim Payment Fund.....	33400	2,000,000
Other Assets .....	69000	<u>3,700</u>
Total.....		\$ 2,636,623

## JUDICIAL

### *157 - Supreme Court –*

*Court Advanced Technology Subscription Fund*

(W.V. Code Chapter 51)

Fund 1704 FY 2025 Org 2400

Current Expenses .....	13000	\$	100,000
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*158 - Supreme Court –**Adult Drug Court Participation Fund*

(W.V. Code Chapter 62)

Fund 1705 FY 2025 Org 2400

Current Expenses .....	13000	\$	200,000
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*159 - Supreme Court –**Family Court Fund*

(W.V. Code Chapter 51)

Fund 1763 FY 2025 Org 2400

Current Expenses .....	13000	\$	900,000
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*160 - Supreme Court –**Court Facilities Maintenance Fund*

(W.V. Code Chapter 51)

Fund 1766 FY 2025 Org 2400

Repairs and Alterations.....	06400	\$	150,000
Current Expenses .....	13000		<u>750,000</u>
Total.....		\$	900,000

**EXECUTIVE***161 - Governor's Office –**Minority Affairs Fund*

(W.V. Code Chapter 5)

Fund 1058 FY 2025 Org 0100

Personal Services		
and Employee Benefits .....	00100	\$ 239,958
Martin Luther King, Jr.		
Holiday Celebration .....	03100	8,926
Current Expenses .....	13000	<u>453,200</u>
Total .....		\$ 702,084

*162 - Auditor's Office –**Grant Recovery Fund*

(W.V. Code Chapter 12)

Fund 1205 FY 2025 Org 1200

Repairs and Alterations .....	06400	\$ 2,000
Equipment .....	07000	7,000
Current Expenses .....	13000	<u>191,000</u>
Total .....		\$ 200,000

*163 - Auditor's Office –**Land Operating Fund*

(W.V. Code Chapters 11A, 12, and 36)

Fund 1206 FY 2025 Org 1200

Personal Services		
and Employee Benefits .....	00100	\$ 901,372
Repairs and Alterations .....	06400	2,600
Equipment .....	07000	426,741
Unclassified .....	09900	15,139
Current Expenses .....	13000	715,291
Cost of Delinquent Land Sale .....	76800	<u>1,841,168</u>
Total .....		\$ 3,902,311



There is hereby appropriated from this fund, in addition to the above appropriations if needed, the necessary amount for the expenditure of funds other than Personal Services and Employee Benefits to enable the division to pay the direct expenses relating to land sales as provided in Chapter 11A of the West Virginia Code.

The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by law.

*164 - Auditor's Office –*

*Local Government Purchasing Card Expenditure Fund*

(W.V. Code Chapter 6)

Fund 1224 FY 2025 Org 1200

Personal Services		
and Employee Benefits .....	00100	\$ 670,729
Repairs and Alterations.....	06400	6,000
Equipment.....	07000	10,805
Current Expenses .....	13000	282,030
Other Assets.....	69000	50,000
Statutory Revenue Distribution.....	74100	<u>3,500,000</u>
Total.....		\$ 4,519,564

There is hereby appropriated from this fund, in addition to the above appropriations if needed, the amount necessary to meet the transfer of revenue distribution requirements to provide a proportionate share of rebates back to the general fund of local governments based on utilization of the program in accordance with W.V. Code §6-9-2b.

*165 - Auditor's Office –*

*Securities Regulation Fund*

(W.V. Code Chapter 32)

Fund 1225 FY 2025 Org 1200

## Personal Services

and Employee Benefits .....	00100	\$ 3,009,931
Repairs and Alterations .....	06400	12,400
Equipment .....	07000	594,700
Unclassified .....	09900	31,866
Current Expenses .....	13000	1,463,830
Other Assets .....	69000	<u>1,200,000</u>
Total .....		\$ 6,312,727

*166 - Auditor's Office –**Technology Support and Acquisition Fund*

(W.V. Code Chapter 12)

Fund 1233 FY 2025 Org 1200

Current Expenses .....	13000	\$ 10,000
Other Assets .....	69000	<u>5,000</u>
Total .....		\$ 15,000

Fifty percent of the deposits made into this fund shall be transferred to the Treasurer's Office – Technology Support and Acquisition Fund (fund 1329) for expenditure for the purposes described in W.V. Code §12-3-10c.

*167 - Auditor's Office –**Purchasing Card Administration Fund*

(W.V. Code Chapter 12)

Fund 1234 FY 2025 Org 1200

## Personal Services

and Employee Benefits .....	00100	\$ 3,407,244
Repairs and Alterations .....	06400	5,500
Equipment .....	07000	850,000
Current Expenses .....	13000	2,303,622
Other Assets .....	69000	508,886
Statutory Revenue Distribution .....	74100	<u>8,000,000</u>
Total .....		\$ 15,075,252

There is hereby appropriated from this fund, in addition to the above appropriations if needed, the amount necessary to meet the transfer and revenue distribution requirements to the Purchasing Improvement Fund (fund 2264), the Entrepreneurship and Innovation Investment Fund (fund 3014), the Hatfield-McCoy Regional Recreation Authority, and the State Park Operating Fund (fund 3265) per W.V. Code §12-3-10d.

*168 - Auditor's Office –*

*Chief Inspector's Fund*

(W.V. Code Chapter 6)

Fund 1235 FY 2025 Org 1200

Personal Services

and Employee Benefits .....	00100	\$	3,910,235
Equipment .....	07000		50,000
Current Expenses .....	13000		<u>765,915</u>
Total .....		\$	4,726,150

*169 - Auditor's Office –*

*Volunteer Fire Department Workers'*

*Compensation Premium Subsidy Fund*

(W.V. Code Chapters 12 and 33)

Fund 1239 FY 2025 Org 1200

Volunteer Fire Department

Workers' Compensation Subsidy ....	83200	\$	2,500,000
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*170 - Auditor's Office –*

*Private Trust Company Application Fund*

(W.V. Code Chapters 31 and 46)

Fund 1241 FY 2025 Org 1200

Equipment .....	07000	\$	30,000
Current Expenses .....	13000		<u>60,000</u>
Total .....		\$	90,000

*171 - Department of Agriculture –*

*Agriculture Fees Fund*

(W.V. Code Chapters 19)

Fund 1401 FY 2025 Org 1400

Personal Services			
and Employee Benefits .....	00100	\$	3,102,402
Repairs and Alterations .....	06400		158,500
Equipment .....	07000		436,209
Unclassified .....	09900		37,425
Current Expenses .....	13000		1,856,184
Other Assets .....	69000		<u>10,000</u>
Total .....		\$	5,600,720

*172 - Department of Agriculture –*

*West Virginia Rural Rehabilitation Program*

(W.V. Code Chapter 19)

Fund 1408 FY 2025 Org 1400

Personal Services			
and Employee Benefits .....	00100	\$	85,293
Unclassified .....	09900		10,476
Current Expenses .....	13000		<u>2,200,000</u>
Total .....		\$	2,295,769

*173 - Department of Agriculture –*

*General John McCausland Memorial Farm Fund*

(W.V. Code Chapter 19)

Fund 1409 FY 2025 Org 1400

Personal Services		
and Employee Benefits .....	00100	\$ 85,545
Repairs and Alterations .....	06400	36,400
Equipment .....	07000	15,000
Unclassified .....	09900	2,100
Current Expenses .....	13000	<u>89,500</u>
Total .....		\$ 228,545

The above appropriations shall be expended in accordance with Article 26, Chapter 19 of the Code.

*174 - Department of Agriculture –*

*Farm Operating Fund*

(W.V. Code Chapter 19)

Fund 1412 FY 2025 Org 1400

Personal Services		
and Employee Benefits .....	00100	\$ 932,035
Repairs and Alterations .....	06400	388,722
Equipment .....	07000	399,393
Unclassified .....	09900	15,173
Current Expenses .....	13000	1,367,464
Other Assets .....	69000	<u>20,000</u>
Total .....		\$ 3,122,787

*175 - Department of Agriculture –*

*Capital Improvements Fund*

(W.V. Code Chapter 19)

Fund 1413 FY 2025 Org 1400

Repairs and Alterations .....	06400	250,000
Equipment .....	07000	350,000
Unclassified .....	09900	20,000
Current Expenses .....	13000	510,000
Buildings .....	25800	670,000
Other Assets .....	69000	<u>200,000</u>
Total .....		\$ 2,000,000

*176 - Department of Agriculture –**Agriculture Development Fund*

(W.V. Code Chapter 19)

Fund 1423 FY 2025 Org 1400

Current Expenses .....	13000	\$	100,000
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*177 - Department of Agriculture –**Donated Food Fund*

(W.V. Code Chapter 19)

Fund 1446 FY 2025 Org 1400

Personal Services			
and Employee Benefits .....	00100	\$	1,163,783
Repairs and Alterations .....	06400		128,500
Equipment .....	07000		10,000
Unclassified .....	09900		45,807
Current Expenses .....	13000		3,410,542
Other Assets .....	69000		27,000
Land .....	73000		<u>250,000</u>
Total .....		\$	5,035,632

*178 - Department of Agriculture –**Integrated Predation Management Fund*

(W.V. Code Chapter 7)

Fund 1465 FY 2025 Org 1400

Current Expenses .....	13000	\$	112,500
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*179 - Department of Agriculture –**West Virginia Spay Neuter Assistance Fund*

(W.V. Code Chapter 19)

Fund 1481 FY 2025 Org 1400

## Personal Services

and Employee Benefits .....	00100	\$	100,000
Current Expenses .....	13000		<u>1,000,000</u>
Total .....		\$	1,100,000

*180 - Department of Agriculture –**Veterans and Warriors to Agriculture Fund*

(W.V. Code Chapter 19)

Fund 1483 FY 2025 Org 1400

Current Expenses .....	13000	\$	7,500
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*181 - Department of Agriculture –**State FFA-FHA Camp and Conference Center*

(W.V. Code Chapters 18 and 18A)

Fund 1484 FY 2025 Org 1400

## Personal Services

and Employee Benefits .....	00100	\$	1,289,160
Repairs and Alterations .....	06400		82,500
Equipment .....	07000		76,000
Unclassified .....	09900		17,000
Current Expenses .....	13000		1,143,306
Buildings .....	25800		1,000
Other Assets .....	69000		10,000
Land .....	73000		<u>1,000</u>
Total .....		\$	2,619,966

*182 - Attorney General –**Antitrust Enforcement Fund*

(W.V. Code Chapter 47)

Fund 1507 FY 2025 Org 1500

## Personal Services

and Employee Benefits .....	00100	\$	371,036
Repairs and Alterations .....	06400		1,000
Equipment .....	07000		1,000
Current Expenses .....	13000		<u>148,803</u>
Total .....		\$	521,839

*183 - Attorney General –**Preneed Burial Contract Regulation Fund*

(W.V. Code Chapter 47)

Fund 1513 FY 2025 Org 1500

## Personal Services

and Employee Benefits .....	00100	\$	240,959
Repairs and Alterations .....	06400		1,000
Equipment .....	07000		1,000
Current Expenses .....	13000		<u>54,615</u>
Total .....		\$	297,574

*184 - Attorney General –**Preneed Funeral Guarantee Fund*

(W.V. Code Chapter 47)

Fund 1514 FY 2025 Org 1500

Current Expenses .....	13000	\$	901,135
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*185 - Secretary of State –**Service Fees and Collection Account*

(W.V. Code Chapters 3, 5, and 59)

Fund 1612 FY 2025 Org 1600

## Personal Services

and Employee Benefits .....	00100	\$	1,196,867
Unclassified .....	09900		4,524



Current Expenses .....	13000	<u>8,036</u>
Total.....		\$ 1,209,427

*186 - Secretary of State –**General Administrative Fees Account*

(W.V. Code Chapters 3, 5, and 59)

Fund 1617 FY 2025 Org 1600

Personal Services		
and Employee Benefits.....	00100	\$ 3,248,467
Unclassified.....	09900	25,529
Current Expenses .....	13000	1,276,716
Technology Improvements .....	59900	<u>870,000</u>
Total.....		\$ 5,420,712

**DEPARTMENT OF ADMINISTRATION***187 - Department of Administration –**Office of the Secretary –**Tobacco Settlement Fund*

(W.V. Code Chapter 4)

Fund 2041 FY 2025 Org 0201

## Tobacco Settlement Securitization

Trustee Passthru.....	65000	\$ 80,000,000
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*188 - Department of Administration –**Office of the Secretary –**Employee Pension and Health Care Benefit Fund*

(W.V. Code Chapter 18)

Fund 2044 FY 2025 Org 0201

Current Expenses .....	13000	\$ 38,166,000
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The above appropriation for Current Expenses (fund 2044, appropriation 13000) shall be transferred to the Consolidated Public Retirement Board – Teachers’ Accumulation Fund (fund 2600).

*189 - Department of Administration –*

*Division of Finance –*

*Shared Services Section Fund*

(W.V. Code Chapter 5A)

Fund 2020 FY 2025 Org 0209

Personal Services		
and Employee Benefits .....	00100	\$ 1,638,791
Current Expenses .....	13000	<u>500,000</u>
Total .....		\$ 2,138,791

*190 - Division of Information Services and Communications*

(W.V. Code Chapter 5A)

Fund 2220 FY 2025 Org 0210

Personal Services		
and Employee Benefits .....	00100	\$ 23,367,490
Equipment .....	07000	2,050,000
Unclassified .....	09900	344,119
Current Expenses .....	13000	34,418,001
Other Assets .....	69000	<u>1,045,000</u>
Total .....		\$ 61,224,610

The total amount of these appropriations shall be paid from a special revenue fund out of collections made by the Division of Information Services and Communications as provided by law.

Each spending unit operating from the General Revenue Fund, from special revenue funds or receiving reimbursement for postage

from the federal government shall be charged monthly for all postage meter service and shall reimburse the revolving fund monthly for all such amounts.

*191 - Division of Purchasing –*

*Vendor Fee Fund*

(W.V. Code Chapter 5A)

Fund 2263 FY 2025 Org 0213

Personal Services		
and Employee Benefits .....	00100	\$ 611,378
Current Expenses .....	13000	9,115
BRIM Premium .....	91300	<u>810</u>
Total .....		\$ 621,303

*192 - Division of Purchasing –*

*Purchasing Improvement Fund*

(W.V. Code Chapter 5A)

Fund 2264 FY 2025 Org 0213

Personal Services		
and Employee Benefits .....	00100	\$ 1,060,880
Repairs and Alterations .....	06400	500
Equipment .....	07000	500
Unclassified .....	09900	5,562
Current Expenses .....	13000	492,066
Other Assets .....	69000	500
BRIM Premium .....	91300	<u>850</u>
Total .....		\$ 1,560,858

*193 - Travel Management –*

*Aviation Fund*

(W.V. Code Chapter 5A)

Fund 2302 FY 2025 Org 0215

Repairs and Alterations.....	06400	\$ 1,275,237
Equipment.....	07000	1,000
Unclassified.....	09900	1,000
Current Expenses .....	13000	149,700
Buildings .....	25800	100
Other Assets.....	69000	100
Land .....	73000	100
Total.....		\$ 1,427,237

*194 - Fleet Management Division Fund*

(W.V. Code Chapter 5A)

Fund 2301 FY 2025 Org 0216

Personal Services		
and Employee Benefits.....	00100	\$ 839,903
Repairs and Alterations.....	06400	12,000
Equipment.....	07000	800,000
Unclassified.....	09900	4,000
Current Expenses .....	13000	11,630,614
Other Assets.....	69000	2,000
Total.....		\$ 13,288,517

*195 - Division of Personnel*

(W.V. Code Chapter 29)

Fund 2440 FY 2025 Org 0222

Personal Services		
and Employee Benefits.....	00100	\$ 5,034,147
Salary and Benefits of Cabinet Secretary		
and Agency Heads .....	00201	122,500
Repairs and Alterations.....	06400	5,000
Equipment.....	07000	20,000
Unclassified.....	09900	51,418
Current Expenses .....	13000	1,262,813
Other Assets.....	69000	60,000

Total.....		\$	6,555,878
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The total amount of these appropriations shall be paid from a special revenue fund out of fees collected by the Division of Personnel.

*196 - West Virginia Prosecuting Attorneys Institute*

(W.V. Code Chapter 7)

Fund 2521 FY 2025 Org 0228

Personal Services			
and Employee Benefits.....	00100	\$	139,779
Salary and Benefits of Cabinet Secretary			
and Agency Heads .....	00201		119,000
Repairs and Alterations.....	06400		600
Equipment.....	07000		500
Unclassified.....	09900		4,023
Current Expenses .....	13000		297,528
Other Assets.....	69000		<u>500</u>
Total.....		\$	561,930

*197 - Office of Technology –*

*Technology Infrastructure Reinvestment Fund*

(W.V. Code Chapter 31)

Fund 2209 FY 2025 Org 0231

Current Expenses .....	13000	\$	400,000
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*198 - Office of Technology –*

*Chief Technology Officer Administration Fund*

(W.V. Code Chapter 5A)

Fund 2531 FY 2025 Org 0231

Personal Services			
and Employee Benefits.....	00100	\$	469,481

Repairs and Alterations.....	06400	1,000
Equipment.....	07000	50,000
Unclassified.....	09900	6,949
Current Expenses .....	13000	2,196,504
Other Assets.....	69000	<u>10,000</u>
Total.....		\$ 2,733,934

From the above fund, the provisions of W.V. Code §11B-2-18 shall not operate to permit expenditures in excess of the funds authorized for expenditure herein.

### DEPARTMENT OF COMMERCE

#### *199 - Division of Forestry*

(W.V. Code Chapter 19)

Fund 3081 FY 2025 Org 0305

Personal Services		
and Employee Benefits.....	00100	\$ 224,509
Repairs and Alterations.....	06400	53,000
Equipment.....	07000	300,000
Current Expenses .....	13000	<u>439,830</u>
Total.....		\$ 1,017,339

#### *200 - Division of Forestry –*

#### *Timbering Operations Enforcement Fund*

(W.V. Code Chapter 19)

Fund 3082 FY 2025 Org 0305

Personal Services		
and Employee Benefits.....	00100	\$ 260,661
Repairs and Alterations.....	06400	11,250
Current Expenses .....	13000	<u>54,873</u>
Total.....		\$ 326,784

#### *201 - Division of Forestry –*

*Severance Tax Operations*

(W.V. Code Chapter 11)

Fund 3084 FY 2025 Org 0305

Current Expenses .....	13000	\$	282,614
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*202 - Geological and Economic Survey –**Geological and Analytical Services Fund*

(W.V. Code Chapter 29)

Fund 3100 FY 2025 Org 0306

## Personal Services

and Employee Benefits .....	00100	\$	37,966
Repairs and Alterations .....	06400		50,000
Equipment .....	07000		20,000
Unclassified .....	09900		2,182
Current Expenses .....	13000		141,631
Other Assets .....	69000		<u>10,000</u>
Total .....		\$	261,779

The above appropriations shall be used in accordance with W.V. Code §29-2-4.

*203 - Division of Labor –**West Virginia Jobs Act Fund*

(W.V. Code Chapter 21)

Fund 3176 FY 2025 Org 0308

Equipment .....	07000	\$	25,000
Current Expenses .....	13000		<u>75,000</u>
Total .....		\$	100,000

*204 - Division of Labor –**HVAC Fund*

(W.V. Code Chapter 21)

Fund 3186 FY 2025 Org 0308

Personal Services		
and Employee Benefits .....	00100	\$ 482,855
Repairs and Alterations .....	06400	4,500
Unclassified .....	09900	4,000
Current Expenses .....	13000	82,000
Buildings .....	25800	1,000
BRIM Premium .....	91300	8,500
Total .....		<u>\$ 582,855</u>

*205 - Division of Labor –**Elevator Safety Fund*

(W.V. Code Chapter 21)

Fund 3188 FY 2025 Org 0308

Personal Services		
and Employee Benefits .....	00100	\$ 305,995
Salary and Benefits of Cabinet Secretary		
and Agency Heads .....	00201	123,221
Repairs and Alterations .....	06400	2,000
Unclassified .....	09900	2,261
Current Expenses .....	13000	94,712
Buildings .....	25800	1,000
BRIM Premium .....	91300	8,500
Total .....		<u>\$ 537,689</u>

*206 - Division of Labor –**Steam Boiler Fund*

(W.V. Code Chapter 21)

Fund 3189 FY 2025 Org 0308

Personal Services		
and Employee Benefits .....	00100	\$ 83,471



Repairs and Alterations.....	06400	2,000
Unclassified.....	09900	1,000
Current Expenses .....	13000	20,000
Buildings .....	25800	1,000
BRIM Premium.....	91300	1,000
Total.....		\$ 108,471

*207 - Division of Labor –*

*Crane Operator Certification Fund*

(W.V. Code Chapter 21)

Fund 3191 FY 2025 Org 0308

Personal Services		
and Employee Benefits .....	00100	\$ 203,573
Repairs and Alterations.....	06400	1,500
Unclassified.....	09900	1,380
Current Expenses .....	13000	51,265
Buildings .....	25800	1,000
BRIM Premium.....	91300	7,000
Total.....		\$ 265,718

*208 - Division of Labor –*

*Amusement Rides and Amusement Attraction Safety Fund*

(W.V. Code Chapter 21)

Fund 3192 FY 2025 Org 0308

Personal Services		
and Employee Benefits .....	00100	\$ 202,269
Repairs and Alterations.....	06400	2,000
Unclassified.....	09900	1,281
Current Expenses .....	13000	44,520
Buildings .....	25800	1,000
BRIM Premium.....	91300	8,500
Total.....		\$ 259,570

*209 - Division of Labor –**State Manufactured Housing Administration Fund*

(W.V. Code Chapter 21)

Fund 3195 FY 2025 Org 0308

Personal Services			
and Employee Benefits .....	00100	\$	303,686
Repairs and Alterations.....	06400		1,000
Unclassified.....	09900		1,847
Current Expenses .....	13000		43,700
Buildings .....	25800		1,000
BRIM Premium.....	91300		<u>3,404</u>
Total.....		\$	354,637

*210 - Division of Labor –**Weights and Measures Fund*

(W.V. Code Chapter 47)

Fund 3196 FY 2025 Org 0308

Repairs and Alterations.....	06400	\$	10,000
Equipment.....	07000		10,000
Unclassified.....	09900		1,200
Current Expenses .....	13000		93,000
BRIM Premium.....	91300		<u>7,000</u>
Total.....		\$	121,200

*211 - Division of Labor –**Bedding and Upholstery Fund*

(W.V. Code Chapter 47)

Fund 3198 FY 2025 Org 0308

Personal Services			
and Employee Benefits.....	00100	\$	156,381

Repairs and Alterations.....	06400	2,000
Unclassified.....	09900	2,000
Current Expenses .....	13000	145,400
Buildings .....	25800	1,000
BRIM Premium.....	91300	8,700
Total.....		\$ 315,481

*212 - Division of Labor –*

*Psychophysiological Examiners Fund*

(W.V. Code Chapter 21)

Fund 3199 FY 2025 Org 0308

Current Expenses .....	13000	\$ 4,000
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*213 - Division of Natural Resources –*

*License Fund – Wildlife Resources*

(W.V. Code Chapter 20)

Fund 3200 FY 2025 Org 0310

Wildlife Resources.....	02300	\$ 10,689,217
Administration .....	15500	2,417,057
Capital Improvements and Land Purchase (R).....	24800	5,140,907
Law Enforcement.....	80600	9,989,958
Total.....		\$ 28,237,139

The total amount of these appropriations shall be paid from a special revenue fund out of fees collected by the Division of Natural Resources.

Any unexpended balance remaining in the appropriation for Capital Improvements and Land Purchase (fund 3200, appropriation 24800) at the close of the fiscal year 2024 is hereby reappropriated for expenditure during the fiscal year 2025.

*214 - Division of Natural Resources –**Natural Resources Game Fish and Aquatic Life Fund*

(W.V. Code Chapter 22)

Fund 3202 FY 2025 Org 0310

Current Expenses .....	13000	\$	125,000
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*215 - Division of Natural Resources –**Nongame Fund*

(W.V. Code Chapter 20)

Fund 3203 FY 2025 Org 0310

Personal Services			
and Employee Benefits .....	00100	\$	727,138
Equipment .....	07000		106,615
Current Expenses .....	13000		<u>201,810</u>
Total .....		\$	1,035,563

*216 - Division of Natural Resources –**Planning and Development Division*

(W.V. Code Chapter 20)

Fund 3205 FY 2025 Org 0310

Personal Services			
and Employee Benefits .....	00100	\$	482,802
Repairs and Alterations .....	06400		15,016
Equipment .....	07000		308,300
Current Expenses .....	13000		1,056,876
Buildings .....	25800		8,300
Other Assets .....	69000		1,900,000
Land .....	73000		<u>31,700</u>
Total .....		\$	3,802,994

*217 - Division of Natural Resources –**State Parks and Recreation Endowment Fund*

(W.V. Code Chapter 20)

Fund 3211 FY 2025 Org 0310

Repairs and Alterations.....	06400	\$	3,000
Equipment.....	07000		2,000
Current Expenses .....	13000		6,000
Buildings.....	25800		3,000
Other Assets.....	69000		3,504,000
Land .....	73000		<u>2,000</u>
Total.....		\$	3,520,000

*218 - Division of Natural Resources –**Whitewater Study and Improvement Fund*

(W.V. Code Chapter 20)

Fund 3253 FY 2025 Org 0310

Personal Services			
and Employee Benefits.....	00100	\$	76,836
Equipment.....	07000		1,297
Current Expenses .....	13000		64,778
Buildings.....	25800		<u>6,969</u>
Total.....		\$	149,880

*219 - Division of Natural Resources –**Whitewater Advertising and Promotion Fund*

(W.V. Code Chapter 20)

Fund 3256 FY 2025 Org 0310

Unclassified.....	09900	\$	200
Current Expenses .....	13000		<u>19,800</u>
Total.....		\$	20,000

*220 - Division of Miners' Health, Safety and Training –**Special Health, Safety and Training Fund*

(W.V. Code Chapter 22A)

Fund 3355 FY 2025 Org 0314

## Personal Services

and Employee Benefits .....	00100	\$	538,305
W.V. Mining Extension Service .....	02600		150,000
Unclassified.....	09900		23,700
Current Expenses .....	13000		<u>1,671,842</u>
Total.....		\$	2,383,847

*221 - Department of Commerce –**Office of the Secretary –**Marketing and Communications Operating Fund*

(W.V. Code Chapter 5B)

Fund 3002 FY 2025 Org 0327

## Personal Services

and Employee Benefits .....	00100	\$	2,285,770
Equipment.....	07000		36,000
Unclassified.....	09900		30,000
Current Expenses .....	13000		<u>1,315,078</u>
Total.....		\$	3,666,848

*222 - State Board of Rehabilitation –**Division of Rehabilitation Services –**West Virginia Rehabilitation Center Special Account*

(W.V. Code Chapter 18)

Fund 8664 FY 2025 Org 0932

## Personal Services

and Employee Benefits .....	00100	\$	119,738
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Repairs and Alterations.....	06400	85,500
Equipment.....	07000	220,000
Current Expenses .....	13000	1,180,122
Buildings .....	25800	150,000
Other Assets.....	69000	<u>150,000</u>
Total.....		\$ 1,905,360

## DEPARTMENT OF ECONOMIC DEVELOPMENT

### *223 - Department of Economic Development –*

#### *Office of Energy –*

#### *Energy Assistance*

(W.V. Code Chapter 5B)

Fund 3010 FY 2025 Org 0307

Energy Assistance - Total .....	64700	\$	7,211
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### *224 - Department of Economic Development –*

#### *Office of the Secretary –*

#### *Broadband Enhancement Fund*

(W.V. Code Chapter 31G)

Fund 3013 FY 2025 Org 0307

Personal Services			
and Employee Benefits.....	00100	\$	131,682
Current Expenses .....	13000		<u>1,648,318</u>
Total.....		\$	1,780,000

### *225 - Department of Economic Development –*

#### *Office of the Secretary –*

#### *Entrepreneurship and Innovation Investment Fund*

(W.V. Code Chapter 5B)

Fund 3014 FY 2025 Org 0307

## Entrepreneurship and Innovation

Investment Fund .....	70301	\$	1,500,000
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*226 - Department of Economic Development –**Office of the Secretary –**Broadband Development Fund*

(W.V. Code Chapter 31G)

Fund 3034 FY 2025 Org 0307

## Personal Services

and Employee Benefits .....	00100	\$	682,669
Unclassified.....	09900		2,000,000
Current Expenses .....	13000		<u>235,302,925</u>
Total.....		\$	237,985,594

*227 - Department of Economic Development –**Office of the Secretary –**Office of Coalfield Community Development*

(W.V. Code Chapter 5B)

Fund 3162 FY 2025 Org 0307

## Personal Services

and Employee Benefits .....	00100	\$	438,687
Unclassified.....	09900		8,300
Current Expenses .....	13000		<u>399,191</u>
Total.....		\$	846,178

**DEPARTMENT OF EDUCATION***228 - State Board of Education –**Strategic Staff Development*



(W.V. Code Chapter 18)

Fund 3937 FY 2025 Org 0402

## Personal Services

and Employee Benefits .....	00100	\$	35,000
Unclassified.....	09900		26,000
Current Expenses .....	13000		<u>2,539,000</u>
Total.....		\$	2,600,000

*229 - School Building Authority –**School Construction Fund*

(W.V. Code Chapters 18 and 18A)

Fund 3952 FY 2025 Org 0404

SBA Construction Grants .....	24000	\$	102,345,818
Directed Transfer .....	70000		<u>1,516,472</u>
Total.....		\$	103,862,290

The above appropriation for Directed Transfer (fund 3952, appropriation 70000) shall be transferred to the School Building Authority Fund (fund 3959) for the administrative expenses of the School Building Authority.

*230 - School Building Authority*

(W.V. Code Chapter 18)

Fund 3959 FY 2025 Org 0404

## Personal Services

and Employee Benefits .....	00100	\$	1,233,127
Repairs and Alterations.....	06400		13,150
Equipment .....	07000		26,000
Current Expenses .....	13000		<u>244,195</u>
Total.....		\$	1,516,472

**DEPARTMENT OF ARTS, CULTURE, AND HISTORY***231 - Division of Culture and History –**Public Records and Preservation Revenue Account*

(W.V. Code Chapter 5A)

Fund 3542 FY 2025 Org 0432

Personal Services		
and Employee Benefits .....	00100	\$ 254,946
Equipment .....	07000	75,000
Current Expenses .....	13000	862,241
Buildings .....	25800	1,000
Other Assets .....	69000	52,328
Land .....	73000	<u>1,000</u>
Total .....		\$ 1,246,515

**DEPARTMENT OF ENVIRONMENTAL PROTECTION***232 - Solid Waste Management Board*

(W.V. Code Chapter 22C)

Fund 3288 FY 2025 Org 0312

Personal Services		
and Employee Benefits .....	00100	\$ 922,334
Repairs and Alterations .....	06400	1,000
Equipment .....	07000	5,000
Current Expenses .....	13000	2,059,457
Other Assets .....	69000	<u>4,403</u>
Total .....		\$ 2,992,194

*233 - Division of Environmental Protection –**Hazardous Waste Management Fund*

(W.V. Code Chapter 22)

Fund 3023 FY 2025 Org 0313

## Personal Services

and Employee Benefits .....	00100	\$	831,098
Repairs and Alterations .....	06400		500
Equipment .....	07000		1,505
Unclassified .....	09900		8,072
Current Expenses .....	13000		155,969
Other Assets .....	69000		2,000
Total .....		\$	999,144

*234 - Division of Environmental Protection –**Air Pollution Education and Environment Fund*

(W.V. Code Chapter 22)

Fund 3024 FY 2025 Org 0313

## Personal Services

and Employee Benefits .....	00100	\$	590,995
Repairs and Alterations .....	06400		13,000
Equipment .....	07000		53,105
Unclassified .....	09900		12,919
Current Expenses .....	13000		612,291
Other Assets .....	69000		20,000
Total .....		\$	1,302,310

*235 - Division of Environmental Protection –**Special Reclamation Fund*

(W.V. Code Chapter 22)

Fund 3321 FY 2025 Org 0313

## Personal Services

and Employee Benefits .....	00100	\$	1,778,866
Repairs and Alterations .....	06400		79,950
Equipment .....	07000		130,192
Current Expenses .....	13000		16,185,006
Other Assets .....	69000		32,000
Total .....		\$	18,206,014

*236 - Division of Environmental Protection –**Oil and Gas Reclamation Fund*

(W.V. Code Chapter 22)

Fund 3322 FY 2025 Org 0313

Personal Services		
and Employee Benefits .....	00100	\$ 562,296
Current Expenses .....	13000	<u>956,094</u>
Total .....		\$ 1,518,390

*237 - Division of Environmental Protection –**Oil and Gas Operating Permit and Processing Fund*

(W.V. Code Chapter 22)

Fund 3323 FY 2025 Org 0313

Personal Services		
and Employee Benefits .....	00100	\$ 3,080,953
Repairs and Alterations .....	06400	9,500
Equipment .....	07000	230,500
Unclassified .....	09900	30,700
Current Expenses .....	13000	937,300
Other Assets .....	69000	<u>500</u>
Total .....		\$ 4,289,453

*238 - Division of Environmental Protection –**Mining and Reclamation Operations Fund*

(W.V. Code Chapter 22)

Fund 3324 FY 2025 Org 0313

Personal Services		
and Employee Benefits .....	00100	\$ 2,774,699
Repairs and Alterations .....	06400	60,260
Equipment .....	07000	83,000

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Unclassified.....	09900	920
Current Expenses .....	13000	1,479,231
Other Assets .....	69000	<u>57,500</u>
Total.....		\$ 4,455,610

*239 - Division of Environmental Protection –*

*Underground Storage Tank*

*Administrative Fund*

(W.V. Code Chapter 22)

Fund 3325 FY 2025 Org 0313

Personal Services		
and Employee Benefits.....	00100	\$ 503,574
Repairs and Alterations.....	06400	5,350
Equipment.....	07000	3,610
Unclassified.....	09900	7,520
Current Expenses .....	13000	318,420
Other Assets .....	69000	<u>3,500</u>
Total.....		\$ 841,974

*240 - Division of Environmental Protection –*

*Hazardous Waste Emergency Response Fund*

(W.V. Code Chapter 22)

Fund 3331 FY 2025 Org 0313

Personal Services		
and Employee Benefits.....	00100	\$ 354,585
Repairs and Alterations.....	06400	7,014
Equipment.....	07000	9,000
Unclassified.....	09900	10,616
Current Expenses .....	13000	767,905
Other Assets .....	69000	<u>3,500</u>
Total.....		\$ 1,152,620

*241 - Division of Environmental Protection –**Solid Waste Reclamation and**Environmental Response Fund*

(W.V. Code Chapter 22)

Fund 3332 FY 2025 Org 0313

## Personal Services

and Employee Benefits .....	00100	\$	904,165
Repairs and Alterations .....	06400		25,000
Equipment .....	07000		106,500
Unclassified .....	09900		22,900
Current Expenses .....	13000		3,929,737
Buildings .....	25800		500
Other Assets .....	69000		<u>1,000</u>
Total .....		\$	4,989,802

*242 - Division of Environmental Protection –**Solid Waste Enforcement Fund*

(W.V. Code Chapter 22)

Fund 3333 FY 2025 Org 0313

## Personal Services

and Employee Benefits .....	00100	\$	3,572,719
Repairs and Alterations .....	06400		30,930
Equipment .....	07000		23,356
Unclassified .....	09900		28,460
Current Expenses .....	13000		932,229
Other Assets .....	69000		<u>20,554</u>
Total .....		\$	4,608,248

*243 - Division of Environmental Protection –**Air Pollution Control Fund*

(W.V. Code Chapter 22)

Fund 3336 FY 2025 Org 0313

## Personal Services

and Employee Benefits .....	00100	\$	6,452,446
Repairs and Alterations .....	06400		84,045
Equipment .....	07000		103,601
Unclassified .....	09900		70,572
Current Expenses .....	13000		1,469,467
Other Assets .....	69000		<u>52,951</u>
Total .....		\$	8,233,082

*244 - Division of Environmental Protection –**Environmental Laboratory**Certification Fund*

(W.V. Code Chapter 22)

Fund 3340 FY 2025 Org 0313

## Personal Services

and Employee Benefits .....	00100	\$	389,614
Repairs and Alterations .....	06400		1,000
Unclassified .....	09900		1,120
Current Expenses .....	13000		201,146
Other Assets .....	69000		<u>163,000</u>
Total .....		\$	755,880

*245 - Division of Environmental Protection –**Stream Restoration Fund*

(W.V. Code Chapter 22)

Fund 3349 FY 2025 Org 0313

Current Expenses .....	13000	\$	3,682,076
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*246 - Division of Environmental Protection –**Litter Control Fund*

(W.V. Code Chapter 22)

Fund 3486 FY 2025 Org 0313

Current Expenses .....	13000	\$	60,000
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*247 - Division of Environmental Protection –**Recycling Assistance Fund*

(W.V. Code Chapter 22)

Fund 3487 FY 2025 Org 0313

Personal Services

and Employee Benefits .....	00100	\$	717,788
Repairs and Alterations .....	06400		800
Equipment .....	07000		500
Unclassified .....	09900		400
Current Expenses .....	13000		2,754,258
Other Assets .....	69000		<u>2,500</u>
Total .....		\$	3,476,246

*248 - Division of Environmental Protection –**Mountaintop Removal Fund*

(W.V. Code Chapter 22)

Fund 3490 FY 2025 Org 0313

Personal Services

and Employee Benefits .....	00100	\$	858,694
Repairs and Alterations .....	06400		27,612
Equipment .....	07000		23,500
Unclassified .....	09900		1,180
Current Expenses .....	13000		390,907
Other Assets .....	69000		<u>11,520</u>
Total .....		\$	1,313,413



*249 - Oil and Gas Conservation Commission –**Special Oil and Gas Conservation Fund*

(W.V. Code Chapter 22C)

Fund 3371 FY 2025 Org 0315

Personal Services			
and Employee Benefits .....	00100	\$	171,356
Repairs and Alterations.....	06400		1,000
Equipment.....	07000		9,481
Current Expenses .....	13000		161,225
Other Assets.....	69000		<u>1,500</u>
Total.....		\$	344,562

**DEPARTMENT OF HEALTH***250 - Department of Health –**Emergency Medical Service Workers Salary Enhancement Fund*

(W.V. Code Chapter 16A)

Fund 5049 FY 2025 Org 0506

Current Expenses .....	13000	\$	10,000,000
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*251 - Department of Health –**The Vital Statistics Account*

(W.V. Code Chapter 16)

Fund 5144 FY 2025 Org 0506

Personal Services			
and Employee Benefits .....	00100	\$	1,198,160
Unclassified.....	09900		15,500
Current Expenses .....	13000		<u>3,557,788</u>
Total.....		\$	4,771,448

The total amount of these appropriations shall be paid from the Hospital Services Revenue Account Special Fund created by W.V. Code §16-1-13, and shall be used for operating expenses and for improvements in connection with existing facilities.

Additional funds have been appropriated from General Revenue for the operation of the institutional facilities.

Necessary funds from the above appropriation for Institutional Facilities Operations may be used for medical facilities operations, either in connection with this fund or in connection with the appropriations designated for Hopemont Hospital, Lakin Hospital, John Manchin Senior Health Care Center, Jackie Withrow Hospital, Welch Community Hospital, William R. Sharpe Jr. Hospital, Mildred Mitchell-Bateman Hospital, and William R. Sharpe Jr. Hospital – Transitional Living Facility.

*252 - Department of Health –*

*Laboratory Services Fund*

(W.V. Code Chapter 16)

Fund 5163 FY 2025 Org 0506

Personal Services

and Employee Benefits .....	00100	\$	1,083,838
Unclassified.....	09900		18,114
Current Expenses .....	13000		<u>2,209,105</u>
Total.....		\$	3,311,057

*253 - Department of Health –*

*The Health Facility Licensing Account*

(W.V. Code Chapter 16)

Fund 5172 FY 2025 Org 0506

Personal Services

and Employee Benefits .....	00100	\$	712,839
Unclassified.....	09900		7,113

Current Expenses .....	13000	<u>98,247</u>
Total.....		\$ 818,199

*254 - Department of Health –**Hepatitis B Vaccine*

(W.V. Code Chapter 16)

Fund 5183 FY 2025 Org 0506

Current Expenses .....	13000	\$ 9,740
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*255 - Department of Health –**Lead Abatement Account*

(W.V. Code Chapter 16)

Fund 5204 FY 2025 Org 0506

Personal Services		
and Employee Benefits .....	00100	\$ 19,100
Unclassified.....	09900	373
Current Expenses .....	13000	<u>17,875</u>
Total.....		\$ 37,348

*256 - Department of Health –**West Virginia Birth-to-Three Fund*

(W.V. Code Chapter 16)

Fund 5214 FY 2025 Org 0506

Personal Services		
and Employee Benefits .....	00100	\$ 769,278
Unclassified.....	09900	223,999
Current Expenses .....	13000	<u>35,693,134</u>
Total.....		\$ 36,686,411

*257 - Department of Health –**Tobacco Control Special Fund*

(W.V. Code Chapter 16)

Fund 5218 FY 2025 Org 0506

Current Expenses .....	13000	\$	7,579
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*258 - Department of Health –**Medical Cannabis Program Fund*

(W.V. Code Chapter 16A)

Fund 5420 FY 2025 Org 0506

## Personal Services

and Employee Benefits .....	00100	\$	509,658
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Current Expenses .....	13000		<u>2,046,040</u>
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Total .....		\$	2,555,698
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*259 - West Virginia Health Care Authority –**Health Care Cost Review Fund*

(W.V. Code Chapter 16)

Fund 5375 FY 2025 Org 0507

## Personal Services

and Employee Benefits .....	00100	\$	366,513
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Unclassified .....	09900		13,500
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Current Expenses .....	13000		<u>536,586</u>
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Total .....		\$	916,599
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The above appropriation is to be expended in accordance with and pursuant to the provisions of W.V. Code §16-29B and from the special revolving fund designated Health Care Cost Review Fund.

*260 - West Virginia Health Care Authority –**Certificate of Need Program Fund*

(W.V. Code Chapter 16)

Fund 5377 FY 2025 Org 0507

## Personal Services

and Employee Benefits .....	00100	\$	555,842
Current Expenses .....	13000		<u>392,267</u>
Total .....		\$	948,109

**DEPARTMENT OF HUMAN SERVICES***261 - Department of Human Services –**Health Care Provider Tax –**Medicaid State Share Fund*

(W.V. Code Chapter 11)

Fund 5090 FY 2025 Org 0511

Medical Services .....	18900	\$	393,594,315
Medical Services Administrative Costs	78900		<u>268,451</u>
Total .....		\$	393,862,766

The above appropriation for Medical Services Administrative Costs (fund 5090, appropriation 78900) shall be transferred to a special revenue account in the treasury for use by the Department of Human Services for administrative purposes. The remainder of all moneys deposited in the fund shall be transferred to the Medical Services Program Fund (fund 5084).

*262 - Department of Human Services –**Child Support Enforcement Fund*

(W.V. Code Chapter 48A)

Fund 5094 FY 2025 Org 0511

## Personal Services

and Employee Benefits .....	00100	\$ 27,809,509
Unclassified.....	09900	380,000
Current Expenses .....	13000	<u>12,810,491</u>
Total.....		\$ 41,000,000

*263 - Department of Human Services –**Ryan Brown Addiction Prevention and Recovery Fund*

(W.V. Code Chapter 19)

Fund 5111 FY 2025 Org 0511

Current Expenses .....	13000	\$ 10,667,392
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*264 - Department of Human Services –**Medical Services Trust Fund*

(W.V. Code Chapter 9)

Fund 5185 FY 2025 Org 0511

Medical Services .....	18900	\$ 55,000,000
Medical Services Administrative Costs	78900	<u>738,149</u>
Total.....		\$ 55,738,149

The above appropriation to Medical Services shall be used to provide state match of Medicaid expenditures as defined and authorized in subsection (c) of W.V. Code §9-4A-2a. Expenditures from the fund are limited to the following: payment of backlogged billings, funding for services to future federally mandated population groups and payment of the required state match for Medicaid disproportionate share payments. The remainder of all moneys deposited in the fund shall be transferred to the Department of Human Services accounts.

*265 - Department of Human Services –**James “Tiger” Morton Catastrophic Illness Fund*

(W.V. Code Chapter 16)

Fund 5454 FY 2025 Org 0511

Personal Services			
and Employee Benefits .....	00100	\$	136,984
Unclassified.....	09900		4,000
Current Expenses .....	13000		<u>396,000</u>
Total.....		\$	536,984

*266 - Department of Human Services –**Domestic Violence Legal Services Fund*

(W.V. Code Chapter 48)

Fund 5455 FY 2025 Org 0511

Current Expenses .....	13000	\$	900,000
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*267 - Department of Human Services –**West Virginia Works Separate State College Program Fund*

(W.V. Code Chapter 9)

Fund 5467 FY 2025 Org 0511

Current Expenses .....	13000	\$	500,000
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*268 - Department of Human Services –**West Virginia Works Separate State Two-Parent Program Fund*

(W.V. Code Chapter 9)

Fund 5468 FY 2025 Org 0511

Current Expenses .....	13000	\$	1,500,000
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*269 - Department of Human Services –**Marriage Education Fund*

(W.V. Code Chapter 9)

Fund 5490 FY 2025 Org 0511

Personal Services			
and Employee Benefits .....	00100	\$	10,000
Current Expenses .....	13000		<u>25,000</u>
Total .....		\$	35,000

**DEPARTMENT OF HEALTH FACILITIES***270 - Department of Health Facilities –**Hospital Services Revenue Account**Special Fund**Capital Improvement, Renovation and Operations*

(W.V. Code Chapter 16)

Fund 5156 FY 2025 Org 0512

Institutional Facilities Operations .....	33500	\$	59,195,646
Medical Services Trust Fund –			
Transfer .....	51200		<u>27,800,000</u>
Total .....		\$	86,995,646

**DEPARTMENT OF HOMELAND SECURITY***271 - Department of Homeland Security –**Office of the Secretary –**Law-Enforcement, Safety and Emergency Worker**Funeral Expense Payment Fund*

(W.V. Code Chapter 15)

Fund 6003 FY 2025 Org 0601

Current Expenses .....	13000	\$	32,000
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*272 - Division of Emergency Management –**Statewide Interoperable Radio Network Account*

(W.V. Code Chapter 15)

Fund 6208 FY 2025 Org 0606

Current Expenses .....	13000	\$	80,000
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*273 - Division of Emergency Management –**West Virginia Interoperable Radio Project*

(W.V. Code Chapter 24)

Fund 6295 FY 2025 Org 0606

Repairs and Alterations.....	06400	\$	950,000
Equipment.....	07000		550,000
Unclassified.....	09900		20,000
Current Expenses .....	13000		<u>3,980,000</u>
Total.....		\$	5,500,000

*274 - Division of Corrections and Rehabilitation –**Parolee Supervision Fees*

(W.V. Code Chapter 15A)

Fund 6362 FY 2025 Org 0608

## Personal Services

and Employee Benefits.....	00100	\$	1,247,729
Equipment.....	07000		30,000
Unclassified.....	09900		9,804
Current Expenses .....	13000		758,480
Other Assets.....	69000		<u>40,129</u>
Total.....		\$	2,086,142

*275 - Division of Corrections and Rehabilitation –**Regional Jail and Correctional Facility Authority*

## (W.V. Code Chapter 15A)

Fund 6675 FY 2025 Org 0608

Personal Services		
and Employee Benefits .....	00100	\$ 2,027,746
Debt Service .....	04000	1,900,000
Repairs and Alterations .....	06400	5,000,000
Equipment .....	07000	2,000,000
Unclassified .....	09900	100,000
Current Expenses .....	13000	<u>245,472</u>
Total .....		\$ 11,273,218

*276 - West Virginia State Police –**Motor Vehicle Inspection Fund*

## (W.V. Code Chapter 17C)

Fund 6501 FY 2025 Org 0612

Personal Services		
and Employee Benefits .....	00100	\$ 2,092,049
Repairs and Alterations .....	06400	204,500
Equipment .....	07000	3,770,751
Current Expenses .....	13000	1,488,211
Buildings .....	25800	534,000
Other Assets .....	69000	5,000
BRIM Premium .....	91300	<u>302,432</u>
Total .....		\$ 8,396,943

The total amount of these appropriations shall be paid from the special revenue fund out of fees collected for inspection stickers as provided by law.

*277 - West Virginia State Police –**Forensic Laboratory Fund*

## (W.V. Code Chapter 15)

Fund 6511 FY 2025 Org 0612

## Personal Services

and Employee Benefits .....	00100	\$ 1,637,078
Repairs and Alterations .....	06400	5,000
Equipment .....	07000	545,000
Current Expenses .....	13000	<u>90,000</u>
Total .....		\$ 2,277,078

*278 - West Virginia State Police –**Drunk Driving Prevention Fund*

(W.V. Code Chapter 15)

Fund 6513 FY 2025 Org 0612

Equipment .....	07000	\$ 3,491,895
Current Expenses .....	13000	1,327,000
BRIM Premium .....	91300	<u>154,452</u>
Total .....		\$ 4,973,347

The total amount of these appropriations shall be paid from the special revenue fund out of receipts collected pursuant to W.V. Code §11-15-9a and 16 and paid into a revolving fund account in the State Treasury.

*279 - West Virginia State Police –**Surplus Real Property Proceeds Fund*

(W.V. Code Chapter 15)

Fund 6516 FY 2025 Org 0612

Buildings .....	25800	\$ 1,022,778
Land .....	73000	1,000
BRIM Premium .....	91300	<u>77,222</u>
Total .....		\$ 1,101,000

*280 - West Virginia State Police –**Surplus Transfer Account*

(W.V. Code Chapter 15)

Fund 6519 FY 2025 Org 0612

Repairs and Alterations.....	06400	\$	20,000
Equipment .....	07000		250,000
Current Expenses .....	13000		225,000
Buildings .....	25800		40,000
Other Assets .....	69000		45,000
BRIM Premium.....	91300		<u>5,000</u>
Total.....		\$	585,000

*281 - West Virginia State Police –**Central Abuse Registry Fund*

(W.V. Code Chapter 15)

Fund 6527 FY 2025 Org 0612

Personal Services			
and Employee Benefits .....	00100	\$	289,971
Repairs and Alterations.....	06400		500
Equipment .....	07000		300,500
Current Expenses .....	13000		376,443
Other Assets .....	69000		300,500
BRIM Premium.....	91300		<u>18,524</u>
Total.....		\$	1,286,438

*282 - West Virginia State Police –**Bail Bond Enforcer Account*

(W.V. Code Chapter 15)

Fund 6532 FY 2025 Org 0612

Current Expenses .....	13000	\$	8,300
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*283 - West Virginia State Police –**State Police Academy Post Exchange*

## (W.V. Code Chapter 15)

Fund 6544 FY 2025 Org 0612

Repairs and Alterations.....	06400	\$	40,000
Current Expenses .....	13000		<u>160,000</u>
Total.....		\$	200,000

*284 - Fire Commission –**Fire Marshal Fees*

## (W.V. Code Chapter 15A)

Fund 6152 FY 2025 Org 0619

## Personal Services

and Employee Benefits.....	00100	\$	3,893,612
Repairs and Alterations.....	06400		58,500
Equipment.....	07000		140,800
Unclassified.....	09900		3,800
Current Expenses .....	13000		1,646,550
BRIM Premium.....	91300		<u>65,000</u>
Total.....		\$	5,808,262

*285 - Division of Administrative Services –**W.V. Community Corrections Fund*

## (W.V. Code Chapter 62)

Fund 6386 FY 2025 Org 0623

## Personal Services

and Employee Benefits.....	00100	\$	176,985
Repairs and Alterations.....	06400		1,000
Unclassified.....	09900		750
Current Expenses .....	13000		<u>1,846,250</u>
Total.....		\$	2,024,985

**286 - Division of Administrative Services –***Court Security Fund*

(W.V. Code Chapter 51)

Fund 6804 FY 2025 Org 0623

## Personal Services

and Employee Benefits .....	00100	\$	26,462
Current Expenses .....	13000		<u>1,478,135</u>
Total .....		\$	1,504,597

**287 - Division of Administrative Services –***Second Chance Driver's License Program Account*

(W.V. Code Chapter 17B)

Fund 6810 FY 2025 Org 0623

Current Expenses .....	13000	\$	125,000
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**DEPARTMENT OF REVENUE****288 - Division of Financial Institutions**

(W.V. Code Chapter 31A)

Fund 3041 FY 2025 Org 0303

## Personal Services

and Employee Benefits .....	00100	\$	2,815,127
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201		119,000
Equipment .....	07000		8,500
Current Expenses .....	13000		<u>650,475</u>
Total .....		\$	3,593,102

**289 - Office of the Secretary –***State Debt Reduction Fund*

(W.V. Code Chapter 29)

Fund 7007 FY 2025 Org 0701

Retirement Systems –

Unfunded Liability.....	77500	\$	20,000,000
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The above appropriation for Retirement Systems – Unfunded Liability (fund 7007, appropriation 77500) shall be transferred to the School Aid Formula Funds Holding Account Fund (fund 2606).

*290 - Home Rule Board Operations*

(W.V. Code Chapter 8)

Fund 7010 FY 2025 Org 0701

Personal Services

and Employee Benefits.....	00100	\$	25,000
Repairs and Alterations.....	06400		120
Equipment.....	07000		200
Unclassified.....	09900		680
Current Expenses .....	13000		<u>42,000</u>
Total.....		\$	68,000

*291 - Tax Division –**Reduced Cigarette Ignition Propensity**Standard and Fire Prevention Act Fund*

(W.V. Code Chapter 47)

Fund 7092 FY 2025 Org 0702

Equipment.....	07000	\$	15,000
Current Expenses .....	13000		<u>35,000</u>
Total.....		\$	50,000

*292 - State Budget Office –**Public Employees Insurance Reserve Fund*

(W.V. Code Chapter 11B)

Fund 7400 FY 2025 Org 0703

Public Employees Insurance Reserve Fund –

Transfer.....	90300	\$	6,800,000
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The above appropriation for Public Employees Insurance Reserve Fund – Transfer shall be transferred to the Medical Services Trust Fund (fund 5185).

*293 - Insurance Commissioner –**Examination Revolving Fund*

(W.V. Code Chapter 33)

Fund 7150 FY 2025 Org 0704

Personal Services

and Employee Benefits.....	00100	\$	782,104
Repairs and Alterations.....	06400		3,000
Equipment.....	07000		81,374
Current Expenses .....	13000		1,357,201
Buildings .....	25800		8,289
Other Assets.....	69000		11,426
Total.....		\$	2,243,394

*294 - Insurance Commissioner –**Consumer Advocate*

(W.V. Code Chapter 33)

Fund 7151 FY 2025 Org 0704

Personal Services

and Employee Benefits.....	00100	\$	602,587
Repairs and Alterations.....	06400		5,000
Equipment.....	07000		34,225
Current Expenses .....	13000		202,152
Buildings .....	25800		4,865



Other Assets .....	69000	<u>19,460</u>
Total .....		\$ 868,289

*295 - Insurance Commissioner –**Insurance Commission Fund*

(W.V. Code Chapter 33)

Fund 7152 FY 2025 Org 0704

Personal Services		
and Employee Benefits .....	00100	\$ 23,351,665
Salary and Benefits of Cabinet Secretary		
and Agency Heads .....	00201	136,500
Repairs and Alterations .....	06400	68,614
Equipment .....	07000	302,688
Current Expenses .....	13000	8,797,758
Buildings .....	25800	25,000
Other Assets .....	69000	<u>50,000</u>
Total .....		\$ 32,732,225

*296 - Insurance Commissioner –**Insurance Fraud Prevention Fund*

(W.V. Code Chapter 33)

Fund 7153 FY 2025 Org 0704

Current Expenses .....	13000	\$ 15,000
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*297 - Insurance Commissioner –**Workers' Compensation Old Fund*

(W.V. Code Chapter 23)

Fund 7162 FY 2025 Org 0704

Employee Benefits .....	01000	\$ 50,000
Current Expenses .....	13000	<u>250,500,000</u>
Total .....		\$ 250,550,000

**298 - Insurance Commissioner –***Workers' Compensation Uninsured Employers' Fund*

(W.V. Code Chapter 23)

Fund 7163 FY 2025 Org 0704

Current Expenses .....	13000	\$	15,000,000
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**299 - Insurance Commissioner –***Self-Insured Employer Guaranty Risk Pool*

(W.V. Code Chapter 23)

Fund 7164 FY 2025 Org 0704

Current Expenses .....	13000	\$	9,000,000
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**300 - Insurance Commissioner –***Self-Insured Employer Security Risk Pool*

(W.V. Code Chapter 23)

Fund 7165 FY 2025 Org 0704

Current Expenses .....	13000	\$	14,000,000
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**301 - Municipal Bond Commission**

(W.V. Code Chapter 13)

Fund 7253 FY 2025 Org 0706

## Personal Services

and Employee Benefits .....	00100	\$	383,671
Equipment .....	07000		100
Current Expenses .....	13000		<u>154,344</u>
Total .....		\$	538,115

*302 - Racing Commission –**Relief Fund*

(W.V. Code Chapter 19)

Fund 7300 FY 2025 Org 0707

Medical Expenses – Total.....	24500	\$	154,000
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The total amount of this appropriation shall be paid from the special revenue fund out of collections of license fees and fines as provided by law.

No expenditures shall be made from this fund except for hospitalization, medical care, and/or funeral expenses for persons contributing to this fund.

*303 - Racing Commission –**Administration and Promotion Account*

(W.V. Code Chapter 19)

Fund 7304 FY 2025 Org 0707

Personal Services			
and Employee Benefits.....	00100	\$	288,127
Current Expenses .....	13000		85,433
Other Assets.....	69000		<u>5,000</u>
Total.....		\$	378,560

*304 - Racing Commission –**General Administration*

(W.V. Code Chapter 19)

Fund 7305 FY 2025 Org 0707

Personal Services			
and Employee Benefits.....	00100	\$	2,523,239
Salary and Benefits of Cabinet Secretary			
and Agency Heads .....	00201		59,533

Repairs and Alterations.....	06400	5,000
Current Expenses .....	13000	497,284
Other Assets .....	69000	<u>40,000</u>
Total.....		\$ 3,125,056

**305 - Racing Commission –**

*Administration, Promotion, Education, Capital Improvement*

*and Greyhound Adoption Programs*

*to include Spaying and Neutering Account*

(W.V. Code Chapter 19)

Fund 7307 FY 2025 Org 0707

Personal Services and Employee Benefits.....	00100	\$ 937,171
Current Expenses .....	13000	160,099
Other Assets .....	69000	<u>200,000</u>
Total.....		\$ 1,297,270

**306 - Racing Commission –**

*Advance Deposit Wagering Account*

(W.V. Code Chapter 19)

Fund 7309 FY 2025 Org 0707

Current Expenses .....	13000	\$ 1,116,000
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**307 - Alcohol Beverage Control Administration –**

*Wine License Special Fund*

(W.V. Code Chapter 60)

Fund 7351 FY 2025 Org 0708

Personal Services and Employee Benefits.....	00100	\$ 156,111
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Repairs and Alterations.....	06400	7,263
Equipment.....	07000	10,000
Current Expenses .....	13000	160,436
Buildings .....	25800	100,000
Transfer Liquor Profits and Taxes .....	42500	30,750
Other Assets.....	69000	<u>350,100</u>
Total.....		\$ 814,660

To the extent permitted by law, four classified exempt positions shall be provided from Personal Services and Employee Benefits appropriation for field auditors.

*308 - Alcohol Beverage Control Administration*

(W.V. Code Chapter 60)

Fund 7352 FY 2025 Org 0708

Personal Services

and Employee Benefits.....	00100	\$ 6,239,729
Salary and Benefits of Cabinet Secretary		
and Agency Heads .....	00201	122,500
Repairs and Alterations.....	06400	91,000
Equipment.....	07000	108,000
Current Expenses .....	13000	2,890,577
Buildings .....	25800	375,100
Purchase of Supplies for Resale.....	41900	104,000,000
Transfer Liquor Profits and Taxes .....	42500	33,400,000
Other Assets.....	69000	125,100
Land .....	73000	<u>100</u>
Total.....		\$ 147,352,106

The total amount of these appropriations shall be paid from a special revenue fund out of liquor revenues and any other revenues available.

The above appropriations include the salary of the commissioner and the salaries, expenses, and equipment of administrative offices, warehouses, and inspectors.

The above appropriations include funding for the Tobacco/Alcohol Education Program.

There is hereby appropriated from liquor revenues, in addition to the above appropriations as needed, the necessary amount for the purchase of liquor as provided by law and the remittance of profits and taxes to the General Revenue Fund.

**309 - State Athletic Commission Fund**

(W.V. Code Chapter 29)

Fund 7009 FY 2025 Org 0933

Personal Services

and Employee Benefits .....	00100	\$	17,500
Current Expenses .....	13000		<u>28,000</u>
Total .....		\$	45,500

**DEPARTMENT OF TRANSPORTATION**

**310 - Division of Motor Vehicles –**

*Dealer Recovery Fund*

(W.V. Code Chapter 17)

Fund 8220 FY 2025 Org 0802

Current Expenses .....	13000	\$	189,000
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**311 - Division of Motor Vehicles –**

*Motor Vehicle Fees Fund*

(W.V. Code Chapter 17B)

Fund 8223 FY 2025 Org 0802

Personal Services

and Employee Benefits .....	00100	\$	4,478,448
Repairs and Alterations .....	06400		16,000
Equipment .....	07000		75,000

Current Expenses .....	13000	4,337,712
Other Assets .....	69000	10,000
BRIM Premium.....	91300	<u>110,000</u>
Total.....		\$ 9,027,160

312 - Division of Highways –

A. James Manchin Fund

(W.V. Code Chapter 22)

Fund 8319 FY 2025 Org 0803

Current Expenses .....	13000	\$ 2,900,000
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313 - WV Division of Multimodal Transportation Facilities -

State Rail Authority -

West Virginia Commuter Rail Access Fund

(W.V. Code Chapter 29)

Fund 8402 FY 2025 Org 0810

Current Expenses .....	13000	\$ 600,000
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DEPARTMENT OF VETERANS’ ASSISTANCE

314 - Veterans’ Facilities Support Fund

(W.V. Code Chapter 9A)

Fund 6703 FY 2025 Org 0613

Personal Services		
and Employee Benefits .....	01000	\$ 99,135
Current Expenses .....	13000	1,654,234
Other Assets .....	69000	<u>10,000</u>
Total.....		\$ 1,763,369

*315 - Department of Veterans' Assistance –**W.V. Veterans' Home –**Special Revenue Operating Fund**(W.V. Code Chapter 9A)**Fund 6754 FY 2025 Org 0618*

Repairs and Alterations.....	06400	\$	10,600
Current Expenses .....	13000	\$	<u>289,400</u>
Total.....		\$	300,000

**BUREAU OF SENIOR SERVICES***316 - Bureau of Senior Services –**Community Based Service Fund**(W.V. Code Chapter 29)**Fund 5409 FY 2025 Org 0508*

Personal Services			
and Employee Benefits.....	00100	\$	160,628
Salary and Benefits of Cabinet Secretary			
and Agency Heads .....	00201		30,000
Current Expenses .....	13000		<u>14,399,338</u>
Total.....		\$	14,589,966

The total amount of these appropriations are funded from annual table game license fees to enable the aged and disabled citizens of West Virginia to stay in their homes through the provision of home and community-based services.

**HIGHER EDUCATION POLICY COMMISSION***317 - Higher Education Policy Commission –**System –**Tuition Fee Capital Improvement Fund*



*(Capital Improvement and Bond Retirement Fund)**Control Account*

(W.V. Code Chapters 18 and 18B)

Fund 4903 FY 2025 Org 0442

Debt Service.....	04000	\$ 27,411,984
General Capital Expenditures .....	30600	5,000,000
Facilities Planning and Administration	38600	<u>479,369</u>
Total.....		\$ 32,891,353

The total amount of these appropriations shall be paid from the Special Capital Improvement Fund created in W.V. Code §18B-10-8. Projects are to be paid on a cash basis and made available on July 1.

The above appropriations, except for Debt Service, may be transferred to special revenue funds for capital improvement projects at the institutions.

*318 - Tuition Fee Revenue Bond Construction Fund*

(W.V. Code Chapters 18 and 18B)

Fund 4906 FY 2025 Org 0442

Any unexpended balance remaining in the appropriation for Capital Outlay (fund 4906, appropriation 51100) at the close of the fiscal year 2024 is hereby reappropriated for expenditure during the fiscal year 2025.

The appropriation shall be paid from available unexpended cash balances and interest earnings accruing to the fund. The appropriation shall be expended at the discretion of the Higher Education Policy Commission and the funds may be allocated to any institution within the system.

The total amount of this appropriation shall be paid from the unexpended proceeds of revenue bonds previously issued pursuant to W.V. Code §18-12B-8, which have since been refunded.

**319 - West Virginia University –***West Virginia University Health Sciences Center*

(W.V. Code Chapters 18 and 18B)

Fund 4179 FY 2025 Org 0463

Personal Services		
and Employee Benefits .....	00100	\$ 11,795,211
Repairs and Alterations.....	06400	425,000
Equipment.....	07000	512,000
Current Expenses .....	13000	4,524,300
Buildings .....	25800	150,000
Other Assets .....	69000	<u>50,000</u>
Total.....		\$ 17,456,511

**320 - Marshall University –***School of Medicine*

(W.V. Code Chapter 18B)

Fund 4271 FY 2025 Org 0471

Marshall Medical School .....	17300	\$ 5,500,000
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**321 - West Virginia School of Osteopathic Medicine**

(W.V. Code Chapter 18B)

Fund 4272 FY 2025 Org 0476

West Virginia School of Osteopathic Medicine .....	17200	\$ 4,115,931
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**MISCELLANEOUS BOARDS AND COMMISSIONS****322 - Board of Barbers and Cosmetologists –***Barbers and Beauticians Special Fund*

(W.V. Code Chapters 16 and 30)

Fund 5425 FY 2025 Org 0505

## Personal Services

and Employee Benefits .....	00100	\$	607,945
Repairs and Alterations .....	06400		5,000
Current Expenses .....	13000		<u>234,969</u>
Total .....		\$	847,914

The total amount of these appropriations shall be paid from a special revenue fund out of collections made by the Board of Barbers and Cosmetologists as provided by law.

*323 - Hospital Finance Authority –**Hospital Finance Authority Fund*

(W.V. Code Chapter 16)

Fund 5475 FY 2025 Org 0509

## Personal Services

and Employee Benefits .....	00100	\$	10,000
Salary and Benefits of Cabinet Secretary and Agency Heads .....	00201		93,339
Unclassified .....	09900		1,501
Current Expenses .....	13000		<u>55,268</u>
Total .....		\$	160,108

The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by Article 29A, Chapter 16 of the W.V. Code.

*324 - State Armory Board –**General Armory Fund*

(W.V. Code Chapter 15)

Fund 6057 FY 2025 Org 0603

## Personal Services

and Employee Benefits .....	00100	\$	1,690,382
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Repairs and Alterations.....	06400	385,652
Equipment.....	07000	250,000
Current Expenses .....	13000	650,000
Buildings .....	25800	520,820
Other Assets.....	69000	350,000
Land .....	73000	<u>200,000</u>
Total.....		\$ 4,046,854

From the above appropriations, the Adjutant General may receive and expend funds to conduct operations and activities to include functions of the Military Authority. The Adjutant General may transfer funds between appropriations, except no funds may be transferred to Personal Services and Employee Benefits (fund 6057, appropriation 00100).

**325 - W.V. State Board of Examiners for Licensed Practical Nurses–**

*Licensed Practical Nurses*

(W.V. Code Chapter 30)

Fund 8517 FY 2025 Org 0906

Personal Services		
and Employee Benefits.....	00100	\$ 1,002,286
Current Expenses .....	13000	<u>253,007</u>
Total.....		\$ 1,255,293

**326 - W.V. Board of Examiners for Registered Professional Nurses –**

*Registered Professional Nurses*

(W.V. Code Chapter 30)

Fund 8520 FY 2025 Org 0907

Personal Services		
and Employee Benefits.....	00100	\$ 1,432,788
Repairs and Alterations.....	06400	3,000
Equipment.....	07000	25,000
Current Expenses .....	13000	312,655

Other Assets.....	69000	<u>4,500</u>
Total.....		\$ 1,777,943

*327 - Public Service Commission*

(W.V. Code Chapter 24)

Fund 8623 FY 2025 Org 0926

Personal Services		
and Employee Benefits.....	00100	\$ 14,410,245
Salary and Benefits of Cabinet Secretary		
and Agency Heads .....	00201	318,640
Repairs and Alterations.....	06400	120,000
Equipment.....	07000	160,000
Unclassified.....	09900	147,643
Current Expenses .....	13000	2,157,202
Buildings .....	25800	10
PSC Weight Enforcement.....	34500	5,199,295
Debt Payment/Capital Outlay .....	52000	350,000
Land .....	73000	10
BRIM Premium.....	91300	<u>172,216</u>
Total.....		\$ 23,035,261

The total amount of these appropriations shall be paid from a special revenue fund out of collections for special license fees from public service corporations as provided by law.

The Public Service Commission is authorized to transfer up to \$500,000 from this fund to meet the expected deficiencies in the Motor Carrier Division (fund 8625) due to the amendment and reenactment of W.V. Code §24A-3-1 by Enrolled House Bill Number 2715, Regular Session, 1997.

*328 - Public Service Commission –*

*Gas Pipeline Division –*

*Public Service Commission Pipeline Safety Fund*

(W.V. Code Chapter 24B)

Fund 8624 FY 2025 Org 0926

## Personal Services

and Employee Benefits .....	00100	\$	394,133
Salary and Benefits of Cabinet Secretary			
and Agency Heads .....	00201		11,949
Repairs and Alterations .....	06400		4,000
Unclassified .....	09900		3,851
Current Expenses .....	13000		<u>93,115</u>
Total .....		\$	507,048

The total amount of these appropriations shall be paid from a special revenue fund out of receipts collected for or by the Public Service Commission pursuant to and in the exercise of regulatory authority over pipeline companies as provided by law.

*329 - Public Service Commission –**Motor Carrier Division*

(W.V. Code Chapter 24A)

Fund 8625 FY 2025 Org 0926

## Personal Services

and Employee Benefits .....	00100	\$	2,536,213
Salary and Benefits of Cabinet Secretary			
and Agency Heads .....	00201		67,711
Repairs and Alterations .....	06400		23,000
Equipment .....	07000		50,000
Unclassified .....	09900		29,233
Current Expenses .....	13000		<u>577,557</u>
Total .....		\$	3,283,714

The total amount of these appropriations shall be paid from a special revenue fund out of receipts collected for or by the Public Service Commission pursuant to and in the exercise of regulatory authority over motor carriers as provided by law.

**330 - Public Service Commission –***Consumer Advocate Fund*

(W.V. Code Chapter 24)

Fund 8627 FY 2025 Org 0926

Personal Services		
and Employee Benefits .....	00100	\$ 992,100
Equipment .....	07000	9,872
Current Expenses .....	13000	536,472
BRIM Premium .....	91300	<u>4,660</u>
Total .....		\$ 1,543,104

The total amount of these appropriations shall be supported by cash from a special revenue fund out of collections made by the Public Service Commission.

**331 - Real Estate Commission –***Real Estate License Fund*

(W.V. Code Chapter 30)

Fund 8635 FY 2025 Org 0927

Personal Services		
and Employee Benefits .....	00100	\$ 665,295
Repairs and Alterations .....	06400	2,500
Equipment .....	07000	5,000
Current Expenses .....	13000	<u>293,122</u>
Total .....		\$ 965,917

The total amount of these appropriations shall be paid out of collections of license fees as provided by law.

**332 - W.V. Board of Examiners for Speech-Language***Pathology and Audiology –**Speech-Language Pathology and Audiology Operating Fund*

(W.V. Code Chapter 30)

Fund 8646 FY 2025 Org 0930

Personal Services			
and Employee Benefits .....	00100	\$	129,733
Current Expenses .....	13000		<u>63,499</u>
Total .....		\$	193,232

*333 - W.V. Board of Respiratory Care –**Board of Respiratory Care Fund*

(W.V. Code Chapter 30)

Fund 8676 FY 2025 Org 0935

Personal Services			
and Employee Benefits .....	00100	\$	125,073
Current Expenses .....	13000		<u>62,709</u>
Total .....		\$	187,782

*334 - W.V. Board of Licensed Dietitians –**Dietitians Licensure Board Fund*

(W.V. Code Chapter 30)

Fund 8680 FY 2025 Org 0936

Personal Services			
and Employee Benefits .....	00100	\$	20,219
Current Expenses .....	13000		<u>20,250</u>
Total .....		\$	40,469

*335 - Massage Therapy Licensure Board –**Massage Therapist Board Fund*

(W.V. Code Chapter 30)

Fund 8671 FY 2025 Org 0938



## Personal Services

and Employee Benefits .....	00100	\$	122,310
Current Expenses .....	13000		<u>47,388</u>
Total .....		\$	169,698

**336 - Board of Medicine –***Medical Licensing Board Fund*

(W.V. Code Chapter 30)

Fund 9070 FY 2025 Org 0945

## Personal Services

and Employee Benefits .....	00100	\$	1,669,378
Repairs and Alterations .....	06400		8,000
Current Expenses .....	13000		<u>1,268,064</u>
Total .....		\$	2,945,442

**337 - West Virginia Enterprise Resource Planning Board –***Enterprise Resource Planning System Fund*

(W.V. Code Chapter 12)

Fund 9080 FY 2025 Org 0947

## Personal Services

and Employee Benefits .....	00100	\$	5,690,654
Repairs and Alterations .....	06400		300
Equipment .....	07000		502,000
Unclassified .....	09900		132,000
Current Expenses .....	13000		19,214,993
Buildings .....	25800		2,000
Other Assets .....	69000		<u>2,004,500</u>
Total .....		\$	27,546,447

**338 - Board of Treasury Investments –***Board of Treasury Investments Fee Fund*

(W.V. Code Chapter 12)

Fund 9152 FY 2025 Org 0950

## Personal Services

and Employee Benefits .....	00100	\$	982,714
Unclassified.....	09900		14,850
Current Expenses .....	13000		580,889
BRIM Premium.....	91300		31,547
Fees of Custodians, Fund Advisors and Fund Managers.....	93800		<u>5,500,000</u>
Total.....		\$	7,110,000

There is hereby appropriated from this fund, in addition to the above appropriation if needed, an amount of funds necessary for the Board of Treasury Investments to pay the fees and expenses of custodians, fund advisors and fund managers for the consolidated fund of the State as provided in Article 6C, Chapter 12 of the W.V. Code.

The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by law.

*339 - Contractor Licensing Board Fund*

(W.V. Code Chapter 21)

Fund 3187 FY 2025 Org 0951

## Personal Services

and Employee Benefits .....	00100	\$	2,559,000
Repairs and Alterations.....	06400		10,000
Unclassified.....	09900		21,000
Current Expenses .....	13000		500,000
BRIM Premium.....	91300		<u>8,500</u>
Total.....		\$	3,098,500

Total TITLE II, Section 3 – Other Funds

(Including claims against the state) \$ 2,122,797,718

**Sec. 4. Appropriations from lottery net profits.** — Net profits of the lottery are to be deposited by the Director of the Lottery to the following accounts in the amounts indicated. The Director of

the Lottery shall prorate each deposit of net profits in the proportion the appropriation for each account bears to the total of the appropriations for all accounts.

After first satisfying the requirements for Fund 2252, Fund 3963, and Fund 4908 pursuant to W.V. Code §29-22-18, the Director of the Lottery shall make available from the remaining net profits of the lottery any amounts needed to pay debt service for which an appropriation is made for Fund 9065, Fund 4297, Fund 3390, Fund 3514, Fund 9067, and Fund 9068 and is authorized to transfer any such amounts to Fund 9065, Fund 4297, Fund 3390, Fund 3514, Fund 9067, and Fund 9068 for that purpose. Upon receipt of reimbursement of amounts so transferred, the Director of the Lottery shall deposit the reimbursement amounts to the following accounts as required by this section.

**340 - Education, Arts, Sciences and Tourism –**

*Debt Service Fund*

(W.V. Code Chapter 5)

Fund 2252 FY 2025 Org 0211

	<b>Appropriation</b>	<b>Lottery Funds</b>
Debt Service – Total .....	31000	\$ 10,000,000

**341 - Department of Tourism –**

*Office of the Secretary*

(W.V. Code Chapter 5B)

Fund 3067 FY 2025 Org 0304

Tourism – Telemarketing Center .....	46300	\$ 82,080
Tourism – Advertising (R).....	61800	2,422,407
Tourism – Operations (R).....	66200	<u>4,582,523</u>
Total.....		\$ 7,087,010

Any unexpended balances remaining in the appropriations for Tourism – Advertising (fund 3067, appropriation 61800) and Tourism – Operations (fund 3067, appropriation 66200) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

### *342 - Division of Natural Resources*

(W.V. Code Chapter 20)

#### Fund 3267 FY 2025 Org 0310

##### Personal Services

and Employee Benefits.....	00100	\$ 2,791,307
Current Expenses .....	13000	26,900
Pricketts Fort State Park.....	32400	106,560
Non-Game Wildlife (R) .....	52700	483,485
State Parks and Recreation		
Advertising (R) .....	61900	<u>494,578</u>
Total.....		\$ 3,902,830

Any unexpended balances remaining in the appropriations for Capital Outlay – Parks (fund 3267, appropriation 28800), Non-Game Wildlife (fund 3267, appropriation 52700), and State Parks and Recreation Advertising (fund 3267, appropriation 61900) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

### *343 - State Board of Education*

(W.V. Code Chapters 18 and 18A)

#### Fund 3951 FY 2025 Org 0402

FBI Checks.....	37200	\$ 125,744
Vocational Education		
Equipment Replacement.....	39300	800,000
Assessment Program (R).....	39600	490,439
Literacy Project.....	89900	700,000
21 <sup>st</sup> Century Technology Infrastructure		
Network Tools and Support (R) ....	93300	<u>12,638,280</u>
Total.....		\$ 14,754,463

Any unexpended balances remaining in the appropriations for Assessment Program (fund 3951, appropriation 39600) and 21<sup>st</sup> Century Technology Infrastructure Network Tools and Support (fund 3951, appropriation 93300) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

**344 - State Department of Education –**

*School Building Authority –*

*Debt Service Fund*

(W.V. Code Chapter 18)

Fund 3963 FY 2025 Org 0404

Debt Service – Total .....	31000	\$ 15,239,213
Directed Transfer .....	70000	<u>2,760,787</u>
Total .....		\$ 18,000,000

The School Building Authority shall have the authority to transfer between the above appropriations in accordance with W.V. Code §29-22-18.

The above appropriation for Directed Transfer (fund 3963, appropriation 70000) may be transferred to the Department of Education, State Board of Education, School Building Authority, School Construction Fund, (fund 3952,) to be used for school construction and maintenance projects.

**345 - Division of Culture and History –**

*Lottery Education Fund*

(W.V. Code Chapter 29)

Fund 3534 FY 2025 Org 0432

Huntington Symphony .....	02700	\$ 59,058
Preservation West Virginia (R).....	09200	491,921
Fairs and Festivals (R) .....	12200	1,346,814

Commission for National and Community Service (R) .....	19300	395,744
Archeological Curation/Capital Improvements (R) .....	24600	43,174
Historic Preservation Grants (R) .....	31100	417,933
West Virginia Public Theater .....	31200	120,019
Greenbrier Valley Theater .....	42300	115,000
Theater Arts of West Virginia .....	46400	90,000
Marshall Artists Series .....	51800	36,005
Grants for Competitive Arts Program (R) .....	62400	811,500
West Virginia State Fair .....	65700	31,241
Save the Music .....	68000	40,000
Contemporary American Theater Festival .....	81100	57,281
Independence Hall .....	81200	27,277
Mountain State Forest Festival .....	86400	38,187
WV Symphony .....	90700	59,058
Wheeling Symphony .....	90800	59,058
Appalachian Childrens' Chorus .....	91600	54,554
Total .....		<u>\$ 4,293,824</u>

Any unexpended balances remaining in the appropriations for Preservation West Virginia (fund 3534, appropriation 09200), Fairs and Festivals (fund 3534, appropriation 12200), Commission for National and Community Service (fund 3534, appropriation 19300), Archeological Curation/Capital Improvements (fund 3534, appropriation 24600), Historic Preservation Grants (fund 3534, appropriation 31100), and Grants for Competitive Arts Program (fund 3534, appropriation 62400) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

From the above appropriation for Preservation West Virginia (fund 3534, appropriation 09200) funding shall be provided to the African-American Heritage Family Tree Museum (Fayette) \$2,673, Aracoma Story (Logan) \$20,000, Arts Monongahela (Monongalia) \$11,881, Barbour County Arts and Humanities Council (Barbour) \$891, Buffalo Creek Memorial (Logan) \$2,970,

Carnegie Hall (Greenbrier) \$46,899, Ceredo Historical Society (Wayne) \$1,188, Ceredo Kenova Railroad Museum (Wayne) \$1,188, Ceredo Museum (Wayne) \$720, Children's Theatre of Charleston (Kanawha) \$3,500, Chuck Mathena Center (Mercer) \$62,532, Country Music Hall of Fame and Museum (Marion) \$4,159, First Stage Children's Theater Company (Cabell) \$1,188, Flannigan Murrell House (Summers) \$3,781, Fort Ashby Fort (Mineral) \$891, Fort New Salem (Harrison) \$2,198, Fort Randolph (Mason) \$2,970, General Adam Stephen Memorial Foundation (Berkeley) \$11,006, Grafton Mother's Day Shrine Committee (Taylor) \$9,029, Hardy County Tour and Crafts Association (Hardy) \$11,881, Heartwood in the Hills (Calhoun) \$5,040, Henderson Hall (Wood) \$20,000, Heritage Farm Museum & Village (Cabell) \$29,703, Historic Fayette Theater (Fayette) \$3,267, Historic Middleway Conservancy (Jefferson) \$594, Jefferson County Black History Preservation Society (Jefferson) \$2,970, Jefferson County Historical Landmark Commission (Jefferson) \$4,753, Maddie Carroll House (Cabell) \$4,455, Marshall County Historical Society (Marshall) \$5,049, McCoy Theater (Hardy) \$11,881, Memorial Day Patriotic Exercise (Taylor) \$20,000, Morgantown Theater Company (Monongalia) \$11,881, Nicholas Old Main Foundation (Nicholas) \$1,188, Norman Dillon Farm Museum (Berkeley) \$5,941, Oil and Gas Museum (Wood) \$20,000, Old Opera House Theater Company (Jefferson) \$8,911, Parkersburg Arts Center (Wood) \$11,881, Pocahontas Historic Opera House (Pocahontas) \$3,564, Raleigh County All Wars Museum (Raleigh) \$5,941, Roane County 4-H and FFA Youth Livestock Program (Roane) \$2,970, Society for the Preservation of McGrew House (Preston) \$2,079, Southern West Virginia Veterans' Museum (Raleigh) \$3,393, Summers County Historic Landmark Commission (Summers) \$2,970, Those Who Served War Museum (Mercer) \$2,376, Three Rivers Avian Center (Summers) \$5,311, Veterans Committee for Civic Improvement of Huntington (Wayne) \$2,970, West Virginia Museum of Glass (Lewis) \$2,970, West Virginia Music Hall of Fame (Kanawha) \$20,792, YMCA Camp Horseshoe (Tucker) \$59,406, Youth Museum of Southern West Virginia (Raleigh) \$7,129, Z.D. Ramsdell House (Wayne) \$720

From the above appropriation for Fairs and Festivals (fund 3534, appropriation 12200) funding shall be provided to A Princeton 4th (Mercer) \$1,800, African-American Cultural Heritage Festival (Jefferson) \$4,456, Allegheny Echo (Pocahontas) \$6,683, Alpine Festival/Leaf Peepers Festival (Tucker) \$6,683, American Civil War (Grant) \$3,127, American Legion Post 8 Veterans Day Parade (McDowell) \$1,250, Angus Beef and Cattle Show (Lewis) \$891, Annual Don Redman Heritage Concert & Awards (Jefferson) \$938, Antique Market Fair (Lewis) \$1,188, Apple Butter Festival (Morgan) \$3,564, Armed Forces Day-South Charleston (Kanawha) \$2,000, Arthurdale Heritage New Deal Festival (Preston) \$2,970, Artists of the New (Fayette) \$2,000, Athens Town Fair (Mercer) \$1,188, Augusta Fair (Randolph) \$2,970, Autumn Harvest Fest (Monroe) \$2,448, Back Home Festival (Wetzel) \$5,000, Barbour County Fair (Barbour) \$14,851, Barboursville Octoberfest (Cabell) \$2,970, Battelle District Fair (Monongalia) \$3,340, Battle of Dry Creek (Greenbrier) \$891, Battle of Point Pleasant Memorial Committee (Mason) \$2,970, Beckley Honey Festival (Raleigh) \$1,710, Beckley Main Street (Raleigh) \$2,000, Belleville Homecoming (Wood) \$11,881, Berkeley County Youth Fair (Berkeley) \$10,990, BEX Arts Festival (Raleigh) \$2,000, Black Heritage Festival (Harrison) \$3,564, Black Walnut Festival (Roane) \$5,940, Blacksville VFD Memorial Day Celebration (Monongalia) \$1,000, Blast from the Past (Upshur) \$1,440, Blue-Gray Reunion (Barbour) \$2,079, Boone County Labor Day Celebration (Boone) \$2,376, Boone Day (Kanawha) \$1,000, Bradshaw Fall Festival (McDowell) \$1,188, Bramwell Labor Day (Mercer) \$5,000, Brandonville Heritage Day (Preston) \$1,048, Braxton County Fair (Braxton) \$6,832, Braxton County Monster Fest / West Virginia Autumn Festival (Braxton) \$1,000, Brooke County Fair (Brooke) \$2,079, Buckwheat Festival (Preston) \$5,050, Buffalo October Fest (Putnam) \$3,240, Burlington Apple Harvest Auxiliary (Mineral) \$13,821, Burlington Pumpkin Harvest Festival (Raleigh) \$2,970, Burlington Volunteer Fire and Rescue Carnival (Mineral) \$4,000, Burnsville Freedom Festival (Braxton) \$1,407, Calhoun County Wood Festival (Calhoun) \$1,188, Cameron 4th of July (Marshall) \$500, Cameron VFD Fireman's Festival (Marshall) \$2,500, Campbell's Creek Community Fair (Kanawha) \$2,000, Cape



Coalwood Festival Association (McDowell) \$1,485, Capon Bridge Founders Day Festival (Hampshire) \$500, Capon Springs Ruritan 4th of July (Hampshire) \$2,500, Cass Homecoming (Pocahontas) \$1,188, Cedar Grove - Annual Fallfest (Kanawha) \$2,000, Celebration of America (Monongalia) \$3,564, Chapmanville Apple Butter Festival (Logan) \$684, Chapmanville Fire Department 4th of July (Logan) \$1,782, Charles Town Christmas Festival (Jefferson) \$2,970, Charles Town Heritage Festival (Jefferson) \$2,970, Cherry River Festival (Nicholas) \$3,861, Chester 4th of July Festivities (Hancock) \$2,970, Chester Fireworks (Hancock) \$891, Chilifest West Virginia State Chili Championship (Cabell) \$1,563, Chillin' on the Elk (Kanawha) \$1,000, Christmas In Our Town (Marion) \$3,127, Christmas In Our Town (Wetzel) \$2,000, Christmas in Shepherdstown (Jefferson) \$2,376, Christmas in the Park (Brooke) \$2,970, Christmas in the Park (Logan) \$14,851, Christmas on Main Street (Hancock) \$11,881, City of Dunbar Critter Dinner (Kanawha) \$6,000, Clay County Golden Delicious Apple Festival (Clay) \$4,158, Clay District Fair (Monongalia) \$3,341, Coal Field Jamboree (Logan) \$20,792, Coalton Days Fair (Randolph) \$4,158, Country Roads Festival (Wetzel) \$2,000, Covered Bridge Festival (Marion) \$3,000, Craigsville Fall Festival (Nicholas) \$2,079, Cruise into Princeton (Mercer) \$2,160, Culturefest World Music & Arts Festival (Mercer) \$3,200, Day in the Valley - McCutcheon Car Show (Marion) \$3,000, Delbarton Homecoming (Mingo) \$2,079, Dirt Days (Mingo) \$2,000, Doddridge County Fair (Doddridge) \$4,158, Durbin Days (Pocahontas) \$2,970, East Bank End of Summer Celebration (Kanawha) \$2,000, Elbert/Filbert Reunion Festival (McDowell) \$891, Fairview 4th of July Celebration (Marion) \$684, Farmer's Day Festival (Monroe) \$2,330, Fenwick Mountain Old Time Community Festival (Nicholas) \$2,880, FestivALL Charleston (Kanawha) \$12,000, Fly in Festival (Cabell) \$5,000, Follansbee Community Days (Brooke) \$4,900, Fort Gay Mountain Heritage Days (Wayne) \$2,970, Fort Henry Days (Ohio) \$3,148, Fort Henry Living History (Ohio) \$1,563, Fort New Salem Spirit of Christmas Festival (Harrison) \$2,432, Frankford Autumnfest (Greenbrier) \$2,970, Franklin Fishing Derby (Pendleton) \$10,709, Freedom Festival (Wood) \$8,000, Freshwater Folk Festival (Greenbrier) \$2,970, Friends

Auxiliary of W.R. Sharpe Hospital (Lewis) \$2,970, Fund for the Arts-Wine & All that Jazz Festival (Kanawha) \$8,000, Gassaway Days Celebration (Braxton) \$2,970, Gilmer County Farm Show (Gilmer) \$2,376, Grant County Arts Council (Grant) \$1,188, Great Greenbrier River Race (Pocahontas) \$5,940, Guyandotte Civil War Days (Cabell) \$5,941, Hamlin 4th of July Celebration (Lincoln) \$2,970, Hampshire Civil War Celebration Days (Hampshire) \$684, Hampshire County 4th of July Celebration (Hampshire) \$11,881, Hampshire County Fair (Hampshire) \$5,002, Hampshire County Festival (Hampshire) \$2,752, Hancock County Oldtime Fair (Hancock) \$2,970, Hardy County Commission - 4th of July (Hardy) \$5,940, Harvest Moon Festival (Wood) \$2,000, Hatfield McCoy Matewan Reunion Festival (Mingo) \$12,330, Hatfield McCoy Reunion Festival (Logan) \$2,000, Hatfield McCoy Trail National ATV and Dirt Bike Weekend (Wyoming) \$2,970, Head For the Hills Festival (Ritchie) \$3,000, Head of the Dragon (McDowell) \$1,500, Heritage Craft Festival (Monroe) \$3,000, Hilltop Festival (Cabell) \$1,500, Hinton Railroad Days (Summers) \$4,347, Holly River Festival (Webster) \$891, Hometown Mountain Heritage Festival (Fayette) \$2,432, Hometown Trail Days (McDowell) \$1,188, Hundred 4th of July (Wetzel) \$4,307, Huntersville Traditions Day (Pocahontas) \$1,188, Iaeger Town Fair (McDowell) \$891, Irish Heritage Festival of West Virginia (Raleigh) \$2,970, Irish Spring Festival (Lewis) \$684, Italian Heritage Festival-Clarksburg (Harrison) \$17,821, Jackson County Fair (Jackson) \$2,970, Jefferson County Fair Association (Jefferson) \$14,851, Jersey Mountain Ruritan Pioneer Days (Hampshire) \$684, John Henry Days Festival (Monroe) \$4,698, Johnnie Johnson Blues and Jazz Festival (Marion) \$2,970, Johnstown Community Fair (Harrison) \$1,485, Junior Heifer Preview Show (Lewis) \$1,188, Keg and Barrel Fest (Mineral) \$2,000, Kenova Autumn Festival (Wayne) \$4,377, Kermit Fall Festival (Mingo) \$1,782, King Coal Festival (Mingo) \$2,970, Kingwood Downtown Street Fair and Heritage Days (Preston) \$1,188, Knights of Columbus Irish Road Bowling (Marshall) \$3,000, L.Z. Rainelle West Virginia Veterans Reunion (Greenbrier) \$2,970, Larry Joe Harless Center Octoberfest Hatfield McCoy Trail (Mingo) \$5,940, Larry Joe Harless Community Center Spring Middle School Event (Mingo) \$3,000, Last Blast of

Summer (McDowell) \$2,970, Lewis County Fair (Lewis) \$3,000, Lewisburg Shanghai (Greenbrier) \$1,188, Lincoln County Fall Festival (Lincoln) \$4,752, Lincoln County Winterfest (Lincoln) \$3,000, Lindside 4th of July Parade (Monroe) \$1,000, Lindside Veterans' Day Parade (Monroe) \$720, Little Levels Heritage Festival (Pocahontas) \$1,188, Lost Creek Community Festival (Harrison) \$4,158, Main Street Arts Festival (Upshur) \$3,127, Main Street Martinsburg Chocolate Fest and Book Fair (Berkeley) \$2,813, Main Street Martinsburg Food Truck Fest (Berkeley) \$4,700, Malden Salt Fest (Kanawha) \$3,000, Mannington District Fair (Marion) \$3,564, Marmet Labor Day Celebration (Kanawha) \$3,500, Marshall County Antique Power Show (Marshall) \$1,485, Marshall County Fair (Marshall) \$3,564, Martinsburg Roundhouse Railfest (Berkeley) \$2,000, Mason County Fair (Mason) \$2,970, Matewan Massacre Reenactment (Mingo) \$5,004, Matewan-Magnolia Fair (Mingo) \$15,932, McARTS-McDowell County (McDowell) \$11,881, McGrew House History Day (Preston) \$1,188, Meadow Bridge Hometown Festival (Fayette) \$743, Meadow River Days Festival (Greenbrier) \$1,782, Mercer County Fair (Mercer) \$1,188, Mercer County Heritage Festival (Mercer) \$3,474, Milton Christmas in the Park (Cabell) \$1,485, Milton Old Timey Days (Cabell) \$1,485, Mineral County Veterans Day Parade (Mineral) \$891, Molasses Festival (Calhoun) \$1,188, Monongahfest (Marion) \$3,752, Monongalia County Fair (Monongalia) \$7,250, Moon Over Mountwood Fishing Festival (Wood) \$1,782, Morgan County Fair-History Wagon (Morgan) \$891, Moundsville Bass Festival (Marshall) \$2,376, Moundsville July 4th Celebration (Marshall) \$2,970, Mount Liberty Fall Festival (Barbour) \$1,485, Mountain Festival (Mercer) \$2,747, Mountain Heritage Arts and Crafts Festival (Jefferson) \$2,970, Mountain Music Festival (McDowell) \$1,485, Mountain Roots Community Theater (Kanawha) \$5,000, Mountain State Apple Harvest Festival (Berkeley) \$4,456, Mountain State Arts & Crafts Fair Cedar Lakes (Jackson) \$26,732, Mountaineer Boys' State (Lewis) (Lewis) \$5,000, Mullens Dogwood Festival (Wyoming) \$4,158, Multi-Cultural Festival of West Virginia (Kanawha) \$12,000, Nettlefest \$2,970, New Cumberland 4th of July (Hancock) \$2,970, New Cumberland Christmas Parade (Hancock) \$1,782, New Martinsville Regatta (Wetzel) \$9,000, New

Martinsville Vintage Regatta (Wetzel) \$5,000, New River Bridge Day Festival (Fayette) \$23,762, Nicholas County Potato Festival (Nicholas) \$5,000, Oak Leaf Festival (Fayette) \$6,253, Oceana Heritage Festival (Wyoming) \$4,000, Oglebay City Park - Festival of Lights (Ohio) \$47,524, Oglebay Festival (Ohio) \$5,940, Ohio County Country Fair (Ohio) \$5,346, Ohio River Fest (Jackson) \$4,320, Old Brick Playhouse (Randolph) \$7,000, Old Central City Fair (Cabell) \$2,970, Old Tyme Christmas (Jefferson) \$1,425, Osage Street Fair (Monongalia) \$2,188, Paden City Labor Day Festival (Wetzel) \$3,861, Parkersburg Homecoming (Wood) \$8,754, Paw Paw District Fair (Marion) \$2,079, Pax Reunion Committee (Fayette) \$2,970, Pendleton County 4-H Weekend (Pendleton) \$1,188, Petersburg 4th of July Celebration (Grant) \$11,881, Piedmont-Annual Back Street Festival (Mineral) \$2,376, Pinch Reunion (Kanawha) \$3,500, Pine Bluff Fall Festival (Harrison) \$2,376, Pine Grove 4th of July Festival (Wetzel) \$4,158, Pineville Festival (Wyoming) \$3,564, Pleasants County Agriculture Youth Fair (Pleasants) \$2,970, Pocahontas County Pioneer Days (Pocahontas) \$4,159, Pratt Fall Festival (Kanawha) \$2,500, Princeton Autumnfest (Mercer) \$1,563, Princeton Street Fair (Mercer) \$2,970, Putnam County Fair (Putnam) \$2,970, Quartets on Parade (Hardy) \$2,376, Rainelle Fall Festival (Greenbrier) \$3,127, Rand Community Center Festival (Kanawha) \$2,500, Randolph County Community Arts Council (Randolph) \$1,782, Randolph County Fair (Randolph) \$4,158, Randolph County Ramps and Rails (Randolph) \$2,188, Ranson Christmas Festival (Jefferson) \$2,970, Ranson Festival (Jefferson) \$2,970, Renick Liberty Festival (Greenbrier) \$684, Rhododendron Girl's State (Ohio) (Ohio) \$5,941, Ripley 4th of July (Jackson) \$8,910, Ritchie County Fair and Exposition \$2,970, Ritchie County Pioneer Days (Ritchie) \$684, River City Festival (Preston) \$684, Rivesville Christmas Festival (Marion) \$2,000, Rivesville Riverfront Festival (Marion) \$2,000, Roane County Agriculture Field Day (Roane) \$1,782, Rock the Park (Kanawha) \$1,500, Rockin New Years Eve (Grant) \$2,000, Rowlesburg Labor Day Festival (Preston) \$684, Ruby Summer Concert Series (Monongalia) \$2,000, Ruddle Park Jamboree (Pendleton) \$2,000, Rupert Country Fling (Greenbrier) \$1,876, Saint Spyridon Greek Festival (Harrison) \$1,485, Salem Apple Butter Festival

(Harrison) \$2,376, Sissonville Christmas Festival (Kanawha) \$2,000, Sistersville 4th of July (Tyler) \$3,267, Skirmish on the River (Mingo) \$1,250, Smoke on the Water (Wetzel) \$1,782, South Charleston Summerfest (Kanawha) \$7,500, Southern Wayne County Fall Festival (Wayne) \$684, Spirit of Grafton Celebration (Taylor) \$6,240, Spring Mountain Festival (Grant) \$2,500, St. Albans City of Lights - December (Kanawha) \$3,000, St. Albans Train Fest (Kanawha) \$6,000, Sternwheel Festival (Wood) \$1,782, STOCO Festival (Raleigh) \$1,485, Stonewall Jackson Heritage Arts & Crafts Jubilee (Lewis) \$6,534, Stonewall Jackson's Roundhouse Raid (Berkeley) \$7,200, Strawberry Festival (Upshur) \$17,821, Sylvester Big Coal River Festival (Boone) \$1,944, Tacy Fair (Barbour) \$684, Taste of Parkersburg (Wood) \$2,970, Taylor County Fair (Taylor) \$3,567, Three Rivers Coal Festival (Marion) \$4,604, Thunder on the Tygart - Mothers' Day Celebration (Taylor) \$7,300, Town of Delbarton 4th of July Celebration (Mingo) \$1,782, Town of Fayetteville Heritage Festival (Fayette) \$4,456, Town of Rivesville 4th of July Festival (Marion) \$3,127, Town of Winfield - Putnam County Homecoming (Putnam) \$3,240, Treasure Mountain Festival (Pendleton) \$18,000, Tri-County Fair (Grant) \$22,548, Tucker County Arts Festival and Celebration (Tucker) \$10,692, Tucker County Fair (Tucker) \$2,821, Tucker County Health Fair (Tucker) \$1,188, Turkey Festival (Hardy) \$1,782, Tyler County Fireworks Celebration (Tyler) \$2,000, Upper Kanawha Valley Oktoberfest (Kanawha) \$2,000, Upper Ohio Valley Italian Festival (Ohio) \$7,128, Valley District Fair (Preston) \$2,079, Veterans Welcome Home Celebration (Cabell) \$938, Vietnam Veterans of America # 949 Christmas Party (Cabell) \$684, Volcano Days at Mountwood Park (Wood) \$2,970, War Homecoming Fall Festival (McDowell) \$891, Wardensville Fall Festival (Hardy) \$2,970, Wayne County Fair (Wayne) \$2,970, Wayne County Fall Festival (Wayne) \$2,970, Webster County Fair (Webster) \$3,600, Webster County Wood Chopping Festival (Webster) \$8,910, Webster Wild Water Weekend (Webster) \$1,188, Welcome Home Family Day (Wayne) \$1,900, Wellsburg 4th of July Celebration (Brooke) \$4,456, Wellsburg Apple Festival of Brooke County (Brooke) \$2,970, West Virginia Chestnut Festival (Preston) \$684, West Virginia Coal Festival (Boone) \$5,940, West Virginia Coal Show (Mercer)

\$1,563, West Virginia Dairy Cattle Show (Lewis) \$5,940, West Virginia Dandelion Festival (Greenbrier) \$2,970, West Virginia Day at the Railroad Museum (Mercer) \$1,800, West Virginia Fair and Exposition (Wood) \$4,812, West Virginia Freedom Festival (Logan) \$4,456, West Virginia Oil and Gas Festival (Tyler) \$6,534, West Virginia Peach Festival (Hampshire) \$5,166, West Virginia Pumpkin Festival (Cabell) \$5,940, West Virginia Rivers and Rails Festival (Pleasants) \$1,099, West Virginia State Folk Festival (Gilmer) \$2,970, Wetzel County Autumnfest (Wetzel) \$3,267, Wetzel County Town and Country Days (Wetzel) \$10,098, Wheeling City of Lights (Ohio) \$4,752, Wheeling Vintage Raceboat Regatta (Ohio) \$11,881, Whipple Community Action (Fayette) \$1,485, Whitehall Community Event (Marion) \$2,000, Winfield Watersports Weekend (Putnam) \$3,240, Wirt County Fair (Wirt) \$1,485, Wirt County Pioneer Days (Wirt) \$1,188, Youth Stockman Beef Expo (Lewis) \$1,188

Any Fairs and Festivals awards shall be funded in addition to, and not in lieu of, individual grant allocations derived from the Arts Council and Cultural Grant Program allocations.

### *346 - Division of Culture and History –*

#### *Library Commission -*

#### *Lottery Education Fund*

(W.V. Code Chapter 10)

#### Fund 3559 FY 2025 Org 0432

Books and Films .....	17900	\$	360,784
Services to Libraries .....	18000		550,000
Grants to Public Libraries .....	18200		9,439,571
Digital Resources .....	30900		219,992
Infomine Network .....	88400		<u>943,353</u>
Total .....		\$	11,513,700

### *347 - Educational Broadcasting Commission*

(W.V. Code Chapter 10)

Fund 3587 FY 2025 Org 0439

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 3587, appropriation 75500) at the close of fiscal year 2024 is hereby reappropriated for expenditure during the fiscal year 2025.

*348 - Higher Education Policy Commission –**Lottery Education –**Higher Education Policy Commission –**Control Account*

(W.V. Code Chapters 18B and 18C)

Fund 4925 FY 2025 Org 0441

RHI Program and Site Support (R).....	03600	\$ 1,922,710
RHI Program and Site Support –		
RHEP Program Administration .....	03700	146,653
RHI Program and Site Support – Grad Med		
Ed and Fiscal Oversight (R) .....	03800	90,192
State Doctoral Fellowship (R) .....	16600	129,604
Health Sciences Scholarship (R).....	17600	226,251
Vice Chancellor for Health Sciences –		
Rural Health		
Residency Program (R).....	60100	62,725
WV Engineering, Science, and		
Technology Scholarship Program..	86800	<u>452,831</u>
Total.....		\$ 3,030,966

Any unexpended balances remaining in the appropriations for RHI Program and Site Support (fund 4925, appropriation 03600), RHI Program and Site Support – Grad Med Ed and Fiscal Oversight (fund 4925, appropriation 03800), State Doctoral Fellowship (fund 4925, appropriation 16600), Health Sciences Scholarship (fund 4925, appropriation 17600), and Vice Chancellor for Health Sciences – Rural Health Residency Program (fund 4925, appropriation 60100) at the close of fiscal year 2024

are hereby reappropriated for expenditure during the fiscal year 2025.

The above appropriation for WV Engineering, Science, and Technology Scholarship Program (fund 4925, appropriation 86800) shall be transferred to the West Virginia Engineering, Science and Technology Scholarship Fund (fund 4928,) established by W.V. Code §18C-6-1.

*349 - Community and Technical College –*

*Capital Improvement Fund*

(W.V. Code Chapter 18B)

Fund 4908 FY 2025 Org 0442

Debt Service – Total ..... 31000 \$ 5,000,000

Any unexpended balance remaining in the appropriation for Capital Outlay and Improvements – Total (fund 4908, appropriation 84700) and Capital Improvements - Total (fund 4908, appropriation 95800) at the close of fiscal year 2024 is hereby reappropriated for expenditure during the fiscal year 2025.

The total amount of this appropriation shall be paid from the sale of the Series 2017 Community and Technical Colleges Capital Improvement Refunding Revenue Bonds and anticipated interest earnings.

*350 - Higher Education Policy Commission –*

*Lottery Education –*

*West Virginia University – School of Medicine*

(W.V. Code Chapter 18B)

Fund 4185 FY 2025 Org 0463

WVU Health Sciences –

RHI Program and Site Support (R) 03500 \$ 1,246,059



MA Public Health Program and Health Science Technology (R).....	62300	52,445
Health Sciences Career Opportunities Program (R) .....	86900	336,987
HSTA Program (R) .....	87000	1,903,647
Center for Excellence in Disabilities (R).....	96700	<u>328,292</u>
Total.....		\$ 3,867,430

Any unexpended balances remaining in the appropriations for WVU Health Sciences – RHI Program and Site Support (fund 4185, appropriation 03500), MA Public Health Program and Health Science Technology (fund 4185, appropriation 62300), Health Sciences Career Opportunities Program (fund 4185, appropriation 86900), HSTA Program (fund 4185, appropriation 87000), and Center for Excellence in Disabilities (fund 4185, appropriation 96700) at the close of fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

*351 - Higher Education Policy Commission –*

*Lottery Education –*

*Marshall University – School of Medicine*

(W.V. Code Chapter 18B)

Fund 4896 FY 2025 Org 0471

Marshall Medical School – RHI Program and Site Support (R)	03300	\$ 453,525
Vice Chancellor for Health Sciences – Rural Health Residency Program (R).....	60100	<u>179,773</u>
Total.....		\$ 633,298

Any unexpended balances remaining in the appropriations for Marshall Medical School – RHI Program and Site Support (fund 4896, appropriation 03300) and Vice Chancellor for Health Sciences – Rural Health Residency Program (fund 4896,

appropriation 60100) at the close of fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

*352 - Bureau of Senior Services –*

*Lottery Senior Citizens Fund*

(W.V. Code Chapter 29)

Fund 5405 FY 2025 Org 0508

Personal Services		
and Employee Benefits .....	00100	\$ 160,387
Salary and Benefits of Cabinet Secretary		
and Agency Heads .....	00201	86,000
Repairs and Alterations .....	06400	1,000
Current Expenses .....	13000	332,284
Local Programs		
Service Delivery Costs .....	20000	2,435,250
Silver Haired Legislature .....	20200	18,500
Transfer to Division of Human Services		
for Health Care		
and Title XIX Waiver		
for Senior Citizens .....	53900	27,986,092
Roger Tompkins Alzheimers		
Respite Care .....	64300	2,308,914
WV Alzheimers Hotline .....	72400	45,000
Regional Aged and Disabled		
Resource Center .....	76700	425,000
Senior Services Medicaid Transfer .....	87100	16,400,070
Legislative Initiatives for the Elderly ...	90400	9,671,239
Long Term Care Ombudsmen .....	90500	297,226
BRIM Premium .....	91300	7,718
In-Home Services and		
Nutrition for Senior Citizens (R) ...	91700	<u>6,845,941</u>
Total .....		\$ 67,020,621

Any unexpended balances remaining in the appropriation for Senior Citizen Centers and Programs (fund 5405, appropriation 46200) and In-Home Services and Nutrition for Senior Citizens (fund 5405, appropriation 91700) at the close of the fiscal year

2024 are hereby reappropriated for expenditure during the fiscal year 2025.

Included in the above appropriation for Current Expenses (fund 5405, appropriation 13000), is funding to support an in-home direct care workforce registry.

The above appropriation for Transfer to the Department of Human Services for Health Care and Title XIX Waiver for Senior Citizens (fund 5405, appropriation 53900) along with the federal moneys generated thereby shall be used for reimbursement for services provided under the program.

Total TITLE II, Section 4 –

Lottery Revenue.....	<u>\$ 149,104,142</u>
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**Sec. 5. Appropriations from state excess lottery revenue fund.** — In accordance with W.V. Code §29-22-18a, §29-22A-10d, §29-22A-10e, §29-22C-27a and §29-25-22b, the following appropriations shall be deposited and disbursed by the Director of the Lottery to the following accounts in this section in the amounts indicated.

After first funding the appropriations required by W.V. Code §29-22-18a, §29-22A-10d, §29-22A-10e, §29-22C-27a and §29-25-22b, the Director of the Lottery shall provide funding from the State Excess Lottery Revenue Fund for the remaining appropriations in this section to the extent that funds are available. In the event that revenues to the State Excess Lottery Revenue Fund are sufficient to meet all the appropriations required made pursuant to this section, then the Director of the Lottery shall then provide the funds available for fund 5365, appropriation 18900.

### *353 - Governor's Office*

(W.V. Code Chapter 5)

Fund 1046 FY 2025 Org 0100

Any unexpended balance remaining in the appropriation for Publication of Papers and Transition Expenses – Lottery Surplus (fund 1046, appropriation 06600) at the close of the fiscal year 2024 is hereby reappropriated for expenditure during the fiscal year 2025.

*354 - Office of Technology*

(W.V. Code Chapter 5A)

Fund 2532 FY 2025 Org 0231

Any unexpended balances remaining in the appropriations for Cyber Security (fund 2532, appropriation 99001), Enterprise Data Center (fund 2532, appropriation 99002), and Enterprise Telephony Modernization (fund 2532, appropriation 99003) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

*355 - Department of Economic Development –**Office of the Secretary –**West Virginia Development Office*

(W.V. Code Chapter 5B)

Fund 3170 FY 2025 Org 0307

Any unexpended balance remaining in the appropriation for Recreational Grants or Economic Development Loans (fund 3170, appropriation 25300) at the close of the fiscal year 2024 is hereby reappropriated for expenditure during the fiscal year 2025.

*356 - Division of Natural Resources –**State Park Improvement Fund*Fund 3277 FY 2025 Org 0310

	<b>Appropriation</b>		<b>Excess Lottery Funds</b>
Repairs and Alterations (R) .....	06400	\$	161,200
Equipment (R).....	07000		200,000
Current Expenses (R).....	13000		23,300
Buildings (R).....	25800		100,000

Other Assets (R).....	69000	<u>1,020,500</u>
Total.....		\$ 1,505,000

Any unexpended balances remaining in the appropriations for Repairs and Alterations (fund 3277, appropriation 06400), Equipment (fund 3277, appropriation 07000), Unclassified – Total (fund 3277, appropriation 09600), Current Expenses (fund 3277, appropriation 13000), Buildings (fund 3277, appropriation 25800), and Other Assets (fund 3277, appropriation 69000) at the close of the fiscal year 2024 are hereby reappropriated for expenditure during the fiscal year 2025.

**357 - West Virginia Infrastructure Council –**

*West Virginia Infrastructure Transfer Fund*

Fund 3390 FY 2025 Org 0316

Directed Transfer .....	70000	\$ 46,000,000
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The above appropriation shall be allocated pursuant to W.V. Code §29-22-18d and §31-15-9.

**358 - Department of Education –**

*School Building Authority*

Fund 3514 FY 2025 Org 0404

Debt Service - Total .....	31000	\$ 18,948,000
Directed Transfer .....	70000	<u>52,000</u>
Total.....		\$ 19,000,000

The School Building Authority shall have the authority to transfer between the above appropriations in accordance with W.V. Code §29-22-18a.

The above appropriation for Directed Transfer (fund 3514, appropriation 70000) may be transferred to the Department of Education, State Board of Education, School Building Authority, School Construction Fund (fund 3952,) to be used for school construction and maintenance projects.

*359 - Higher Education Policy Commission –**Education Improvement Fund*Fund 4295 FY 2025 Org 0441

PROMISE Scholarship – Transfer..... 80000 \$ 29,000,000

The above appropriation shall be transferred to the PROMISE Scholarship Fund (fund 4296,) established by W.V. Code §18C-7-7.

The Legislature has explicitly set a finite amount of available appropriations and directed the administrators of the Program to provide for the award of scholarships within the limits of available appropriations.

*360 - Higher Education Policy Commission –**Higher Education Improvement Fund*Fund 4297 FY 2025 Org 0441

Directed Transfer ..... 70000 \$ 15,000,000

The above appropriation for Directed Transfer shall be transferred to Higher Education Policy Commission – System – Tuition Fee Capital Improvement Fund (fund 4903) as authorized by Senate Concurrent Resolution No. 41.

*361 - Higher Education Policy Commission –**Administration –**Control Account*Fund 4932 FY 2025 Org 0441

Any unexpended balance remaining in the appropriation for Advanced Technology Centers (fund 4932, appropriation 02800) at the close of the fiscal year 2024 is hereby reappropriated for expenditure during the fiscal year 2025.

**362 - Department of Human Services**

(W.V. Code Chapters 9, 48, and 49)

Fund 5365 FY 2025 Org 0511

Medical Services..... 18900 \$ 63,232,578

**363 - Division of Corrections and Rehabilitation –***Correctional Units*

(W.V. Code Chapter 15A)

Fund 6283 FY 2025 Org 0608

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 6283, appropriation 75500) at the close of the fiscal year 2024 is hereby reappropriated for expenditure during the fiscal year 2025.

**364 - Lottery Commission –***General Purpose Account*Fund 7206 FY 2025 Org 0705

General Revenue Fund – Transfer ..... 70011 \$ 65,000,000

The above appropriation shall be transferred to the General Revenue Fund as determined by the Director of the Lottery in accordance with W.V. Code §29-22-18a.

**365 - Lottery Commission –***Refundable Credit*Fund 7207 FY 2025 Org 0705

Directed Transfer ..... 70000 \$ 10,000,000

The above appropriation shall be transferred to the General Revenue Fund to provide reimbursement for the refundable credit

allowable under W.V. Code §11-21-21. The amount of the required transfer shall be determined solely by the State Tax Commissioner and shall be completed by the Director of the Lottery upon the Commissioner's request.

### *366 - Lottery Commission –*

#### *Distributions to Statutory Funds and Purposes*

#### Fund 7213 FY 2025 Org 0705

Parking Garage Fund – Transfer.....	70001	\$	500,000
2004 Capitol Complex			
Parking Garage Fund – Transfer....	70002		216,478
Capitol Dome and Improvements Fund –			
Transfer.....	70003		1,796,256
Capitol Renovation and			
Improvement Fund – Transfer .....	70004		2,381,252
Economic Development Promotion and			
Closing Fund - Transfer.....	70005		1,298,864
Research Challenge Fund – Transfer ...	70006		1,731,820
Tourism Promotion Fund – Transfer ...	70007		4,808,142
Cultural Facilities and Capital Resources			
Matching Grant Program Fund –			
Transfer.....	70008		1,500,000
State Debt Reduction Fund – Transfer....	70010		20,000,000
General Revenue Fund – Transfer .....	70011		1,167,799
West Virginia Racing Commission			
Racetrack Video Lottery Account ...	70012		3,463,637
Historic Resort Hotel Fund .....	70013		24,010
Licensed Racetrack			
Regular Purse Fund.....	70014		<u>22,383,247</u>
Total.....		\$	61,271,505

### *367 - Racing Commission*

#### Fund 7308 FY 2025 Org 0707

#### Special Breeders Compensation

(W.V. Code §29-22-18a, subsection (I)) ....	21800	\$	2,000,000
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**368 - Economic Development Authority –***Economic Development Project Fund*Fund 9065 FY 2025 Org 0944

Debt Service – Total ..... 31000 \$ 19,000,000

Pursuant to W.V. Code §29-22-18a, subsection (f), excess lottery revenues are authorized to be transferred to the lottery fund as reimbursement of amounts transferred to the Economic Development Project fund pursuant to section four of this title and W.V. Code §29-22-18, subsection (f).

**369 - Economic Development Authority –***Cacapon and Beech Fork State Parks –**Lottery Revenue Debt Service*Fund 9067 FY 2025 Org 0944

Debt Service..... 04000 \$ 2,032,000

**370 - Economic Development Authority –***State Parks Lottery Revenue Debt Service Fund*Fund 9068 FY 2025 Org 0944

Debt Service..... 04000 \$ 4,395,000

Total TITLE II, Section 5 –

Excess Lottery Funds..... \$337,436,083

**Sec. 6. Appropriations of federal funds.** — In accordance with Article 11, Chapter 4 of the Code from federal funds there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized, for expenditure during the fiscal year 2025.

**LEGISLATIVE***371 - Crime Victims Compensation Fund*

(W.V. Code Chapter 14)

Fund 8738 FY 2025 Org 2300

	<b>Appropriation</b>	<b>Federal Funds</b>
Economic Loss Claim Payment Fund..	33400	\$ 442,000

**JUDICIAL***372 - Supreme Court*Fund 8867 FY 2025 Org 2400

Personal Services		
and Employee Benefits .....	00100	\$ 1,813,000
Repairs and Alterations .....	06400	100,000
Equipment .....	07000	250,000
Current Expenses .....	13000	1,557,000
Other Assets .....	69000	<u>280,000</u>
Total .....		\$ 4,000,000

**EXECUTIVE***373 - Governor's Office –**Coronavirus State Fiscal Recovery Fund*

(W.V. Code Chapter 4)

Fund 8823 FY 2025 Org 0100

Repairs and Alterations .....	06400	\$ 1,000
Equipment .....	07000	1,000
Unclassified .....	09900	500,000
Current Expenses .....	13000	25,497,000
Other Assets .....	69000	<u>1,000</u>
Total .....		\$ 26,000,000

*374 - Department of Agriculture*

(W.V. Code Chapter 19)

Fund 8736 FY 2025 Org 1400

## Personal Services

and Employee Benefits.....	00100	\$ 2,722,216
Repairs and Alterations.....	06400	650,000
Equipment.....	07000	910,500
Unclassified.....	09900	50,534
Current Expenses .....	13000	6,841,987
Buildings .....	25800	1,000,000
Other Assets.....	69000	550,000
Land .....	73000	500,000
Federal Coronavirus Pandemic .....	89101	<u>4,721,430</u>
Total.....		\$ 17,946,667

*375 - Department of Agriculture –**Meat Inspection Fund*

(W.V. Code Chapter 19)

Fund 8737 FY 2025 Org 1400

## Personal Services

and Employee Benefits.....	00100	\$ 739,966
Repairs and Alterations.....	06400	5,500
Equipment.....	07000	114,478
Unclassified.....	09900	8,755
Current Expenses .....	13000	<u>136,012</u>
Total.....		\$ 1,004,711

*376 - Department of Agriculture –**State Conservation Committee*

(W.V. Code Chapter 19)

Fund 8783 FY 2025 Org 1400

Personal Services		
and Employee Benefits .....	00100	\$ 99,978
Current Expenses .....	13000	<u>15,599,974</u>
Total .....		\$ 15,699,952

*377 - Department of Agriculture –*

*Land Protection Authority*

*(W.V. Code Chapter 19)*

Fund 8896 FY 2025 Org 1400

Personal Services		
and Employee Benefits .....	00100	\$ 46,526
Unclassified .....	09900	5,004
Current Expenses .....	13000	<u>448,920</u>
Total .....		\$ 500,450

*378 - Attorney General –*

*Medicaid Fraud Unit*

*(W.V. Code Chapter 5)*

Fund 8882 FY 2025 Org 1500

Personal Services		
and Employee Benefits .....	00100	\$ 1,850,458
Repairs and Alterations .....	06400	4,313
Equipment .....	07000	7,500
Unclassified .....	09900	15,336
Current Expenses .....	13000	611,287
Other Assets .....	69000	<u>11,336</u>
Total .....		\$ 2,500,230

*379 - Secretary of State –*

*State Election Fund*

*(W.V. Code Chapter 3)*

Fund 8854 FY 2025 Org 1600

Personal Services		
and Employee Benefits .....	00100	\$ 210,240
Repairs and Alterations .....	06400	15,000
Unclassified .....	09900	7,484
Current Expenses .....	13000	415,727
Other Assets .....	69000	<u>100,000</u>
Total .....		\$ 748,451

**DEPARTMENT OF COMMERCE***380 - Division of Forestry*

(W.V. Code Chapter 19)

Fund 8703 FY 2025 Org 0305

Personal Services		
and Employee Benefits .....	00100	\$ 637,000
Repairs and Alterations .....	06400	155,795
Equipment .....	07000	1,000,000
Unclassified .....	09900	51,050
Current Expenses .....	13000	3,062,013
Other Assets .....	69000	<u>3,078,847</u>
Total .....		\$ 7,984,705

*381 - Geological and Economic Survey*

(W.V. Code Chapter 29)

Fund 8704 FY 2025 Org 0306

Personal Services		
and Employee Benefits .....	00100	\$ 204,432
Repairs and Alterations .....	06400	305,000
Equipment .....	07000	187,500
Unclassified .....	09900	2,803
Current Expenses .....	13000	195,639
Buildings .....	25800	1,500,000
Other Assets .....	69000	<u>15,000</u>
Total .....		\$ 2,410,374

**382 - Division of Labor**

(W.V. Code Chapters 21 and 47)

Fund 8706 FY 2025 Org 0308

Personal Services		
and Employee Benefits .....	00100	\$ 460,197
Repairs and Alterations .....	06400	500
Unclassified .....	09900	5,572
Current Expenses .....	13000	<u>167,098</u>
Total .....		\$ 633,367

**383 - Division of Natural Resources**

(W.V. Code Chapter 20)

Fund 8707 FY 2025 Org 0310

Personal Services		
and Employee Benefits .....	00100	\$ 11,474,295
Repairs and Alterations .....	06400	566,250
Equipment .....	07000	2,126,141
Unclassified .....	09900	107,693
Current Expenses .....	13000	7,887,660
Administration .....	15500	50,325
Buildings .....	25800	951,000
Other Assets .....	69000	4,768,670
Land .....	73000	<u>2,893,920</u>
Total .....		\$ 30,825,954

**384 - Division of Miners' Health,***Safety and Training*

(W.V. Code Chapter 22)

Fund 8709 FY 2025 Org 0314

Personal Services		
and Employee Benefits .....	00100	\$ 705,030
Current Expenses .....	13000	<u>150,000</u>
Total .....		\$ 855,030

**385 - WorkForce West Virginia**

(W.V. Code Chapter 23)

**Fund 8835 FY 2025 Org 0323**

Unclassified.....	09900	\$	5,127
Current Expenses .....	13000		667,530
Reed Act 2002 –			
Unemployment Compensation .....	62200		4,446,737
Reed Act 2002 –			
Employment Services .....	63000		<u>3,246,737</u>
Total.....		\$	8,366,131

Pursuant to the requirements of 42 U.S.C. 1103, Section 903 of the Social Security Act, as amended, and the provisions of W.V. Code §21A-9-9, the above appropriation to Unclassified and Current Expenses shall be used by WorkForce West Virginia for the specific purpose of administration of the state's unemployment insurance program or job service activities, subject to each and every restriction, limitation or obligation imposed on the use of the funds by those federal and state statutes.

**386 - State Board of Rehabilitation –***Division of Rehabilitation Services*

(W.V. Code Chapter 18)

**Fund 8734 FY 2025 Org 0932**

Personal Services			
and Employee Benefits.....	00100	\$	12,642,892
Salary and Benefits of Cabinet Secretary			
and Agency Heads .....	00201		153,000
Repairs and Alterations.....	06400		350,400
Equipment.....	07000		1,275,870
Current Expenses .....	13000		<u>68,440,940</u>
Total.....		\$	82,863,102

**387 - State Board of Rehabilitation –***Division of Rehabilitation Services –**Disability Determination Services*

(W.V. Code Chapter 18)

Fund 8890 FY 2025 Org 0932

Personal Services		
and Employee Benefits .....	00100	\$ 14,889,790
Repairs and Alterations .....	06400	1,100
Equipment .....	07000	83,350
Current Expenses .....	13000	<u>13,383,206</u>
Total .....		\$ 28,357,446

**DEPARTMENT OF TOURISM****388 - Department of Tourism –***Tourism Workforce Development Fund*

(W.V. Code Chapter 5B)

Fund 8903 FY 2025 Org 0304

Federal Coronavirus Pandemic .....	89101	\$ 2,765,115
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**DEPARTMENT OF ECONOMIC DEVELOPMENT****389 - Department of Economic Development –***Office of the Secretary*

(W.V. Code Chapter 5B)

Fund 8705 FY 2025 Org 0307

Personal Services		
and Employee Benefits .....	00100	\$ 5,346,497
Unclassified .....	09900	50,000
Current Expenses .....	13000	<u>809,776,339</u>
Total .....		\$ 815,172,836



*390 - Department of Economic Development –**Office of Energy*

(W.V. Code Chapter 5B)

Fund 8892 FY 2025 Org 0307

## Personal Services

and Employee Benefits .....	00100	\$	1,007,411
Unclassified.....	09900		7,350
Current Expenses .....	13000		<u>8,266,076</u>
Total.....		\$	9,280,837

*391 - Department of Economic Development –**Office of the Secretary –**Office of Economic Opportunity*

(W.V. Code Chapter 5)

Fund 8901 FY 2025 Org 0307

## Personal Services

and Employee Benefits .....	00100	\$	854,189
Repairs and Alterations.....	06400		250
Equipment.....	07000		6,000
Unclassified.....	09900		106,795
Current Expenses .....	13000		<u>20,303,081</u>
Total.....		\$	21,270,315

**DEPARTMENT OF EDUCATION***392 - State Board of Education –**State Department of Education*

(W.V. Code Chapters 18 and 18A)

Fund 8712 FY 2025 Org 0402

## Personal Services

and Employee Benefits .....	00100	\$	6,146,942
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Repairs and Alterations.....	06400	10,000
Equipment.....	07000	10,000
Unclassified.....	09900	2,000,000
Current Expenses .....	13000	1,434,146,008
Other Assets.....	69000	10,000
Federal Coronavirus Pandemic .....	89101	<u>4,990,123</u>
Total.....		\$1,447,313,073

**393 - State Board of Education –**

*School Lunch Program*

(W.V. Code Chapters 18 and 18A)

Fund 8713 FY 2025 Org 0402

Personal Services		
and Employee Benefits.....	00100	\$ 2,010,501
Repairs and Alterations.....	06400	20,000
Equipment.....	07000	100,000
Unclassified.....	09900	1,150,500
Current Expenses .....	13000	258,781,265
Other Assets.....	69000	25,000
Federal Coronavirus Pandemic .....	89101	<u>743,436</u>
Total.....		\$ 262,830,702

**394 - State Board of Education –**

*Vocational Division*

(W.V. Code Chapters 18 and 18A)

Fund 8714 FY 2025 Org 0402

Personal Services		
and Employee Benefits.....	00100	\$ 2,032,898
Repairs and Alterations.....	06400	10,000
Equipment.....	07000	10,000
Unclassified.....	09900	155,000
Current Expenses .....	13000	20,820,081
Other Assets.....	69000	<u>10,000</u>
Total.....		\$ 23,037,979

**395 - State Board of Education –***Aid for Exceptional Children*

(W.V. Code Chapters 18 and 18A)

Fund 8715 FY 2025 Org 0402

## Personal Services

and Employee Benefits .....	00100	\$	3,671,135
Repairs and Alterations.....	06400		10,000
Equipment.....	07000		10,000
Unclassified.....	09900		1,000,000
Current Expenses .....	13000		139,346,390
Other Assets .....	69000		10,000
Federal Coronavirus Pandemic .....	89101		<u>17,336,635</u>
Total.....		\$	161,384,160

**396 - WV Professional Charter School Board**

(W.V. Code Chapter 18)

Fund 8828 FY 2025 Org 0405

## Personal Services

and Employee Benefits .....	00100	\$	98,605
Repairs and Alterations.....	06400		500
Equipment.....	07000		500
Current Expenses .....	13000		3,012,108
Other Assets .....	69000		<u>500</u>
Total.....		\$	3,112,213

**DEPARTMENT OF ARTS, CULTURE, AND HISTORY****397 - Division of Culture and History**

(W.V. Code Chapter 29)

Fund 8718 FY 2025 Org 0432

## Personal Services

and Employee Benefits .....	00100	\$	927,795
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Repairs and Alterations.....	06400	1,000
Equipment.....	07000	1,000
Current Expenses .....	13000	1,947,372
Buildings .....	25800	1,000
Other Assets.....	69000	1,000
Land .....	73000	360
Federal Coronavirus Pandemic .....	89101	<u>765,400</u>
Total.....		\$ 3,644,927

*398 - Library Commission*

(W.V. Code Chapter 10)

Fund 8720 FY 2025 Org 0432

Personal Services		
and Employee Benefits.....	00100	\$ 387,033
Equipment.....	07000	543,406
Current Expenses .....	13000	1,076,162
Federal Coronavirus Pandemic .....	89101	<u>2,388,880</u>
Total.....		\$ 4,395,481

*399 - Commission for National and Community Service*

(W.V. Code Chapter 5F)

Fund 8841 FY 2025 Org 0432

Personal Services		
and Employee Benefits.....	00100	\$ 471,153
Repairs and Alterations.....	06400	1,000
Current Expenses .....	13000	5,587,325
Federal Coronavirus Pandemic .....	89101	<u>1,960,558</u>
Total.....		\$ 8,020,036

*400 - National Coal Heritage Area Authority*

(W.V. Code Chapter 29)

Fund 8869 FY 2025 Org 0432

## Personal Services

and Employee Benefits .....	00100	\$	201,942
Repairs and Alterations .....	06400		5,000
Equipment .....	07000		3,000
Current Expenses .....	13000		328,008
Other Assets .....	69000		<u>2,000</u>
Total .....		\$	539,950

**DEPARTMENT OF ENVIRONMENTAL PROTECTION***401 - Division of Environmental Protection*

(W.V. Code Chapter 22)

Fund 8708 FY 2025 Org 0313

## Personal Services

and Employee Benefits .....	00100	\$	37,148,357
Repairs and Alterations .....	06400		739,783
Equipment .....	07000		1,712,238
Unclassified .....	09900		1,923,580
Current Expenses .....	13000		347,447,019
West Virginia Drinking Water Treatment			
Revolving Fund – Transfer .....	68900		80,753,300
Other Assets .....	69000		2,177,261
Land .....	73000		<u>80,000</u>
Total .....		\$	471,981,538

**DEPARTMENT OF HEALTH***402 - Department of Health –**Central Office*

(W.V. Code Chapter 16)

Fund 8802 FY 2025 Org 0506

## Personal Services

and Employee Benefits .....	00100	\$	21,101,605
Equipment .....	07000		456,972
Unclassified .....	09900		856,614

Current Expenses .....	13000	139,553,476
Buildings .....	25800	155,000
Other Assets .....	69000	380,000
Federal Coronavirus Pandemic .....	89101	<u>40,061,935</u>
Total .....		\$ 202,565,602

*403 - Human Rights Commission*

(W.V. Code Chapter 5)

Fund 8725 FY 2025 Org 0510

Personal Services		
and Employee Benefits .....	00100	\$ 737,485
Unclassified .....	09900	5,050
Current Expenses .....	13000	<u>164,950</u>
Total .....		\$ 907,485

*404 - Office of the Inspector General*

(W.V. Code Chapter 16B)

Fund xxxx FY 2025 Org xxxx

Personal Services		
and Employee Benefits .....	00100	\$ 1,486,738
Unclassified .....	09900	8,335
Current Expenses .....	13000	<u>825,230</u>
Total .....		\$ 2,320,303

**DEPARTMENT OF HUMAN SERVICES**

*405 - Department of Human Services*

(W.V. Code Chapters 9, 48, and 49)

Fund 8722 FY 2025 Org 0511

Personal Services		
and Employee Benefits .....	00100	\$ 88,722,032
Salary and Benefits of Cabinet Secretary		
and Agency Heads .....	00201	73,500

Unclassified.....	09900	22,855,833
Current Expenses .....	13000	180,311,984
Medical Services .....	18900	4,151,432,776
Medical Services Administrative Costs	78900	170,074,119
CHIP Administrative Costs.....	85601	6,753,105
CHIP Services .....	85602	59,012,014
Federal Coronavirus Pandemic .....	89101	<u>4,000,000</u>
Total.....		\$ 4,683,235,363

*406 - Department of Human Services –*

*Consolidated Medical Service Fund*

(W.V. Code Chapter 16)

Fund 8723 FY 2025 Org 0511

Personal Services		
and Employee Benefits .....	00100	\$ 1,485,132
Unclassified.....	09900	73,307
Current Expenses .....	13000	98,197,690
Federal Coronavirus Pandemic .....	89101	<u>564,772</u>
Total.....		\$ 100,320,901

**DEPARTMENT OF HOMELAND SECURITY**

*407 - Division of Emergency Management*

(W.V. Code Chapter 15)

Fund 8727 FY 2025 Org 0606

Personal Services		
and Employee Benefits .....	00100	\$ 2,035,385
Salary and Benefits of Cabinet Secretary		
and Agency Heads .....	00201	61,250
Repairs and Alterations.....	06400	5,000
Equipment.....	07000	100,000
Current Expenses .....	13000	<u>20,429,281</u>
Total.....		\$ 22,630,916

*408 - Division of Corrections and Rehabilitation*

(W.V. Code Chapters 15A)

Fund 8836 FY 2025 Org 0608

Unclassified.....	09900	\$	1,100
Current Expenses .....	13000		<u>108,900</u>
Total.....		\$	110,000

*409 - West Virginia State Police*

(W.V. Code Chapter 15)

Fund 8741 FY 2025 Org 0612

Personal Services			
and Employee Benefits .....	00100	\$	3,266,412
Repairs and Alterations.....	06400		42,000
Equipment.....	07000		13,356,035
Current Expenses .....	13000		2,250,971
Buildings .....	25800		1,740,500
Other Assets .....	69000		1,065,750
Land .....	73000		<u>500</u>
Total.....		\$	21,722,168

*410 - Fire Commission*

(W.V. Code Chapter 15A)

Fund 8819 FY 2025 Org 0619

Current Expenses .....	13000	\$	80,000
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*411 - Division of Administrative Services*

(W.V. Code Chapter 15)

Fund 8803 FY 2025 Org 0623

Personal Services			
and Employee Benefits .....	00100	\$	1,363,346
Repairs and Alterations.....	06400		1,750



Unclassified.....	09900	25,185
Current Expenses .....	13000	<u>75,381,973</u>
Total.....		\$ 76,772,254

## DEPARTMENT OF REVENUE

### *412 - Insurance Commissioner*

(W.V. Code Chapter 33)

Fund 8883 FY 2025 Org 0704

Personal Services		
and Employee Benefits.....	00100	\$ 145,000
Equipment.....	07000	30,000
Current Expenses .....	13000	<u>2,825,000</u>
Total.....		\$ 3,000,000

## DEPARTMENT OF TRANSPORTATION

### *413 - Division of Motor Vehicles*

(W.V. Code Chapter 17B)

Fund 8787 FY 2025 Org 0802

Personal Services		
and Employee Benefits.....	00100	\$ 900,000
Repairs and Alterations.....	06400	500
Current Expenses .....	13000	<u>5,448,106</u>
Total.....		\$ 6,348,606

### *414 - Division of Multimodal Transportation Facilities -*

#### *Public Transit*

(W.V. Code Chapter 17)

Fund 8745 FY 2025 Org 0810

Personal Services		
and Employee Benefits.....	00100	\$ 1,089,934
Repairs and Alterations.....	06400	2,500

Equipment .....	07000	3,501,714
Current Expenses .....	13000	20,863,149
Buildings .....	25800	2,450,000
Other Assets .....	69000	<u>250,000</u>
Total .....		\$ 28,157,297

*415 - Division of Multimodal Transportation Facilities -*

*Aeronautics Commission*

(W.V. Code Chapter 29)

Fund 8831 FY 2025 Org 0810

Current Expenses .....	13000	\$ 400,000
Other Assets .....	69000	<u>100</u>
Total .....		\$ 400,100

**DEPARTMENT OF VETERANS' ASSISTANCE**

*416 - Department of Veterans' Assistance*

(W.V. Code Chapter 9A)

Fund 8858 FY 2025 Org 0613

Personal Services		
and Employee Benefits .....	00100	\$ 3,257,327
Salary and Benefits of Cabinet Secretary		
and Agency Heads .....	00201	57,120
Repairs and Alterations .....	06400	20,000
Equipment .....	07000	25,000
Current Expenses .....	13000	3,840,300
Buildings .....	25800	22,750,000
Land .....	73000	500
Veterans' Cemetery .....	80800	175,000
Federal Coronavirus Pandemic .....	89101	<u>1,900,000</u>
Total .....		\$ 32,025,247

*417 - Department of Veterans' Assistance -*

*Veterans' Home*

## (W.V. Code Chapter 9A)

Fund 8728 FY 2025 Org 0618

Personal Services		
and Employee Benefits .....	00100	\$ 1,050,031
Repairs and Alterations .....	06400	60,500
Equipment .....	07000	10,500
Current Expenses .....	13000	595,700
Buildings .....	25800	500
Other Assets .....	69000	6,500
Land .....	73000	100
Federal Coronavirus Pandemic .....	89101	<u>1,600,000</u>
Total .....		\$ 3,323,831

**BUREAU OF SENIOR SERVICES***418 - Bureau of Senior Services*

## (W.V. Code Chapter 29)

Fund 8724 FY 2025 Org 0508

Personal Services		
and Employee Benefits .....	00100	\$ 842,593
Salary and Benefits of Cabinet Secretary		
and Agency Heads .....	00201	12,000
Repairs and Alterations .....	06400	3,000
Current Expenses .....	13000	<u>13,811,853</u>
Total .....		\$ 14,669,446

**MISCELLANEOUS BOARDS AND COMMISSIONS***419 - Adjutant General –**State Militia*

## (W.V. Code Chapter 15)

Fund 8726 FY 2025 Org 0603

Unclassified .....	09900	\$ 982,705
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Mountaineer ChalleNge Academy .....	70900	12,312,486
Martinsburg Starbase .....	74200	590,990
Charleston Starbase .....	74300	557,297
Military Authority .....	74800	<u>90,033,787</u>
Total .....		\$ 104,477,265

The Adjutant General shall have the authority to transfer between appropriations.

*420 - Adjutant General –*

*West Virginia National Guard Counterdrug Forfeiture Fund*

(W.V. Code Chapter 15)

Fund 8785 FY 2025 Org 0603

Personal Services		
and Employee Benefits .....	00100	\$ 1,350,000
Repairs and Alterations .....	06400	50,000
Equipment .....	07000	200,000
Current Expenses .....	13000	150,000
Buildings .....	25800	100,000
Other Assets .....	69000	100,000
Land .....	73000	<u>50,000</u>
Total .....		\$ 2,000,000

*421 - Public Service Commission –*

*Motor Carrier Division*

(W.V. Code Chapter 24A)

Fund 8743 FY 2025 Org 0926

Personal Services		
and Employee Benefits .....	00100	\$ 1,600,289
Repairs and Alterations .....	06400	39,000
Equipment .....	07000	1,000
Current Expenses .....	13000	<u>368,953</u>
Total .....		\$ 2,009,242

*422 - Public Service Commission –**Gas Pipeline Division*

(W.V. Code Chapter 24B)

Fund 8744 FY 2025 Org 0926

Personal Services		
and Employee Benefits .....	00100	\$ 725,664
Equipment .....	07000	3,000
Unclassified .....	09900	4,072
Current Expenses .....	13000	<u>124,628</u>
Total .....		\$ 857,364

*423 - Economic Development Authority*

(W.V. Code Chapter 31)

Fund 8893 FY 2025 Org 0944

Current Expenses .....	13000	5,000,000
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Total TITLE II, Section 6 –

Federal Funds..... \$ 8,778,821,122

**Sec. 7. Appropriations from federal block grants.** — The following items are hereby appropriated from federal block grants to be available for expenditure during the fiscal year 2025.

*424 - Department of Economic Development –**Office of the Secretary –**Community Development*Fund 8746 FY 2025 Org 0307

Personal Services		
and Employee Benefits .....	00100	\$ 10,662,609
Unclassified .....	09900	2,375,000
Current Expenses .....	13000	<u>224,476,883</u>
Total .....		\$ 237,514,492

*425 - Department of Economic Development –**Office of the Secretary –**Office of Economic Opportunity –**Community Services*Fund 8902 FY 2025 Org 0307

Personal Services			
and Employee Benefits .....	00100	\$	771,289
Repairs and Alterations .....	06400		1,500
Equipment .....	07000		9,000
Unclassified .....	09900		125,000
Current Expenses .....	13000		<u>17,781,811</u>
Total .....		\$	18,688,600

*426 - WorkForce West Virginia –**Workforce Investment Act*Fund 8749 FY 2025 Org 0323

Personal Services			
and Employee Benefits .....	00100	\$	3,036,190
Salary and Benefits of Cabinet Secretary			
and Agency Heads .....	00201		124,018
Repairs and Alterations .....	06400		1,600
Equipment .....	07000		500
Unclassified .....	09900		23,023
Current Expenses .....	13000		63,381,511
Buildings .....	25800		<u>1,100</u>
Total .....		\$	66,567,942

*427 - Department of Health –**Maternal and Child Health*Fund 8750 FY 2025 Org 0506

Personal Services			
and Employee Benefits .....	00100	\$	2,509,103

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Unclassified.....	09900	81,439
Current Expenses .....	13000	<u>7,294,267</u>
Total.....		\$ 9,884,809

*428 - Department of Health –*

*Preventive Health*

Fund 8753 FY 2025 Org 0506

Personal Services		
and Employee Benefits .....	00100	\$ 283,642
Equipment.....	07000	165,642
Unclassified.....	09900	22,457
Current Expenses .....	13000	<u>1,895,366</u>
Total.....		\$ 2,367,107

*429 - Department of Human Services –*

*Energy Assistance*

Fund 8755 FY 2025 Org 0511

Personal Services		
and Employee Benefits .....	00100	\$ 2,733,782
Salary and Benefits of Cabinet Secretary		
and Agency Heads .....	00201	2,450
Unclassified.....	09900	350,000
Current Expenses .....	13000	<u>57,082,035</u>
Total.....		\$ 60,168,267

*430 - Department of Human Services –*

*Social Services*

Fund 8757 FY 2025 Org 0511

Personal Services		
and Employee Benefits .....	00100	\$ 9,709,574
Unclassified.....	09900	171,982
Current Expenses .....	13000	<u>8,870,508</u>
Total.....		\$ 18,752,064

*431 - Department of Health –**Substance Abuse Prevention and Treatment*Fund 8793 FY 2025 Org 0511

Personal Services		
and Employee Benefits .....	00100	\$ 736,598
Unclassified.....	09900	115,924
Current Expenses .....	13000	10,853,740
Federal Coronavirus Pandemic .....	89101	<u>4,225,212</u>
Total.....		\$ 15,931,474

*432 - Department of Health –**Community Mental Health Services*Fund 8794 FY 2025 Org 0511

Personal Services		
and Employee Benefits .....	00100	\$ 607,341
Unclassified.....	09900	33,533
Current Expenses .....	13000	5,376,330
Federal Coronavirus Pandemic .....	89101	<u>6,570,960</u>
Total.....		\$ 12,588,164

*433 - Department of Human Services –**Temporary Assistance for Needy Families*Fund 8816 FY 2025 Org 0511

Personal Services		
and Employee Benefits .....	00100	\$ 22,903,080
Salary and Benefits of Cabinet Secretary		
and Agency Head.....	00201	7,350
Unclassified.....	09900	1,250,000
Current Expenses .....	13000	<u>110,504,134</u>
Total.....		\$ 134,664,564



*434 - Department of Human Services –**Child Care and Development*Fund 8817 FY 2025 Org 0511

## Personal Services

and Employee Benefits.....	00100	\$ 3,753,484
Salary and Benefits of Cabinet Secretary and Agency Head.....	00201	2,450
Unclassified.....	09900	350,000
Current Expenses .....	13000	<u>107,150,000</u>
Total.....		\$ 111,255,934

## Total TITLE II, Section 7 –

Federal Block Grants ..... \$ 686,383,417

**Sec. 8. Awards for claims against the state.** — There are hereby appropriated for fiscal year 2025, from the fund as designated, in the amounts as specified, general revenue funds in the amount of \$1,647,648 special revenue funds in the amount of \$32,521, and state road funds in the amount of \$386,856 for payment of claims against the state.

**Sec. 9. Appropriations from general revenue fund surplus accrued.** — The following items are hereby appropriated from the state fund, general revenue, and are to be available for expenditure during the fiscal year 2025 out of surplus funds only, accrued from the fiscal year ending June 30, 2024, subject to the terms and conditions set forth in this section.

It is the intent and mandate of the Legislature that the following appropriations be payable only from surplus as of July 31, 2024 from the fiscal year ending June 30, 2024, only after first meeting requirements of W.Va. Code §11B-2-20(b).

In the event that surplus revenues available on July 31, 2024, are not sufficient to meet the appropriations made pursuant to this section, then the appropriations shall be made to the extent that surplus funds are available as of the date mandated to meet the appropriations in this section and shall be allocated first to provide

the necessary funds to meet the first appropriation of this section and each subsequent appropriation in the order listed in this section.

**435 - Department of Tourism –**

*Office of the Secretary*

(W.V. Code Chapter 5B)

Fund 0246 FY 2025 Org 0304

Tourism – Brand Promotion –

Surplus .....	61893	\$ 10,000,000
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Tourism – Industry Development –

Surplus .....	61896	<u>6,000,000</u>
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Total .....		\$ 16,000,000
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**436 - Bureau for Medical Services –**

*Policy and Programming*

(W.V. Code Chapter 16)

Fund xxxx FY 2025 Org 0511

Medical Services - Surplus .....	63300	\$ 18,000,000
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**437 - Department of Health –**

*Central Office*

(W.V. Code Chapter 16)

Fund 0407 FY 2025 Org 0506

Pregnancy Centers - Surplus .....	49999	\$ 3,000,000
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**438 - State Board of Education –**

*State Department of Education*

(W.V. Code Chapters 18 and 18A)

Fund 0313 FY 2025 Org 0402

Hope Scholarship Program – Surplus..       xxxxxx   \$ 27,321,613

~~\*439 – West Virginia University –~~~~General Administrative Fund~~~~(W.V. Code Chapter 18B)~~Fund 0344 FY 2025 Org 0463~~West Virginia University Surplus.....       xxxxxx   \$ 5,147,926~~~~\*440 – Marshall University –~~~~General Administration Fund~~~~(W.V. Code Chapter 18B)~~Fund 0348 FY 2025 Org 0471~~Marshall University Surplus.....       xxxxxx   \$ 2,386,218~~~~\*441 – Concord University~~~~(W.V. Code Chapter 18B)~~Fund 0357 FY 2025 Org 0483~~Concord University Surplus .....       xxxxxx   \$ 455,024~~~~\*442 – Shepherd University~~~~(W.V. Code Chapter 18B)~~Fund 0366 FY 2025 Org 0486~~Shepherd University Surplus .....       43299   \$ 404,150~~~~\*443 – New River Community and Technical College~~~~(W.V. Code Chapter 18B)~~


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\*NOTE: The Governor deleted items 439 through 443 in their entirety.

~~Fund 0600 FY 2025 Org 0445~~

~~New River Community~~

~~and Technical College Surplus.... xxxxx \$ 349,715~~

*444 - Department of Economic Development –*

*Office of the Secretary*

*(W.V. Code Chapter 5B)*

Fund 0256 FY 2025 Org 0307

Directed Transfer – Surplus ..... 70099 \$ 50,000,000

The above appropriation for Directed Transfer (fund 0256, appropriation 70099) shall be transferred to the Economic Enhancement Fund (fund 3382).

Total TITLE II, Section 9 – General Revenue

Surplus Accrued..... \$ 120,064,646

**Sec. 10. Appropriations from lottery net profits surplus accrued.** — The following items are hereby appropriated from the lottery net profits, and are to be available for expenditure during the fiscal year 2025 out of surplus funds only, as determined by the director of lottery, accrued from the fiscal year ending June 30, 2024, subject to the terms and conditions set forth in this section.

It is the intent and mandate of the Legislature that the following appropriations be payable only from surplus accrued from the fiscal year ending June 30, 2024.

In the event that surplus revenues available from the fiscal year ending June 30, 2024, are not sufficient to meet the appropriations made pursuant to this section, then the appropriations shall be made to the extent that surplus funds are available.

*445 - Bureau of Senior Services –*

*Lottery Senior Citizens Fund*

(W.V. Code Chapter 29)

Fund 5405 FY 2025 Org 0508

Senior Services Medicaid Transfer –		
Lottery Surplus .....	68199	\$ 14,750,000
In-Home Services and Nutrition		
for Senior Citizens – Surplus .....	76699	<u>2,000,000</u>
Total .....		16,750,000
 Total TITLE II, Section 10 –		
Surplus Accrued .....		<u>\$ 16,750,000</u>

**Sec. 11. Appropriations from state excess lottery revenue surplus accrued.** — The following items are hereby appropriated from the state excess lottery revenue fund, and are to be available for expenditure during the fiscal year 2025 out of surplus funds only, as determined by the Director of Lottery, accrued from the fiscal year ending June 30, 2024, subject to the terms and conditions set forth in this section.

It is the intent and mandate of the Legislature that the following appropriations be payable only from surplus accrued from the fiscal year ending June 30, 2024.

In the event that surplus revenues available from the fiscal year ending June 30, 2024, are not sufficient to meet the appropriations made pursuant to this section, then the appropriations shall be made to the extent that surplus funds are available.

*446 - Racing Commission –**General Administration*

(W.V. Code Chapter 19)

Fund 7308 FY 2025 Org 0707

Directed Transfer .....	70000	\$ 800,000
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The above appropriation for Directed Transfer (fund 7308, appropriation 70000), \$800,000 shall be transferred to the Racing Commission – General Administration (fund 7305).

*447 - Department of Human Services*

(W.V. Code Chapters 9, 48, and 49)

Fund 5365 FY 2025 Org 0511

Medical Services – Lottery Surplus..... 68100 \$ 17,000,000

Total TITLE II, Section 11 –

Surplus Accrued..... \$ 17,800,000

**Sec. 12. Special revenue appropriations.** — There are hereby appropriated for expenditure during the fiscal year 2025 special revenues collected pursuant to general law enactment of the Legislature which are not paid into the state fund as general revenue under the provisions of W.V. Code §12-2-2 and are not expressly appropriated under this act: Provided, That none of the money so appropriated by this section shall be available for expenditure except in compliance with the provisions of W.V. Code §12-2-1 et seq., W.V. Code §12-3-1 et seq., and W.V. Code §11B-2-1 et seq., unless the spending unit has filed with the Director of the Budget and the Legislative Auditor prior to the beginning of each fiscal year:

(a) An estimate of the amount and sources of all revenues accruing to such fund; and

(b) A detailed expenditure schedule showing for what purposes the fund is to be expended: *Provided, however*, That federal funds received by the state may be expended only in accordance with Sections (6) or (7) of this Title and with W.V. Code §4-11-1, *et seq.* *Provided further*, That federal funds that become available to a spending unit for expenditure while the Legislature is not in session and the availability of such funds could not reasonably have been anticipated and included in this act may be only be expended in the limited circumstances provided by W.V. Code §4-11-5(d): *And provided further*, That no provision of this act may be construed to

authorize the expenditure of federal funds except as provided in this section.

**Sec. 13. State improvement fund appropriations.** — Bequests or donations of nonpublic funds, received by the Governor on behalf of the state during the fiscal year 2025, for the purpose of making studies and recommendations relative to improvements of the administration and management of spending units in the executive branch of state government, shall be deposited in the state treasury in a separate account therein designated state improvement fund.

There are hereby appropriated all moneys so deposited during the fiscal year 2025 to be expended as authorized by the Governor, for such studies and recommendations which may encompass any problems of organization, procedures, systems, functions, powers or duties of a state spending unit in the executive branch, or the betterment of the economic, social, educational, health and general welfare of the state or its citizens.

**Sec. 14. Specific funds and collection accounts.** — A fund or collection account which by law is dedicated to a specific use is hereby appropriated in sufficient amount to meet all lawful demands upon the fund or collection account and shall be expended according to the provisions of Article 3, Chapter 12 of the Code.

**Sec. 15. Appropriations for refunding erroneous payment.** — Money that has been erroneously paid into the state treasury is hereby appropriated out of the fund into which it was paid, for refund to the proper person.

When the officer authorized by law to collect money for the state finds that a sum has been erroneously paid, he or she shall issue his or her requisition upon the Auditor for the refunding of the proper amount. The Auditor shall issue his or her warrant to the Treasurer and the Treasurer shall pay the warrant out of the fund into which the amount was originally paid.

**Sec. 16. Sinking fund deficiencies.** — There is hereby appropriated to the Governor a sufficient amount to meet any

deficiencies that may arise in the Mortgage Finance Bond Insurance fund of the West Virginia Housing Development Fund which is under the supervision and control of the Municipal Bond Commission as provided by W.V. Code §31-18-20b, or in the funds of the Municipal Bond Commission because of the failure of any state agency for either general obligation or revenue bonds or any local taxing district for general obligation bonds to remit funds necessary for the payment of interest and sinking fund requirements. The Governor is authorized to transfer from time to time such amounts to the Municipal Bond Commission as may be necessary for these purposes.

The Municipal Bond Commission shall reimburse the State of West Virginia through the Governor from the first remittance collected from the West Virginia Housing Development Fund or from any state agency or local taxing district for which the Governor advanced funds, with interest at the rate carried by the bonds for security or payment of which the advance was made.

**Sec. 17. Appropriations for local governments.** — There are hereby appropriated for payment to counties, districts, and municipal corporations such amounts as will be necessary to pay taxes due counties, districts, and municipal corporations and which have been paid into the treasury:

- (a) For redemption of lands;
- (b) By public service corporations;
- (c) For tax forfeitures.

**Sec. 18. Total appropriations.** — Where only a total sum is appropriated to a spending unit, the total sum shall include personal services and employee benefits, annual increment, current expenses, repairs and alterations, buildings, equipment, other assets, land, and capital outlay, where not otherwise specifically provided and except as otherwise provided in TITLE I – GENERAL PROVISIONS, Sec. 3.

**Sec. 19. General school fund.** — The balance of the proceeds of the general school fund remaining after the payment of the



appropriations made by this act is appropriated for expenditure in accordance with W.V. Code §18-9A-16.

### TITLE III – ADMINISTRATION

**Sec. 1. Appropriations conditional.** — The expenditure of the appropriations made by this act, except those appropriations made to the legislative and judicial branches of the state government, are conditioned upon the compliance by the spending unit with the requirements of Article 2, Chapter 11B of the Code.

Where spending units or parts of spending units have been absorbed by or combined with other spending units, it is the intent of this act that appropriations and reappropriations shall be to the succeeding or later spending unit created, unless otherwise indicated.

**Sec. 2. Constitutionality.** — If any part of this act is declared unconstitutional by a court of competent jurisdiction, its decision shall not affect any portion of this act which remains, but the remaining portion shall be in full force and effect as if the portion declared unconstitutional had never been a part of the act.

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## CHAPTER 12

### **(S. B. 574 - By Senators Blair (Mr. President) and Woelfel)** **[By Request of the Executive]**

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[Passed March 4, 2024; in effect from passage]  
[Approved by the Governor on March 14, 2024.]

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AN ACT supplementing, amending, and increasing existing items of appropriation from the State Road Fund to the Department of Transportation, Division of Highways, fund 9017, fiscal year 2024, organization 0803, for the fiscal year ending June 30, 2024.

WHEREAS, The Governor submitted to the Legislature the Executive Budget Document, dated January 10, 2024, which included a statement of the State Road Fund setting forth therein the cash balances and investments as of July 1, 2023, and further included the estimate of revenues for the fiscal year 2024, less regular appropriations for the fiscal year 2024; and

WHEREAS, It appears from the statement of the State Road Fund there now remains an unappropriated balance in the State Treasury which is available for appropriation during the fiscal year ending June 30, 2024; therefore

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

That the total appropriation for the fiscal year ending June 30, 2024, to fund 9017, fiscal year 2024, organization 0803, be supplemented and amended by increasing existing items of appropriation as follows:

### **TITLE II – APPROPRIATIONS.**

#### **Sec. 2. Appropriations from state road fund.**

DEPARTMENT OF TRANSPORTATION

*122 - Division of Highways*

(W.V. Code Chapters 17 and 17C)

Fund 9017 FY 2024 Org 0803

	<b>Appropriation</b>	<b>State Road Fund</b>
8 Interstate Construction.....	27800	62,500,000
9 Other Federal Aid Programs .....	27900	87,500,000
10 Appalachian Programs.....	28000	125,000,000

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## CHAPTER 13

### **(S. B. 643 - By Senators Blair (Mr. President) and Woelfel)** **[By Request of the Executive]**

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[Passed March 7, 2024; in effect from passage]  
[Approved by the Governor on March 14, 2024.]

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AN ACT 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 Department of Education, State Board of Education – School Building Authority, fund 0318, fiscal year 2024, organization 0404, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024.

WHEREAS, The Governor submitted the Executive Budget Document to the Legislature on January 10, 2024, containing 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 supplemental appropriations from the 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

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

That the total appropriation for the fiscal year ending June 30, 2024, to fund 0318, fiscal year 2024, organization 0404, be

supplemented and amended by increasing an item of appropriation as follows:

**TITLE II – APPROPRIATIONS.**

**Section 1. Appropriations from general revenue.**

**DEPARTMENT OF EDUCATION**

*47 - State Board of Education –*

*School Building Authority*

(W.V. Code Chapters 18 and 18A)

Fund 0318 FY 2024 Org 0404

			<b>General Revenue Fund</b>
	<b>Appro- priation</b>		
1 School Building Authority.....	45300	\$	5,000,000

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## CHAPTER 14

**(Com. Sub. for S. B. 644 - By Senators Blair (Mr. President)  
and Woelfel)**

**[By Request of the Executive]**

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[Passed March 8, 2024; in effect from passage]  
[Approved by the Governor on March 14, 2024.]

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AN ACT 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 Department of Commerce, Division of Forestry, fund 0250, fiscal year 2024, organization 0305, and the Department of Commerce, Geological and Economic Survey, fund 0253, fiscal year 2024, organization 0306, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024.

WHEREAS, The Governor submitted the Executive Budget Document to the Legislature on January 10, 2024, containing 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 surplus 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

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

That the total appropriation for the fiscal year ending June 30, 2024, to fund 0250, fiscal year 2024, organization 0305, be supplemented and amended by increasing an item of appropriation as follows:

**TITLE II – APPROPRIATIONS.**

**Section 1. Appropriations from general revenue.**

**DEPARTMENT OF COMMERCE**

*32 - Division of Forestry*

(W.V. Code Chapter 19)

Fund 0250 FY 2024 Org 0305

	<b>Appro- piation</b>	<b>General Revenue Fund</b>
1    Personal Services and Employee Benefits .....	00100	755,000

And, That the total appropriation for the fiscal year ending June 30, 2024, to fund 0253, fiscal year 2024, organization 0306, be supplemented and amended by increasing items of appropriation as follows:

**TITLE II – APPROPRIATIONS.**

**Section 1. Appropriations from general revenue.**

**DEPARTMENT OF COMMERCE**

*33 - Geological and Economic Survey*

(W.V. Code Chapter 29)

Fund 0253 FY 2024 Org 0306

	<b>Appropriation</b>	<b>General Revenue Fund</b>
1    Personal Services and Employee Benefits.....	00100	110,997
7    Mineral Mapping System (R) .....	20700	47,975



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## CHAPTER 15

**(S. B. 650 - By Senators Blair (Mr. President) and Woelfel)**

**[By Request of the Executive]**

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[Passed March 5, 2024; in effect from passage]  
[Approved by the Governor on March 14, 2024.]

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AN ACT 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 Higher Education Policy Commission, Fairmont State University, fund 0360, fiscal year 2024, organization 0484, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024.

WHEREAS, The Governor submitted the Executive Budget Document to the Legislature on January 10, 2024, containing 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 supplemental appropriations from the 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

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

That the total appropriation for the fiscal year ending June 30, 2024, to fund 0360, fiscal year 2024, organization 0484, be

supplemented and amended by increasing an existing item of appropriation as follows:

**TITLE II – APPROPRIATIONS.**

**Section 1. Appropriations from general revenue.**

**HIGHER EDUCATION POLICY COMMISSION**

*113 – Fairmont State University*

(W.V. Code Chapter 18B)

Fund 0360 FY 2024 Org 0484

	<b>Appropriation</b>	<b>General Revenue Fund</b>
1 Fairmont State University.....	41400	400,000

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## CHAPTER 16

**(Com. Sub. for S. B. 652 - By Senators Blair (Mr. President)  
and Woelfel)**

**[By Request of the Executive]**

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[Passed March 7, 2024; in effect from passage]  
[Approved by the Governor on March 13, 2024.]

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AN ACT 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 Health and Human Resources, Health Facilities – William R. Sharpe, Jr. Hospital, fund 0413, fiscal year 2024, organization 0512, and the Department of Health and Human Resources, Health Facilities – Mildred Mitchell-Bateman Hospital, fund 0414, fiscal year 2024, organization 0512, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024, by adding new items of appropriation.

WHEREAS, The Governor submitted the Executive Budget Document to the Legislature on January 10, 2024, containing 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 surplus 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 surplus balance in the Treasury which is available for

appropriation during the fiscal year ending June 30, 2024; therefore

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

That the total appropriation for the fiscal year ending June 30, 2024, to fund 0413, fiscal year 2024, organization 0512, be supplemented and amended by adding a new item of appropriation as follows:

**TITLE II – APPROPRIATIONS.**

**Section 1. Appropriations from general revenue.**

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

*69 - Health Facilities –*

*William R. Sharpe, Jr. Hospital*

(W.V. Code Chapter 16)

Fund 0413 FY 2024 Org 0512

	<b>Appropriation</b>	<b>General Revenue Fund</b>
2a Contract Nursing – Surplus .....	xxxxxx	34,000,000

And, That the total appropriation for the fiscal year ending June 30, 2024, to fund 0414, fiscal year 2024, organization 0512, be supplemented and amended by adding a new item of appropriation as follows:

**TITLE II – APPROPRIATIONS.**

**Section 1. Appropriations from general revenue.**

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

*70 - Health Facilities –*

*Mildred Mitchell-Bateman Hospital*

(W.V. Code Chapter 16)

Fund 0414 FY 2024 Org 0512

	<b>Appropriation</b>	<b>General Revenue Fund</b>
2a Contract Nursing – Surplus .....	xxxxx	11,000,000

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## CHAPTER 17

**(S. B. 653 - By Senators Blair (Mr. President) and Woelfel)**

**[By Request of the Executive]**

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[Passed March 6, 2024; in effect from passage]  
[Approved by the Governor on March 14, 2024.]

---

AN ACT 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 State Department of Education, State Board of Education – School Building Authority, fund 0318, fiscal year 2024, organization 0404, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024.

WHEREAS, The Governor submitted the Executive Budget Document to the Legislature on January 10, 2024, containing 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 surplus 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 surplus balance in the Treasury which is available for appropriation during the fiscal year ending June 30, 2024; therefore

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

That the total appropriation for the fiscal year ending June 30, 2024, to fund 0318, fiscal year 2024, organization 0404, be supplemented and amended by adding a new item of appropriation as follows:

## **TITLE II – APPROPRIATIONS.**

### **Section 1. Appropriations from general revenue.**

#### **DEPARTMENT OF EDUCATION**

*47 - State Board of Education –*

*School Building Authority*

(W.V. Code Chapters 18 and 18A)

Fund 0318 FY 2024 Org 0404

	<b>Appropriation</b>	<b>General Revenue Fund</b>
1a School Building Authority –		
Surplus.....	45399	150,000,000

The above appropriation for School Building Authority – Surplus (fund 0318, appropriation 45399) shall be transferred to the School Construction Fund (fund 3952).

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## CHAPTER 18

**(Com. Sub. for S. B. 656 - By Senators Blair (Mr. President)  
and Woelfel)**

**[By Request of the Executive]**

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[Passed March 8, 2024; in effect from passage]  
[Approved by the Governor on March 14, 2024.]

---

AN ACT 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 Department of Health and Human Resources, Division of Human Services, fund 0403, fiscal year 2024, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024.

WHEREAS, The Governor submitted the Executive Budget Document to the Legislature on January 10, 2024, containing 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 surplus 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

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



That the total appropriation for the fiscal year ending June 30, 2024, to fund 0403, fiscal year 2024, organization 0511, be supplemented and amended by increasing items of appropriation as follows:

## **TITLE II – APPROPRIATIONS.**

### **Section 1. Appropriations from general revenue.**

#### **DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

##### *61 - Division of Human Services*

(W.V. Code Chapters 9, 48, and 49)

Fund 0403 FY 2024 Org 0511

	<b>Appro- priation</b>	<b>General Revenue Fund</b>
3 Current Expenses .....	13000	350,000
25 Medical Services		
Administrative Costs .....	78900	12,103,411

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## CHAPTER 19

**(S. B. 657 - By Senators Blair (Mr. President) and Woelfel)**

**[By Request of the Executive]**

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[Passed March 6, 2024; in effect from passage]  
[Approved by the Governor on March 14, 2024.]

---

AN ACT expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2024, in the amount of \$71,000,000 from the balance of moneys remaining as an unappropriated balance in the State Excess Lottery Revenue Fund.

WHEREAS, The Governor submitted the Executive Budget Document to the Legislature on January 10, 2024, containing 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 revenues 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 surplus balance of the State Fund, General Revenue; and

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

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

That the balance of the funds remaining as an unappropriated balance for the fiscal year ending June 30, 2024, in the State Excess Lottery Revenue Fund be decreased by expiring the amount of \$71,000,000 to the unappropriated surplus balance of the State Fund, General Revenue to be available for appropriation during the fiscal year ending June 30, 2024.

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## CHAPTER 20

**(S. B. 658 - By Senators Blair (Mr. President) and Woelfel)**  
**[By Request of the Executive]**

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[Passed February 23, 2024; in effect from passage]  
[Approved by the Governor on March 6, 2024.]

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AN ACT 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, the Department of Administration, Public Defender Services, fund 0226, fiscal year 2024, organization 0221, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024, by adding new items of appropriation.

WHEREAS, The Governor submitted the Executive Budget Document to the Legislature on January 10, 2024, containing 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 surplus 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 surplus balance in the Treasury which is available for appropriation during the fiscal year ending June 30, 2024; therefore

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

That the total appropriation for the fiscal year ending June 30, 2024, to fund 0226, fiscal year 2024, organization 0221, be supplemented and amended by adding new items of appropriation as follows:

**TITLE II – APPROPRIATIONS.**

**Section 1. Appropriations from general revenue.**

**DEPARTMENT OF ADMINISTRATION**

*27 - Public Defender Services*

(W.V. Code Chapter 29)

Fund 0226 FY 2024 Org 0221

	<b>Appropriation</b>	<b>General Revenue Fund</b>
6a Public Defender Corporations – Surplus.....	35299	2,600,000
7a Appointed Counsel Fees – Surplus.....	43500	20,000,000

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## CHAPTER 21

**(S. B. 661 - By Senators Blair (Mr. President) and Woelfel)**  
**[By Request of the Executive]**

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[Passed March 7, 2024; in effect from passage]  
[Approved by the Governor on March 14, 2024.]

---

AN ACT expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2024, in the amount of \$35,000,000 from the balance of moneys remaining as an unappropriated balance in Lottery Net Profits.

WHEREAS, The Governor submitted the Executive Budget Document to the Legislature on January 10, 2024, containing 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 surplus balance of the State Fund, General Revenue; and

WHEREAS, It appears from the Governor's Statement of Lottery Net Profits Fund, there now remains an unappropriated balance in the State Treasury which is available for expiration during the fiscal year ending June 30, 2024; therefore

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

That the balance of the funds remaining as an unappropriated balance for the fiscal year ending June 30, 2024, in Lottery Net Profits be decreased by expiring the amount of \$35,000,000 to the unappropriated surplus balance of the State Fund, General Revenue to be available for appropriation during the fiscal year ending June 30, 2024.

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## CHAPTER 22

**(S. B. 663 - By Senators Blair (Mr. President) and Woelfel)**

**[By Request of the Executive]**

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[Passed March 7, 2024; in effect from passage]  
[Approved by the Governor on March 14, 2024.]

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AN ACT 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 Department of Homeland Security, Division of Administrative Services – Criminal Justice Fund, fund 0546, fiscal year 2024, organization 0623, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024.

WHEREAS, The Governor submitted the Executive Budget Document to the Legislature on January 10, 2024, containing 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 supplemental appropriations from the 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

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

That the total appropriation for the fiscal year ending June 30, 2024, to fund 0546, fiscal year 2024, organization 0623, be supplemented and amended by adding an item of appropriation as follows:

**TITLE II – APPROPRIATIONS.**

**Section 1. Appropriations from general revenue.**

**DEPARTMENT OF HOMELAND SECURITY**

*81 - Division of Administrative Services –*

*Criminal Justice Fund*

(W.V. Code Chapter 15A)

Fund 0546 FY 2024 Org 0623

	<b>Appropriation</b>	<b>General Revenue Fund</b>
3a Victims of Crime Act.....	21601	10,000,000

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## CHAPTER 23

**(Com. Sub. for S. B. 665 - By Senators Blair (Mr. President)  
and Woelfel)**

**[By Request of the Executive]**

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[Passed March 8, 2024; in effect from passage]  
[Approved by the Governor on March 14, 2024.]

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AN ACT 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 Department of Health and Human Resources, Division of Health - Central Office, fund 0407, fiscal year 2024, organization 0506, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024.

WHEREAS, The Governor submitted the Executive Budget Document to the Legislature on January 10, 2024, containing 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 surplus 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

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



That the total appropriation for the fiscal year ending June 30, 2024, to fund 0407, fiscal year 2024, organization 0506, be supplemented and amended by increasing items of appropriation as follows:

## **TITLE II – APPROPRIATIONS.**

### **Section 1. Appropriations from general revenue.**

#### **DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

*57 - Division of Health –*

*Central Office*

(W.V. Code Chapter 16)

Fund 0407 FY 2024 Org 0506

	<b>Appropriation</b>	<b>General Revenue Fund</b>
4 Chief Medical Examiner (R) .....	04500	4,390,787
14 Vaccine for Children.....	55100	264,134

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## CHAPTER 24

**(Com. Sub. for S. B. 695 - By Senators Blair (Mr. President)  
and Woelfel)**

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[Passed March 7, 2024; in effect from passage]  
[Approved by the Governor on March 14, 2024.]

---

AN ACT making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2024, to the Division of Human Services – Energy Assistance, fund 8755, fiscal year 2024, organization 0511, to the Division of Human Services – Temporary Assistance for Needy Families, fund 8816, fiscal year 2024, organization 0511, and to the Division of Human Services – Child Care and Development, fund 8817, fiscal year 2024, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024.

WHEREAS, The Governor has established the availability of federal funds for expenditure in the fiscal year ending June 30, 2024, which is hereby appropriated by the terms of this supplementary appropriation bill; therefore

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

That the total appropriation for the fiscal year ending June 30, 2024, to fund 8755, fiscal year 2024, organization 0511, be supplemented and amended by increasing existing items of appropriation as follows:

### **TITLE II – APPROPRIATIONS.**

#### **Sec. 7. Appropriations from federal block grants.**

*394 - Division of Human Services –**Energy Assistance*Fund 8755 FY 2024 Org 0511

	<b>Appropriation</b>	<b>Federal Funds</b>
1 Personal Services and Employee Benefits.....	00100	42,434
3 Current Expenses .....	13000	5,000

And, That the total appropriation for the fiscal year ending June 30, 2024, to fund 8816, fiscal year 2024, organization 0511, be supplemented and amended by increasing existing items of appropriation as follows:

**TITLE II – APPROPRIATIONS.****Sec. 7. Appropriations from federal block grants.***396 - Division of Human Services –**Temporary Assistance for Needy Families*Fund 8816 FY 2024 Org 0511

	<b>Appropriation</b>	<b>Federal Funds</b>
1 Personal Services and Employee Benefits.....	00100	296,927
3 Current Expenses .....	13000	15,000

And, That the total appropriation for the fiscal year ending June 30, 2024, to fund 8817, fiscal year 2024, organization 0511, be supplemented and amended by decreasing an existing item of appropriation as follows:

**TITLE II – APPROPRIATIONS.****Sec. 7. Appropriations from federal block grants.***397 - Division of Human Services –**Child Care and Development*Fund 8817 FY 2024 Org 0511

	<b>Appropriation</b>	<b>Federal Funds</b>
4 Federal Coronavirus Pandemic.....	89101	20,000,000

And, That the total appropriation for the fiscal year ending June 30, 2024, to fund 8817, fiscal year 2024, organization 0511, be supplemented and amended by increasing existing items of appropriation as follows:

**TITLE II – APPROPRIATIONS.****Sec. 7. Appropriations from federal block grants.***397 - Division of Human Services –**Child Care and Development*Fund 8817 FY 2024 Org 0511

	<b>Appropriation</b>	<b>Federal Funds</b>
1 Personal Services and Employee Benefits.....	00100	52,000
3 Current Expenses .....	13000	20,000,000

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## CHAPTER 25

**(S. B. 696 - By Senators Blair (Mr. President) and Woelfel)**

**[By Request of the Executive]**

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[Passed March 4, 2024; in effect from passage]  
[Approved by the Governor on March 14, 2024.]

---

AN ACT making a supplementary appropriation of public moneys out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2024, to the Department of Homeland Security, Division of Emergency Management, fund 8727, fiscal year 2024, organization 0606, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024.

WHEREAS, The Governor has established the availability of federal funds for expenditure in the fiscal year ending June 30, 2024, which are hereby appropriated by the terms of this supplementary appropriation bill; therefore

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

That the total appropriation for the fiscal year ending June 30, 2024, to fund 8727, fiscal year 2024, organization 0606, be supplemented and amended by increasing an existing item of appropriation as follows:

### **TITLE II – APPROPRIATIONS.**

#### **Sec. 6. Appropriations of federal funds.**

#### **DEPARTMENT OF HOMELAND SECURITY**

*370 - Division of Emergency Management*

(W.V. Code Chapter 15)

Fund 8727 FY 2024 Org 0606

	<b>Appropriation</b>	<b>Federal Funds</b>
1    Personal Services and Employee Benefits.....	00100	310,000

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## CHAPTER 26

**(S. B. 697 - By Senators Blair (Mr. President) and Woelfel)**

**[By Request of the Executive]**

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[Passed March 7, 2024; in effect from passage]  
[Approved by the Governor on March 14, 2024.]

---

AN ACT making a supplementary appropriation of public moneys out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2024, to the Department of Health and Human Resources, Division of Health – Consolidated Medical Service Fund, fund 8723, fiscal year 2024, organization 0506, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024.

WHEREAS, The Governor has established the availability of federal funds for expenditure in the fiscal year ending June 30, 2024, which are hereby appropriated by the terms of this supplementary appropriation bill; therefore

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

That the total appropriation for the fiscal year ending June 30, 2024, to fund 8723, fiscal year 2024, organization 0506, be supplemented and amended by increasing an existing item of appropriation as follows:

### **TITLE II – APPROPRIATIONS.**

#### **Sec. 6. Appropriations of federal funds.**

#### **DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

*365 - Division of Health –*  
*Consolidated Medical Service Fund*  
(W.V. Code Chapter 16)  
Fund 8723 FY 2024 Org 0506

	<b>Appropriation</b>	<b>Federal Funds</b>
3    Current Expenses .....	13000	6,000,000



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## CHAPTER 27

**(S. B. 698 - By Senators Blair (Mr. President) and Woelfel)**

**[By Request of the Executive]**

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[Passed March 7, 2024; in effect from passage]  
[Approved by the Governor on March 14, 2024.]

---

AN ACT making a supplementary appropriation of public moneys out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2024, to the Department of Health and Human Resources, Division of Human Services, fund 8722, fiscal year 2024, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024.

WHEREAS, The Governor has established the availability of federal funds for expenditure in the fiscal year ending June 30, 2024, which are hereby appropriated by the terms of this supplementary appropriation bill; therefore

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

That the total appropriation for the fiscal year ending June 30, 2024, to fund 8722, fiscal year 2024, organization 0511, be supplemented and amended by increasing existing items of appropriation as follows:

### **TITLE II – APPROPRIATIONS.**

#### **Sec. 6. Appropriations of federal funds.**

#### **DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

*369 - Division of Human Services*

(W.V. Code Chapters 9, 48, and 49)

Fund 8722 FY 2024 Org 0511

	<b>Appropriation</b>	<b>Federal Funds</b>
1    Personal Services and		
Employee Benefits.....	00100	1,541,821
3    Current Expenses .....	13000	2,722,653
5    Medical Services		
Administrative Costs .....	78900	36,638,300
6    CHIP Administrative Costs .....	85601	1,901,888
7    CHIP Services.....	85602	1,817,448

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## CHAPTER 28

### **(S. B. 699 - By Senators Blair (Mr. President) and Woelfel)** **[By Request of the Executive]**

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[Passed March 7, 2024; in effect from passage]  
[Approved by the Governor on March 14, 2024.]

---

AN ACT making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2024, to the Department of Health and Human Resources, Division of Human Services – Child Support Enforcement Fund, fund 5094, fiscal year 2024, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024.

WHEREAS, The Governor has established that there now remains an unappropriated balance in the Department of Health and Human Resources, Division of Human Services – Child Support Enforcement Fund, fund 5094, fiscal year 2024, organization 0511, that is available for expenditure during the fiscal year ending June 30, 2024, which is hereby appropriated by the terms of this supplementary appropriation bill; therefore

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

That the total appropriation for the fiscal year ending June 30, 2024, to fund 5094, fiscal year 2024, organization 0511, be supplemented and amended by increasing an existing item of appropriation as follows:

### **TITLE II – APPROPRIATIONS.**

#### **Sec. 3. Appropriations from other funds.**

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

*229 - Division of Human Services –*

*Child Support Enforcement Fund*

(W.V. Code Chapter 48A)

Fund 5094 FY 2024 Org 0511

		<b>Appro- priation</b>		<b>Other Funds</b>
1	Personal Services and Employee Benefits.....	00100	\$	3,000,000

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## CHAPTER 29

**(S. B. 700 - By Senators Blair (Mr. President) and Woelfel)**

**[By Request of the Executive]**

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[Passed March 4, 2024; in effect from passage]  
[Approved by the Governor on March 14, 2024.]

---

AN ACT making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2024, to the Miscellaneous Boards and Commissions, Hospital Finance Authority – Hospital Finance Authority Fund, fund 5475, fiscal year 2024, organization 0509, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024.

WHEREAS, The Governor has established that there now remains an unappropriated balance in the Miscellaneous Boards and Commissions, Hospital Finance Authority – Hospital Finance Authority Fund, fund 5475, fiscal year 2024, organization 0509, that is available for expenditure during the fiscal year ending June 30, 2024, which is hereby appropriated by the terms of this supplementary appropriation bill; therefore

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

That the total appropriation for the fiscal year ending June 30, 2024, to fund 5475, fiscal year 2024, organization 0509, be supplemented and amended by increasing an existing item of appropriation as follows:

### **TITLE II – APPROPRIATIONS.**

#### **Sec. 3. Appropriations from other funds.**

#### **MISCELLANEOUS BOARDS AND COMMISSIONS**

287 - Hospital Finance Authority –  
Hospital Finance Authority Fund  
(W.V. Code Chapter 16)  
Fund 5475 FY 2024 Org 0509

			<b>Appropriation</b>	<b>Other Funds</b>
1	Personal Services and Employee Benefits.....	00100	\$	10,000

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## CHAPTER 30

**(S. B. 701 - By Senators Blair (Mr. President) and Woelfel)**

**[By Request of the Executive]**

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[Passed March 5, 2024; in effect from passage]  
[Approved by the Governor on March 14, 2024.]

---

AN ACT making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2024, to the Department of Education, School Building Authority – School Construction Fund, fund 3952, fiscal year 2024, organization 0404, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024.

WHEREAS, The Governor has established that there now remains an unappropriated balance in the Department of Education, School Building Authority – School Construction Fund, fund 3952, fiscal year 2024, organization 0404, that is available for expenditure during the fiscal year ending June 30, 2024, which is hereby appropriated by the terms of this supplementary appropriation bill; therefore

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

That the total appropriation for the fiscal year ending June 30, 2024, to fund 3952, fiscal year 2024, organization 0404, be supplemented and amended by increasing an existing item of appropriation as follows:

### **TITLE II – APPROPRIATIONS.**

#### **Sec. 3. Appropriations from other funds.**

#### **DEPARTMENT OF EDUCATION**

*194 - School Building Authority –*

*School Construction Fund*

(W.V. Code Chapters 18 and 18A)

Fund 3952 FY 2024 Org 0404

	<b>Appropriation</b>	<b>Other Funds</b>
1    SBA Construction Grants .....	24000	\$ 150,000,000



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## CHAPTER 31

**(S. B. 702 - By Senators Blair (Mr. President) and Woelfel)**

**[By Request of the Executive]**

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[Passed March 7, 2024; in effect from passage]  
[Approved by the Governor on March 14, 2024.]

---

AN ACT making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2024, to the Department of Health and Human Resources, Division of Health – Laboratory Services Fund, fund 5163, fiscal year 2024, organization 0506, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024.

WHEREAS, The Governor has established that there now remains an unappropriated balance in the Department of Health and Human Resources, Division of Health – Laboratory Services Fund, fund 5163, fiscal year 2024, organization 0506, that is available for expenditure during the fiscal year ending June 30, 2024, which is hereby appropriated by the terms of this supplementary appropriation bill; therefore

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

That the total appropriation for the fiscal year ending June 30, 2024, to fund 5163, fiscal year 2024, organization 0506, be supplemented and amended by increasing an existing item of appropriation as follows:

### **TITLE II – APPROPRIATIONS.**

#### **Sec. 3. Appropriations from other funds.**

#### **DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

*218 - Division of Health –*  
*Laboratory Services Fund*  
(W.V. Code Chapter 16)

Fund 5163 FY 2024 Org 0506

		<b>Appro- priation</b>		<b>Other Funds</b>
1	Personal Services and Employee Benefits.....	00100	\$	250,000

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## CHAPTER 32

**(S. B. 703 - By Senators Blair (Mr. President) and Woelfel)**

**[By Request of the Executive]**

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[Passed March 4, 2024; in effect from passage]  
[Approved by the Governor on March 14, 2024.]

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AN ACT making a supplementary appropriation of public moneys out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2024, to the Department of Homeland Security, West Virginia State Police, fund 8741, fiscal year 2024, organization 0612, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024.

WHEREAS, The Governor has established the availability of federal funds for expenditure in the fiscal year ending June 30, 2024, which are hereby appropriated by the terms of this supplementary appropriation bill; therefore

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

That the total appropriation for the fiscal year ending June 30, 2024, to fund 8741, fiscal year 2024, organization 0612, be supplemented and amended by increasing an existing item of appropriation as follows:

### **TITLE II – APPROPRIATIONS.**

#### **Sec. 6. Appropriations of federal funds.**

##### **DEPARTMENT OF HOMELAND SECURITY**

*372 - West Virginia State Police*

(W.V. Code Chapter 15)

Fund 8741 FY 2024 Org 0612

	<b>Appropriation</b>	<b>Federal Funds</b>
1    Personal Services and Employee Benefits.....	00100	750,000

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## CHAPTER 33

**(S. B. 704 - By Senators Blair (Mr. President) and Woelfel)**

**[By Request of the Executive]**

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[Passed March 7, 2024; in effect from passage]  
[Approved by the Governor on March 14, 2024.]

---

AN ACT making a supplementary appropriation of public moneys out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2024, to Miscellaneous Boards and Commissions, Public Service Commission – Motor Carrier Division, fund 8743, fiscal year 2024, organization 0926, and Miscellaneous Boards and Commissions, Public Service Commission – Gas Pipeline Division, fund 8744, fiscal year 2024, organization 0926, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024.

WHEREAS, The Governor has established the availability of federal funds for expenditure in the fiscal year ending June 30, 2024, which are hereby appropriated by the terms of this supplementary appropriation bill; therefore

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

That the total appropriation for the fiscal year ending June 30, 2024, to fund 8743, fiscal year 2024, organization 0926, be supplemented and amended by increasing an existing item of appropriation as follows:

### **TITLE II – APPROPRIATIONS.**

#### **Sec. 6. Appropriations of federal funds.**

#### **MISCELLANEOUS BOARDS AND COMMISSIONS**

384 - Public Service Commission –

Motor Carrier Division

(W.V. Code Chapter 24A)

Fund 8743 FY 2024 Org 0926

	Appropriation	Federal Funds
1    Personal Services and Employee Benefits.....	00100	\$69,990

And, That the total appropriation for the fiscal year ending June 30, 2024, to fund 8744, fiscal year 2024, organization 0926, be supplemented and amended by increasing an existing item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Sec. 6. Appropriations of federal funds.

MISCELLANEOUS BOARDS AND COMMISSIONS

385 - Public Service Commission –

Gas Pipeline Division

(W.V. Code Chapter 24B)

Fund 8744 FY 2024 Org 0926

	Appropriation	Federal Funds
1    Personal Services and Employee Benefits.....	00100    \$	48,993

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## CHAPTER 34

**(S. B. 705 - By Senators Blair (Mr. President) and Woelfel)**

**[By Request of the Executive]**

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[Passed March 7, 2024; in effect from passage]  
[Approved by the Governor on March 14, 2024.]

---

AN ACT making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2024, to Miscellaneous Boards and Commissions, Public Service Commission, fund 8623, fiscal year 2024, organization 0926, Miscellaneous Boards and Commissions, Public Service Commission – Gas Pipeline Division – Public Service Commission Pipeline Safety Fund, fund 8624, fiscal year 2024, organization 0926, and Miscellaneous Boards and Commissions, Public Service Commission – Motor Carrier Division, fund 8625, fiscal year 2024, organization 0926, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024.

WHEREAS, The Governor has established that there now remains an unappropriated balance in Miscellaneous Boards and Commissions, Public Service Commission, fund 8623, fiscal year 2024, organization 0926, Miscellaneous Boards and Commissions, Public Service Commission – Gas Pipeline Division – Public Service Commission Pipeline Safety Fund, fund 8624, fiscal year 2024, organization 0926, and Miscellaneous Boards and Commissions, Public Service Commission – Motor Carrier Division, fund 8625, fiscal year 2024, organization 0926, that is available for expenditure during the fiscal year ending June 30, 2024, which is hereby appropriated by the terms of this supplementary appropriation bill; therefore

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

That the total appropriation for the fiscal year ending June 30, 2024, to fund 8623, fiscal year 2024, organization 0926, be supplemented and amended by decreasing an existing item of appropriation as follows:

**TITLE II – APPROPRIATIONS.**

**Sec. 3. Appropriations from other funds.**

**MISCELLANEOUS BOARDS AND COMMISSIONS**

*291 - Public Service Commission*

(W.V. Code Chapter 24)

Fund 8623 FY 2024 Org 0926

	<b>Appropriation</b>	<b>Other Funds</b>
10 Debt Payment/Capital Outlay .....	52000	350,000

And, That the total appropriation for the fiscal year ending June 30, 2024, to fund 8623, fiscal year 2024, organization 0926, be supplemented and amended by increasing existing items of appropriation as follows:

**TITLE II – APPROPRIATIONS.**

**Sec. 3. Appropriations from other funds.**

**MISCELLANEOUS BOARDS AND COMMISSIONS**

*291 - Public Service Commission*

(W.V. Code Chapter 24)

Fund 8623 FY 2024 Org 0926

	<b>Appropriation</b>	<b>Other Funds</b>
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1	Personal Services and Employee Benefits.....	00100	\$	1,080,229
9	PSC Weight Enforcement.....	34500		174,975

And, That the total appropriation for the fiscal year ending June 30, 2024, to fund 8624, fiscal year 2024, organization 0926, be supplemented and amended by increasing an existing item of appropriation as follows:

## **TITLE II – APPROPRIATIONS.**

### **Sec. 3. Appropriations from other funds.**

#### **MISCELLANEOUS BOARDS AND COMMISSIONS**

*292 - Public Service Commission –*

*Gas Pipeline Division –*

*Public Service Commission Pipeline Safety Fund*

(W.V. Code Chapter 24B)

Fund 8624 FY 2024 Org 0926

		<b>Appro- priation</b>		<b>Other Funds</b>
1	Personal Services and Employee Benefits.....	00100	\$	93,320

And, That the total appropriation for the fiscal year ending June 30, 2024, to fund 8625, fiscal year 2024, organization 0926, be supplemented and amended by increasing an existing item of appropriation as follows:

## **TITLE II – APPROPRIATIONS.**

### **Sec. 3. Appropriations from other funds.**

#### **MISCELLANEOUS BOARDS AND COMMISSIONS**

*293 - Public Service Commission –*

*Motor Carrier Division*

(W.V. Code Chapter 24A)

Fund 8625 FY 2024 Org 0926

		<b>Appropriation</b>	<b>Other Funds</b>
1	Personal Services and Employee Benefits.....	00100 \$	48,993

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## CHAPTER 35

**(S. B. 707 - By Senators Blair (Mr. President) and Woelfel)**  
**[By Request of the Executive]**

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[Passed March 4, 2024; in effect from passage]  
[Approved by the Governor on March 14, 2024.]

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AN ACT making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2024, to the Department of Commerce, Division of Natural Resources – License Fund – Wildlife Resources, fund 3200, fiscal year 2024, organization 0310, and to the Department of Commerce, Division of Natural Resources – Nongame Fund, fund 3203, fiscal year 2024, organization 0310, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024.

WHEREAS, The Governor has established that there now remains an unappropriated balance in the Department of Commerce, Division of Natural Resources – License Fund – Wildlife Resources, fund 3200, fiscal year 2024, organization 0310, and the Department of Commerce, Division of Natural Resources – Nongame Fund, fund 3203, fiscal year 2024, organization 0310, that is available for expenditure during the fiscal year ending June 30, 2024, which is hereby appropriated by the terms of this supplementary appropriation bill; therefore

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

That the total appropriation for the fiscal year ending June 30, 2024, to fund 3200, fiscal year 2024, organization 0310, be supplemented and amended by increasing existing items of appropriation as follows:

**TITLE II – APPROPRIATIONS.**

**Sec. 3. Appropriations from other funds.**

**DEPARTMENT OF COMMERCE**

*178 - Division of Natural Resources –*

*License Fund – Wildlife Resources*

(W.V. Code Chapter 20)

Fund 3200 FY 2024 Org 0310

		<b>Appropriation</b>		<b>Other Funds</b>
1	Wildlife Resources.....	02300	\$	436,157
3	Capital Improvements and Land Purchase (R) .....	24800		500,000

And, That the total appropriation for the fiscal year ending June 30, 2024, to fund 3200, fiscal year 2024, organization 0310, be supplemented and amended by increasing an existing item of appropriation as follows:

**TITLE II – APPROPRIATIONS.**

**Sec. 3. Appropriations from other funds.**

**DEPARTMENT OF COMMERCE**

*180 - Division of Natural Resources –*

*Nongame Fund*

(W.V. Code Chapter 20)

Fund 3203 FY 2024 Org 0310

<b>Appropriation</b>	<b>Other Funds</b>
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1	Personal Services and			
	Employee Benefits.....	00100	\$	41,345

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## CHAPTER 36

**(S. B. 708 - By Senators Blair (Mr. President) and Woelfel)**

**[By Request of the Executive]**

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[Passed March 4, 2024; in effect from passage]  
[Approved by the Governor on March 14, 2024.]

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AN ACT making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2024, to the Executive, Department of Agriculture – West Virginia Spay Neuter Assistance Fund, fund 1481, fiscal year 2024, organization 1400, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024.

WHEREAS, The Governor has established that there now remains an unappropriated balance in the Executive, Department of Agriculture – West Virginia Spay Neuter Assistance Fund, fund 1481, fiscal year 2024, organization 1400, that is available for expenditure during the fiscal year ending June 30, 2024, which is hereby appropriated by the terms of this supplementary appropriation bill; therefore

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

That the total appropriation for the fiscal year ending June 30, 2024, to fund 1481, fiscal year 2024, organization 1400, be supplemented and amended by adding a new item of appropriation as follows:

### **TITLE II – APPROPRIATIONS.**

#### **Sec. 3. Appropriations from other funds.**

#### **EXECUTIVE**

*145 - Department of Agriculture –  
West Virginia Spay Neuter Assistance Fund*  
(W.V. Code Chapter 19)  
Fund 1481 FY 2024 Org 1400

		<b>Appro- priation</b>		<b>Other Funds</b>
1	Personal Services and Employee Benefits.....	00100	\$	100,000

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## CHAPTER 37

### **(S. B. 709 - By Senators Blair (Mr. President) and Woelfel)** **[By Request of the Executive]**

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[Passed March 4, 2024; in effect 90 days from passage (June 2, 2024)<sup>‡</sup>  
[Approved by the Governor on March 14, 2024.]]

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AN ACT making a supplementary appropriation of public moneys out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2024, to the Department of Arts, Culture, and History, National Coal Heritage Area Authority, fund 8869, fiscal year 2024, organization 0432, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024.

WHEREAS, The Governor has established the availability of federal funds for expenditure in the fiscal year ending June 30, 2024, which are hereby appropriated by the terms of this supplementary appropriation bill; therefore

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

That the total appropriation for the fiscal year ending June 30, 2024, to fund 8869, fiscal year 2024, organization 0432, be supplemented and amended by increasing an existing item of appropriation as follows:

### **TITLE II – APPROPRIATIONS.**

#### **Sec. 6. Appropriations of federal funds.**

#### **DEPARTMENT OF ARTS, CULTURE, AND HISTORY**

##### *363 - National Coal Heritage Area Authority*

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**‡NOTE:** Both houses voted to make the bill effective from passage but this incorrect effective date was on the enrolled bill. The bill above reflects the enrolled bill presented to the Governor.



(W.V. Code Chapter 29)

Fund 8869 FY 2024 Org 0432

	<b>Appropriation</b>	<b>Federal Funds</b>
2    Current Expenses .....	13000	415,000

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## CHAPTER 38

**(S. B. 710 - By Senators Blair (Mr. President) and Woelfel)**

**[By Request of the Executive]**

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[Passed March 4, 2024; in effect from passage]  
[Approved by the Governor on March 14, 2024.]

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AN ACT making a supplementary appropriation of public moneys out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2024, to the Department of Education, State Board of Education – Aid for Exceptional Children, fund 8715, fiscal year 2024, organization 0402, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024.

WHEREAS, The Governor has established the availability of federal funds for expenditure in the fiscal year ending June 30, 2024, which are hereby appropriated by the terms of this supplementary appropriation bill; therefore

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

That the total appropriation for the fiscal year ending June 30, 2024, to fund 8715, fiscal year 2024, organization 0402, be supplemented and amended by increasing an existing item of appropriation as follows:

### **TITLE II – APPROPRIATIONS.**

#### **Sec. 6. Appropriations of federal funds.**

#### **DEPARTMENT OF EDUCATION**

*359 – State Board of Education –*

*Aid for Exceptional Children*

(W.V. Code Chapters 18 and 18A)

Fund 8715 FY 2024 Org 0402

	<b>Appropriation</b>	<b>Federal Funds</b>
3    Current Expenses .....	13000	6,000,000

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## CHAPTER 39

**(S. B. 868 - By Senators Blair (Mr. President) and Woelfel)**

**[By Request of the Executive]**

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[Passed March 7, 2024; in effect from passage]  
[Approved by the Governor on March 14, 2024.]

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AN ACT making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2024, to the Department of Commerce, Geological and Economic Survey, fund 8704, fiscal year 2024, organization 0306, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024.

WHEREAS, The Governor has established the availability of federal funds for expenditure in the fiscal year ending June 30, 2024, which are hereby appropriated by the terms of this supplementary appropriation bill; therefore

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

That the total appropriation for the fiscal year ending June 30, 2024, to fund 8704, fiscal year 2024, organization 0306, be supplemented and amended by increasing an existing item of appropriation as follows:

### **TITLE II – APPROPRIATIONS.**

#### **Sec. 6. Appropriations of federal funds.**

##### **DEPARTEMENT OF COMMERCE**

*345 - Geological and Economic Survey*

(W.V. Code Chapter 29)

Fund 8704 FY 2024 Org 0306

		<b>Appropriation</b>	<b>Federal Funds</b>
1	Personal Services and Employee Benefits.....	00100 \$	150,000

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## CHAPTER 40

**(S. B. 871 - By Senators Blair (Mr. President) and Woelfel)**

**[By Request of the Executive]**

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[Passed March 7, 2024; in effect from passage]  
[Approved by the Governor on March 14, 2024.]

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AN ACT making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2024, to the Department of Veterans Assistance, Veterans Facilities Support Fund, fund 6703, fiscal year 2024, organization 0613, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024.

WHEREAS, The Governor has established that there now remains an unappropriated balance in the Department of Veterans Assistance, Veterans Facilities Support Fund, fund 6703, fiscal year 2024, organization 0613, that is available for expenditure during the fiscal year ending June 30, 2024, which is hereby appropriated by the terms of this supplementary appropriation bill; therefore

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

That the total appropriation for the fiscal year ending June 30, 2024, to fund 6703, fiscal year 2024, organization 0613, be supplemented and amended by increasing an existing item of appropriation as follows:

### **TITLE II – APPROPRIATIONS.**

#### **Sec. 3. Appropriations from other funds.**

#### **DEPARTMENT OF VETERANS ASSISTANCE**

*278 - Veterans Facilities Support Fund*

(W.V. Code Chapter 9A)

Fund 6703 FY 2024 Org 0613

		<b>Appro- priation</b>		<b>Other Funds</b>
1	Current Expenses .....	13000	\$	2,000,000

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## CHAPTER 41

**(S. B. 876 - By Senators Tarr, Chapman, Clements, Nelson,  
Oliverio, Phillips, Queen, Roberts, Smith, and Swope)**

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[Passed March 7, 2024; in effect from passage]  
[Approved by the Governor on March 13, 2024.]

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AN ACT 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 Department of Health and Human Resources, – Health Facilities – Mildred Mitchell-Bateman Hospital, fund 0414, fiscal year 2024, organization 0512, by supplementing and amending the appropriations for the fiscal year ending June 30, 2024.

WHEREAS, The Governor submitted the Executive Budget Document to the Legislature on January 10, 2024, containing 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 supplemental appropriations from the 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

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

That the total appropriation for the fiscal year ending June 30, 2024, to fund 0414, fiscal year 2024, organization 0512, be



supplemented and amended by increasing an item of appropriation as follows:

**TITLE II – APPROPRIATIONS.**

**Section 1. Appropriations from general revenue.**

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

*70 - Health Facilities –*

*Mildred Mitchell-Bateman Hospital*

(W.V. Code Chapter 16)

Fund 0414 FY 2024 Org 0512

	<b>Appropriation</b>	<b>General Revenue Fund</b>
2    Contract Nursing .....	72301	5,000,000

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## CHAPTER 42

**(S. B. 877 - By Senators Tarr, Chapman, Clements, Nelson,  
Oliverio, Phillips, Queen, Roberts, Smith, and Swope)**

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[Passed March 7, 2024; in effect from passage]  
[Approved by the Governor on March 14, 2024.]

---

AN ACT 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 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.

WHEREAS, The Governor submitted the Executive Budget Document to the Legislature on January 10, 2024, containing 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 supplemental appropriations from the 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

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

That the total appropriation for the fiscal year ending June 30, 2024, to fund 0589, fiscal year 2024, organization 0441, be

supplemented and amended by increasing an item of appropriation as follows:

**TITLE II – APPROPRIATIONS.**

**Section 1. Appropriations from general revenue.**

**HIGHER EDUCATION POLICY COMMISSION**

*105 – Higher Education Policy Commission –*

*Administration –*

*Control Account*

(W.V. Code Chapter 18B)

Fund 0589 FY 2024 Org 0441

	<b>Appropriation</b>	<b>General Revenue Fund</b>
2    Current Expenses .....	13000	1,600,000

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## CHAPTER 43

### **(H. B. 5690 - By Delegates Cannon, Maynor, Coop-Gonzalez, Kimble, and Stephens)**

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[Passed March 4, 2024; in effect ninety days from passage.]

[Approved by the Governor on March 27, 2024.]

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-6-9, related to creating a "West Virginia Task Force on Artificial Intelligence"; setting forth the membership of the same; providing for appointment of members; delineating responsibilities of the task force; providing it complete a report and specifying contents of same; and providing a date for termination of the task force.

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

#### **ARTICLE 6. OFFICE OF TECHNOLOGY.**

##### **§5A-6-9. West Virginia Task Force on Artificial Intelligence.**

(a) As used in this Section, "Task Force" means the West Virginia Task Force on Artificial Intelligence established by this section.

(b) The West Virginia Task Force on Artificial Intelligence is created and shall be organized within the Office of the Governor.

(c) The Task Force shall be composed of the following members:

(1) One ex officio, non-voting member from the House of Delegates, appointed by the Speaker of the House of Delegates.

(2) One ex officio, non-voting member from the State Senate, appointed by the President of the Senate.

(3) The Chief Information Officer of the Office of Technology or his or her designee.

(4) The State Superintendent of Schools or his or her designee.

(5) The Chancellor of the West Virginia Higher Education Policy Commission or his or her designee.

(6) The Attorney General or his or her designee.

(7) The Secretary of the Department of Administration or his or her designee.

(8) The Secretary of the Department of Homeland Security or his or her designee.

(9) The Secretary of Health or his or her designee.

(10) One member representing the cybersecurity industry with experience relevant to the work of the Task Force, appointed by the Governor.

(11) One member representing the artificial intelligence industry with experience relevant to the work of the Task Force, appointed by the Governor.

(12) One member representing a statewide business association, appointed by the Governor.

(13) One member from the West Virginia Fusion Center.

(14) One member representing either the West Virginia University Health System or the Marshall Health Network, appointed by the Governor.

(d) The Governor shall designate the Chair of the Task Force.

(e) The responsibilities of the Task Force shall include, but not be limited to, the following:

(1) Recommending a definition of artificial intelligence as it pertains to its use in technology for use in legislation.

(2) Determining the relevant state agency or agencies to develop and oversee artificial intelligence policy and implementation of that policy.

(3) Determining which public interest use cases exist or may exist for artificial intelligence;

(4) Developing best practices for public sector uses of artificial intelligence in the State;

(5) Recommending legislation to protect individual rights, civil liberties, and consumer data as it relates to generative artificial intelligence;

(6) Recommending model policies for schools to address the use of artificial intelligence by students in the classroom;

(7) Determining and making recommendations regarding whether the Task Force should be extended to monitor, analyze, and make findings and recommendations to keep pace with changes in artificial intelligence technology and uses of the technology.

(8) Assessing the use of artificial intelligence in the workforce and its effect on employment levels, types of employment, and the deployment of workers;

(9) Taking an inventory of the current or proposed use of artificial intelligence within state agencies;

(10) Other topics related to artificial intelligence that may arise from testimony or reports to the Task Force submitted by its members, invited guests, or the public.

(f) The Office of Technology shall provide administrative and technical support to the Task Force.

(g) All initial appointments to the task force shall be made not later than 90 days after the effective date of this section. Any

vacancy shall be filled by the appointing authority, as applicable, within 90 days of such vacancy arising.

(h) The Task Force shall hold its first meeting not later than 120 days after the effective date of this section and shall meet quarterly thereafter with options to either attend in-person or online.

(i) The Task Force shall submit an electronic report by July 1, 2025, to the Governor and the Legislature covering the Task Force's findings and recommendations related to the responsibilities under subsection (e) of this section.

(j) The Task Force shall terminate on the date that it submits such report or July 1, 2025, whichever is later.

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## CHAPTER 44

**(Com. Sub. for H. B. 4837 - By Delegates Criss, Espinosa,  
Riley, Westfall, Hott, and Barnhart)**

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[Passed March 8, 2024; in effect ninety days from passage.]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §31A-4-35 of the Code of West Virginia, 1931, as amended; and to amend and reenact §46-3-118 of said code, all relating to duties of banks to retain records and limiting liability; providing uniformity between statute of limitations, presumption of abandonment, and duty of banks to retain records; limiting liability of banks based on the destruction of records as permitted by law; providing a presumption of payment by the bank on demand, savings, or time deposits; and modifying statute of limitations on notes, certificates of deposit, and drafts.

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

### **CHAPTER 31A. BANKS AND BANKING.**

#### **ARTICLE 4. BANKING INSTITUTIONS AND SERVICES GENERALLY.**

##### **§31A-4-35. Reproduction of checks and other records; admissibility of copies in evidence; disposition of originals; record production generally.**

(a) Any bank may cause to be copied or reproduced, by any photographic, photostatic, microphotographic or by similar miniature photographic process or by nonerasable optical image disks (commonly referred to as compact disks) or by other records retention technology approved by rule of the Commissioner of Banking, all or any number of its checks and all or any part of its documents, books, records, correspondence and all other



instruments, papers and writings in any manner relating to the operation of its business, other than its notes, bonds, mortgages and other securities and investments, and may substitute such copies or reproductions either in positive or negative form for the originals thereof. Thereafter, such copy or reproduction in the form of a positive print thereof shall be deemed for all purposes to be an original counterpart of and shall have the same force and effect as the original thereof and shall be admissible in evidence in all courts and administrative agencies in this state, to the same extent and for the same purposes as the original thereof, and the banking institution may destroy or otherwise dispose of the original, but every banking institution shall retain either the originals or such copies or reproductions of its records of final entry, including, without limiting the generality of the foregoing, cards used under the card system and deposit tickets for deposits made, for a period of at least five years from the date of the last entry on such books or the date of making of such deposit tickets and card records or, in the case of a banking institution exercising trust or fiduciary powers, accounting and legal records shall be retained until the expiration of five years from the date of termination of any trust or fiduciary relationship relating to such accounting and legal records by a final accounting, release, court decree or other proper means of termination and supporting documentation for fiduciary account transactions shall be retained for five years from the dates of entry of such transactions.

All circumstances surrounding the making or issuance of such checks, documents, books, records, correspondence and other instruments, papers or writings, or the photographic, photostatic or microphotographic copies or optical disks or other permissible reproductions thereof, when the same are offered in evidence, may be shown to affect the weight but not the admissibility thereof.

Any device used to copy or reproduce such documents and records shall be one which correctly and accurately reproduces the original thereof in all details and any disk or film used therein shall be of durable material.

(b) When a subpoena duces tecum is served upon a custodian of records of any bank in an action or proceeding in which the bank

is neither a party nor the place where any cause of action is alleged to have arisen and the subpoena requires the production of all or any part of the records of the bank relating to the conduct of its business with its customers, the bank shall be entitled to a search fee not to exceed \$10, together with reimbursement for costs incurred in the copying or other reproduction of any such record or records which have already been reduced to written form, in an amount not to exceed 75 cents per page. Any and all such costs shall be borne by the party requesting the production of the record or records.

(c) Notwithstanding any other provision of this code establishing a statute of limitations for any period greater than five years, any action by or against a bank for any balance, amount, or proceeds from any time, savings or demand deposit account based on the contents of records for which a period of retention or preservation is set forth in subsection (a) of this section shall be brought within the time for which the record must be retained or preserved.

(d) If records are retained beyond the period set forth in subsection (a) of this section or the bank otherwise has information regarding the status of funds held or previously held in any time, savings or demand deposit account, the bank shall provide such information, to the extent permitted by all applicable state and federal privacy laws, upon written request, to anyone with a legal interest in such balance, amount, or proceeds. This section does not apply to savings accounts or certificates of deposit established as a result of any legal action for the benefit of a minor: *Provided*, That an action to enforce a demand, savings, or time deposit, including a deposit that is automatically renewable, is barred where the property meets the criteria for abandonment pursuant to §36-8-2(a)(5) of this code.

(e) No liability shall accrue against any bank because of the destruction of any of its records or copies thereof as permitted by subsection (a), and in any judicial or other action or proceeding in which any such records or copies thereof may be called in question or be demanded of the institution or any officer or employee thereof, a showing that such records or copies thereof have been

destroyed in accordance with the provisions of subsection (a) is a sufficient defense for the failure to produce them.

## **CHAPTER 46. UNIFORM COMMERCIAL CODE.**

### **Part 1. General Provisions and Definitions**

## **ARTICLE 3. NEGOTIABLE INSTRUMENTS.**

### **§46-3-118. Statute of limitations.**

(a) Except as provided in subsection (e), an action to enforce the obligation of a party to pay a note payable at a definite time must be commenced within five years after the due date or dates stated in the note or, if a due date is accelerated, within five years after the accelerated due date. An action to enforce the obligation of a demand, savings, or time deposit, including a deposit that is automatically renewable, brought more than 10 years after the initial date of the maturity shall be presumed to have been paid and redeemed absent evidence of:

(1) Owner consent in a record on file with the holder to renewal at or about the time of renewal pursuant to §36-8-2 of this code; or

(2) Escheatment to the state pursuant to §36-8-1 *et seq.* of this code.

(b) Except as provided in subsection (d) or (e), if demand for payment is made to the maker of a note payable on demand, an action to enforce the obligation of a party to pay the note must be commenced within five years after the demand. If no demand for payment is made to the maker, an action to enforce the note is barred if:

(1) Neither principal nor interest on the note has been paid for a continuous period of 10 years;

(2) The bank, pursuant to §31A-4-35 of this code, is no longer required to retain records relating to the note and actually no longer has such records; or

(3) The note has, in accordance with §36-8-1 *et seq.* of this code, been presumed abandoned; reported to the State Treasurer; and paid, delivered, or caused to be paid or delivered to the State Treasurer.

(c) Except as provided in subsection (d), an action to enforce the obligation of a party to an unaccepted draft to pay the draft must be commenced within three years after dishonor of the draft or 10 years after the date of the draft, whichever period expires first.

(d) An action to enforce the obligation of the acceptor of a certified check or the issuer of a teller's check, cashier's check, or traveler's check must be commenced within three years after demand for payment is made to the acceptor or issuer, as the case may be.

(e) An action to enforce the obligation of a party to a certificate of deposit to pay the instrument must be commenced within five years after demand for payment is made to the maker, but if the instrument states a due date and the maker is not required to pay before that date, the five-year period begins when a demand for payment is in effect and the due date has passed: *Provided*, That no action to enforce the obligation may be maintained against the bank if the bank has destroyed or otherwise disposed of all records relating to the certificate of deposit in compliance with §31A-4-35 of this code.

(f) An action to enforce the obligation of a party to pay an accepted draft, other than a certified check, must be commenced (i) within five years after the due date or dates stated in the draft or acceptance if the obligation of the acceptor is payable at a definite time or (ii) within five years after the date of the acceptance if the obligation of the acceptor is payable on demand.

(g) Unless governed by other law regarding claims for indemnity or contribution, an action (i) for conversion of an instrument, for money had and received, or like action based on conversion, (ii) for breach of warranty, or (iii) to enforce an obligation, duty, or right arising under this article and not governed by this section must be commenced within three years after the cause of action accrues.

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## CHAPTER 45

**(S. B. 142 - By Senators Woodrum, Clements, Deeds, Nelson, Oliverio, Phillips, Rucker, Swope, Tarr, Hamilton, and Jeffries)**

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[Passed March 7, 2024; in effect 90 days from passage (June 5, 2024)]  
[Approved by the Governor on March 22, 2024.]

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AN ACT to amend and reenact §59-1-2a of the Code of West Virginia, 1931, as amended, relating to clarifying the deadline to file an annual report for corporations, limited partnerships, domestic limited liability partnerships, and foreign limited liability companies engaged or authorized to do business in West Virginia; and requiring certain disclosures from nongovernmental entities who solicit the purchase of, or payment for, a product or service from businesses with which they do not have a pre-existing commercial relationship for annual report filing by means of a mailing, electronic mail, or facsimile.

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

### **ARTICLE 1. FEES AND ALLOWANCES.**

#### **§59-1-2a. Annual business fees to be paid to the Secretary of State; filing of annual reports; purchase of data.**

(a) *Definitions.* — As used in this section:

"Annual report fee" means the fee described in subsection (c) of this section that is to be paid to the Secretary of State each year by corporations, limited partnerships, domestic limited liability companies, and foreign limited liability companies. After June 30, 2008, any reference in this code to a fee paid to the Secretary of

State for services as a statutory attorney in fact shall mean the annual report fee described in this section.

"Business activity" means all activities engaged in or caused to be engaged in with the object of gain or economic benefit, direct or indirect, but does not mean any of the activities of foreign corporations enumerated in §31D-15-1501(b) of this code, except for the activity of conducting affairs in interstate commerce when activity occurs in this state, nor does it mean any of the activities of foreign limited liability companies enumerated in §31B-10-1003(a) of this code, except for the activity of conducting affairs in interstate commerce when activity occurs in this state.

"Corporation" means a "domestic corporation", a "foreign corporation", or a "nonprofit corporation".

"Deliver or delivery" means any method of delivery used in conventional commercial practice, including, but not limited to, delivery by hand, mail, commercial delivery, and electronic transmission.

"Domestic corporation" means a corporation for profit, which is not a foreign corporation, incorporated under or subject to chapter 31D of this code.

"Domestic limited liability company" means a limited liability company, which is not a foreign limited liability company, under or subject to chapter 31B of this code.

"Foreign corporation" means a for-profit corporation incorporated under a law other than the laws of this state.

"Foreign limited liability company" means a limited liability company organized under a law other than the laws of this state.

"Limited partnership" means a partnership as defined by §47-9-1 of this code.

"Nonprofit corporation" means a nonprofit corporation as defined by §31E-1-150 of this code.

"Registration fee" means the fee for the issuance of a certificate relating to the initial registration of a corporation, limited partnership, domestic limited liability company, or foreign limited liability company described in §59-1-2(a)(2) of this code. The term "initial registration" also means the date upon which the registration fee is paid.

"Veteran" means any person who has served as an active member of the armed forces of the United States, the National Guard, or a reserve component as described in 38 U.S.C. §101. Notwithstanding any provision in this code to the contrary, a veteran must be honorably discharged or under honorable conditions as described in 38 U.S.C. §101.

"Veteran-owned business" or "active-duty member-owned business" means a business that meets the following criteria:

(A) Is at least 51 percent unconditionally owned by one or more veterans, active-duty members of any branch of the United States military, or their respective spouses; or

(B) In the case of a publicly owned business, at least 51 percent of the stock is unconditionally owned by one or more veterans, active-duty members of any branch of the United States military, or their respective spouses.

(b) *Required payment of annual report fee and filing of annual report.* — After June 30, 2008, no corporation, limited partnership, domestic limited liability company, or foreign limited liability company may engage in any business activity in this state without paying the annual report fee and filing the annual report as required by this section.

(c) *Annual report fee.* — After June 30, 2008, each corporation, limited partnership, domestic limited liability company, and foreign limited liability company engaged in or authorized to do business in this state shall pay an annual report fee of \$25 for the services of the Secretary of State as attorney-in-fact for the corporation, limited partnership, domestic limited liability company, or foreign limited liability company and for such other

administrative services as may be imposed by law upon the Secretary of State. The fee is due and payable each year after the initial registration of the corporation, limited partnership, domestic limited liability company, or foreign limited liability company with the annual report described in subsection (d) of this section on or before the dates specified in subsection (e) of this section. The fee is due and payable each year with the annual report from corporations, limited partnerships, domestic limited liability companies, and foreign limited liability companies that paid the registration fee prior to July 1, 2008, on or before the dates specified in subsection (e) of this section. The annual report fees received by the Secretary of State pursuant to this subsection shall be deposited by the Secretary of State in the general administrative fees account established by §59-1-2 of this code.

(d) *Annual report.* —

(1) After June 30, 2008, each corporation, limited partnership, domestic limited liability company, and foreign limited liability company engaged in or authorized to do business in this state shall file an annual report. The report is due each year after the initial registration of the corporation, limited partnership, domestic limited liability company, or foreign limited liability company with the annual report fee described in subsection (c) of this section on or before the dates specified in subsection (e) of this section. The report is due each year from corporations, limited partnerships, domestic limited liability companies, and foreign limited liability companies that paid the registration fee prior to July 1, 2008, on or before the dates specified in subsection (e) of this section.

(2)(A) The annual report shall be filed with the Secretary of State on forms provided by the Secretary of State for that purpose. The annual report shall, in the case of corporations, contain: (i) The address of the corporation's principal office; (ii) the names and mailing addresses of its officers and directors; (iii) the name and mailing address of the person on whom notice of process may be served; (iv) the name and address of the corporation's parent corporation and of each subsidiary of the corporation licensed to do business in this state; (v) in the case of limited partnerships, domestic limited liability companies, and foreign limited liability



companies, similar information with respect to their principal or controlling interests as determined by the Secretary of State or otherwise required by law to be reported to the Secretary of State; (vi) the county or county code in which the principal office address or mailing address of the company is located; (vii) business class code; and (viii) any other information the Secretary of State considers appropriate.

(B) Notwithstanding any other provision of law to the contrary, the Secretary of State shall, upon request of any person, disclose, with respect to corporations: (i) The address of the corporation's principal office; (ii) the names and addresses of its officers and directors; (iii) the name and mailing address of the person on whom notice of process may be served; (iv) the name and address of each subsidiary of the corporation and the corporation's parent corporation; (v) the county or county code in which the principal office address or mailing address of the company is located; and (vi) the business class code. The Secretary of State shall provide similar information with respect to information in its possession relating to limited partnerships, domestic limited liability companies, and foreign limited liability companies, similar information with respect to their principal or controlling interests.

(e) *Annual reports and fees due by June 30.* — Each domestic and foreign corporation, limited partnership, limited liability company, and foreign limited liability company shall file with the Secretary of State the annual report and pay the annual report fee on or before 11:59 PM on June 30 of each year.

(f) *Deposit of fees.* — The annual report fees received by the Secretary of State pursuant to this section shall be deposited by the Secretary of State in the general administrative fees account established by §59-1-2 of this code.

(g)(1) *Duty to pay.* — It is the duty of each corporation, limited partnership, limited liability company, and foreign limited liability company required to pay the annual report fees imposed under this article to remit them with a properly completed annual report to the Secretary of State, and if it fails to do so it is subject to the late fees prescribed in subsection (h) of this section and dissolution or

revocation, pursuant to this code: *Provided*, That before dissolution or revocation for failure to pay fees may occur, the Secretary of State shall notify the entity by certified mail, return receipt requested, of its failure to pay, all late fees or bad check fees associated with the failure to pay, and the date upon which dissolution or revocation will occur if all fees are not paid in full. The certified mail required by this subdivision shall be postmarked at least 30 days before the dissolution or revocation date listed in the notice.

(2) *Bad check fee.* — If any corporation, limited partnership, limited liability company, or foreign limited liability company submits payment by check or money order for the annual report fee imposed under this article and the check or money order is rejected because there are insufficient funds in the account, an invalid account number is provided, or the account is closed, the Secretary of State shall assess a bad check fee to the corporation, limited partnership, limited liability company, or foreign limited liability company that is equivalent to the service charge paid by the Secretary of State due to the rejected check or money order. The bad check fee assessed under this subdivision shall be deposited into the account or accounts from which the Secretary of State paid the service charge.

(h) *Late fees.* —

(1) The following late fees are in addition to any other penalties and remedies available elsewhere in this code:

(A) *Administrative late fee.* — The Secretary of State shall assess upon each corporation, limited partnership, limited liability company, and foreign limited liability company delinquent in the payment of an annual report fee or the filing of an annual report an administrative late fee in the amount of \$50.

(B) *Administrative late fees for nonprofit corporations.* — The Secretary of State shall assess each nonprofit corporation delinquent in the payment of an annual report fee or the filing of an annual report an administrative late fee in the amount of \$25.

(2) The Secretary of State shall deposit the first \$25,000 of fees collected under this subsection into the General Administrative Fees Account established in §59-1-2(h) of this code and shall deposit any additional fees collected under this section into the General Revenue Fund of the state.

*(i) Reports to Tax Commissioner; suspension, cancellation or withholding of business registration certificate. —*

(1) The Secretary of State shall, within 20 days after the close of each month, make a report to the Tax Commissioner for the preceding month, in which he or she shall set out the name of every business entity to which he or she issued a certificate to conduct business in the State of West Virginia during that month. The report shall set out the names and addresses of all corporations, limited partnerships, limited liability companies, and foreign limited liability companies to which he or she issued certificates of change of name or of change of location of principal office, dissolution, withdrawal, or merger. If the Secretary of State fails to make the report, it is the duty of the Tax Commissioner to report such failure to the Governor. A writ of mandamus lies for correction of such failure.

(2) Notwithstanding any other provision of this code to the contrary, upon receipt of notice from the Secretary of State that a corporation, limited partnership, limited liability company, and foreign limited liability company is more than 30 days delinquent in the payment of annual report fees or in the filing of an annual report required by this section, the Tax Commissioner may suspend, cancel, or withhold a business registration certificate issued to or applied for by the delinquent corporation, limited partnership, limited liability company, or foreign limited liability company until the same is paid and filed in the manner provided for the suspension, cancellation, or withholding of business registration certificates for other reasons under §11-12-1 *et seq.* of this code.

*(j) Purchase of data. —* The Secretary of State shall provide electronically, for purchase, any data maintained in the Secretary of State's Business Organizations Database. For the electronic

purchase of the entire Business Organizations Database, the cost is \$12,000. For the purchase of the monthly updates of the Business Organizations Database, the cost is \$1,000 per month. The fees received by the Secretary of State pursuant to this subsection shall be deposited by the Secretary of State in the general administrative fees account established by §59-1-2 of this code.

(k) The Secretary of State may collect the service fee per transaction, if any, charged for an online service from any customer who purchases data or conducts transactions through an online service.

(l) *Rules.* — The Secretary of State may propose rules for legislative approval, in accordance with the provisions of §29A-3-1 *et seq.* of this code, to implement this article.

(m) A veteran-owned business, as defined in this section, commenced on or after July 1, 2015, or an active-duty member-owned business, as defined in this section, commenced on or after July 1, 2021, is exempt from paying the annual report fee, required by this section, for the first four years after its initial registration: *Provided,* That a veteran-owned business or an active-duty member-owned business is not exempt from any filing deadlines or other fees required by this section.

(n) The Secretary of State may waive new business registration fees at up to three entrepreneurship events or conferences within the state of West Virginia.

(o) Any person, firm, corporation, or association that is a nongovernmental entity who solicits the purchase of or payment for a product or service from businesses with which they do not have a pre-existing commercial relationship for annual report filing under subsection (d) of this section by means of a mailing, electronic mail, or facsimile, shall include all of the following requirements on each solicitation:

(1) Conspicuously display in the heading of the solicitation a disclosure on the front and back of each page, the following statement in 16-point bold Helvetica font and in all capital letters:

"THIS PRODUCT OR SERVICE HAS NOT BEEN APPROVED OR ENDORSED BY ANY GOVERNMENTAL AGENCY, AND THIS OFFER IS NOT BEING MADE BY AN AGENCY OF THE GOVERNMENT";

(2) In the case of a mailed solicitation, the envelope or outside cover or wrapper in which the solicitation is mailed, conspicuously display in 16-point bold Helvetica font and in all capital letters on the front of the envelope, outside cover, or wrapper, the following disclosure: "THIS IS NOT A GOVERNMENT DOCUMENT"; and

(3) On each fee schedule page, the following disclosure in 12-point bold font: "Annual Report filings may be filed directly with the Secretary of State for the statutory \$25 fee".

(p) Any person who violates subsection (o) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined up to \$1,000 for each noncompliant solicitation, or confined in jail for a period of up to one year, or both fined and confined.

(q) Any person harmed as a result of a violation of subsection (o) of this section may recover damages in an amount equal to three times the amount solicited, any associated court costs and attorneys' fees, and any other damages, at the discretion of the court.

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## CHAPTER 46

(S. B. 262 - By Senator Woodrum)

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[Passed March 7, 2024; in effect 90 days from passage (June 5, 2024)]  
[Approved by the Governor on March 22, 2024.]

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AN ACT to amend and reenact §31D-14-1421 of the Code of West Virginia, 1931, as amended, relating to clarifying the procedure for administrative dissolution of corporations by the Secretary of State; and requiring Secretary of State to provide notice to corporations subject to administrative dissolution.

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

### ARTICLE 14. DISSOLUTION.

#### **§31D-14-1421. Procedure for and effect of administrative dissolution.**

(a) If the Secretary of State determines that one or more grounds exist under §31D-14-1420 of this code for dissolving a corporation, the Secretary of State shall notify the corporation by certified mail with written notice of the determination pursuant to §31D-5-504 of this code.

(b) If the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within 60 days after service of the notice is perfected under §31D-5-504 of this code, the Secretary of State shall administratively dissolve the corporation by signing and filing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date.

(c) A corporation administratively dissolved continues its corporate existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs under §31D-14-1405 of this code and notify claimants pursuant to §31D-14-1406 and §31D-14-1407 of this code.

(d) The administrative dissolution of a corporation does not terminate the authority of its registered agent.

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## CHAPTER 47

### **(S. B. 768 - By Senators Trump, Woelfel, Deeds, Rucker, and Stuart)**

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[Passed March 8, 2024; in effect 90 days from passage (June 6, 2024)]  
[Approved by the Governor on March 26, 2024.]

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AN ACT to amend and reenact §49-6-110 of the Code of West Virginia, 1931, as amended, relating to the confidentiality of child welfare records; and providing exception for sharing confidential information with law-enforcement agencies and the National Center for Missing and Exploited Children.

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

#### **ARTICLE 6. MISSING CHILDREN INFORMATION ACT.**

##### **\*§49-6-110. Confidentiality of records; rulemaking; requirements.**

(a) The State Police shall promulgate rules according §29A-3-1 *et seq.* of this code to provide for the classification of information and records as confidential that:

(1) Are otherwise confidential under state or federal law or rules promulgated pursuant to state or federal law;

(2) Are related to the investigation by a law-enforcement agency of a missing child, a missing and endangered child, or an unidentified body, if the State Police, in consultation with the law-enforcement agency, determines that release of the information would be deleterious to the investigation;

(3) Are records or notations that the clearinghouse maintains for internal use in matters relating to missing children or missing and endangered children and unidentified bodies and the State

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**\*NOTE:** This section was also amended by H. B. 4274 (Chapter 149), which passed prior to this Act.



Police determines that release of the internal documents might interfere with an investigation by a law-enforcement agency in West Virginia or any other jurisdiction; or

(4) Are records or information that the State Police determines might interfere with an investigation or otherwise harm a child or custodian.

(b) The rules may provide for the sharing of confidential information with the custodian of the missing child or missing and endangered child: *Provided*, That confidential information, which is not believed to jeopardize an investigation, must be shared with the custodian when the legal custodian is the Department of Human Services.

(c) Notwithstanding any other provision of this code to the contrary, the Department of Human Services may share confidential information with any law-enforcement agency and the National Center for Missing and Exploited Children in the case of a child who runs away from home or is determined missing.

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## CHAPTER 48

**(Com. Sub. for H. B. 4975 - By Delegates Burkhammer,  
Pinson, Tully, Heckert, Kimble, Young, Petitto, Mazzocchi,  
and Vance)**

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[Passed March 9, 2024; in effect from passage.]  
[Approved by the Governor on March 26, 2024.]

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AN ACT to amend and reenact §49-2-111c of the Code of West Virginia, 1931, as amended, relating to establishing a web-based communication system; setting forth the requirements of the system; establishing deadlines for implementation; requiring the Department of Human Services to provide analysis, evaluation, and reports regarding the system; and deleting obsolete language.

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

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

#### **§49-2-111c. Priorities for use of funds.**

(a) Subject to appropriations by the Legislature, the department shall:

(1) Enhance and increase efforts to provide services to prevent the removal of children from their homes;

(2) Identify relatives and fictive kin of children in need of placement outside of the home;

(3) Train kinship parents to become certified foster parents;

(4) Expand a tiered foster care system that provides higher payments for foster parents providing care to, and child placing agencies providing services to, foster children who have severe

emotional, behavioral, or intellectual problems or disabilities, with particular emphasis upon removing children in congregate care and placing them with suitable foster parents; and

(b) (1) The department shall develop and implement a web-based communication system which shall either be incorporated into the existing child welfare information technology system or be developed and implemented through the purchase of additional products that can be used in conjunction with the existing child welfare technology system. The web-based communication system shall communicate with and pull information from the existing child welfare information technology system. The components of the system may be implemented incrementally, except that §49-2-111c(b)(2)(B) of this code, shall be implemented on or before July 1, 2025, with the project completed on or before July 1, 2026.

(2) The system shall:

(A) Ensure that permission access to utilize the system about a foster child is granted to only those parties with legal responsibilities to care for and support the foster child;

(B) Facilitate communications between those individuals involved in the child welfare system, including, but not limited to, foster parent or kinship parent requests and responses to requests to staff of the Bureau for Social Services and their contractual designees;

(C) Provide information regarding visitation, appointments, travel, and other services available to the foster child;

(D) Provide information regarding court hearings, meetings with guardian ad litem, multidisciplinary team (MDT) meetings, and provide other communications that may improve care for the foster child amongst designated parties with legal responsibilities to care for the foster child;

(E) Provide health records for the foster child to the foster parent or kinship parent by connecting with existing health care systems;

(F) Have the capacity to archive communications for the purpose of running reports on responsiveness by parties in the child welfare system; and

(G) Be created to prevent the input of the redundant information.

(3) On or before July 1, 2026, and quarterly thereafter, the department shall analyze and evaluate the average time it takes a child protective service worker to update the web-based communication system with the information required in this section. The department shall also evaluate the child protective service worker's response time to requests made in the web-based communications system from foster parents and kinship parents. This analysis shall be shared with the Foster Care Ombudsman and presented to the Legislative Oversight Commission on Health and Human Resources Accountability on or before July 1, 2026, and annually thereafter.

(4) On or before December 31, 2024, the Department of Human Services shall submit a report to the Legislative Oversight Commission on Health and Human Resources setting forth an overview of the status of implementation of the web-based communication system set forth in this section. The report shall contain, at a minimum, timelines for completion of the web-based communication system and projected expenditures.

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## CHAPTER 49

**(Com. Sub. for H. B. 5151 - By Delegates Burkhammer,  
Pinson, Heckert, Winzenreid, Hornby, Riley, Kimble, Petitto,  
and Hall)**

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[Passed March 9, 2024; in effect ninety days from passage.]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §49-1-206 of the Code of West Virginia, 1931, as amended, relating to adding former foster parents to the definition of fictive kin; and also relating to adding a definition for restorative justice program.

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

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

#### **Part II. Definitions**

**\*§49-1-206. Definitions related, but not limited to, child advocacy, care, residential, and treatment programs.**

When used in this chapter, the following terms have the following meanings, unless the context clearly indicates otherwise:

"Child Advocacy Center (CAC)" means a community-based organization that is a member, in good standing, of the West Virginia Child Advocacy Network, Inc., as set forth in §49-3-101 of this code.

"Child care" means responsibilities assumed and services performed in relation to a child's physical, emotional, psychological, social, and personal needs and the consideration of the child's rights and entitlements, but does not include secure detention or incarceration under the jurisdiction of the Division of Corrections and Rehabilitation pursuant to §49-2-901 *et seq.* of this

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**\*NOTE:** This section was also amended by H. B. 4274 (Chapter 149), which passed prior to this Act.

code. It includes the provision of child care services or residential services.

"Child care center" means a facility maintained by the state or any county or municipality thereof, or any agency or facility maintained by an individual, firm, corporation, association, or organization, public or private, for the care of 13 or more children for child care services in any setting, if the facility is open for more than 30 days per year per child.

"Child care services" means direct care and protection of children during a portion of a 24-hour day outside of the child's own home which provides experiences to children that foster their healthy development and education.

"Child placing agency" means a child welfare agency organized for the purpose of placing children in private family homes for foster care or for adoption. The function of a child placing agency may include the investigation and certification of foster family homes and foster family group homes as provided in this chapter. The function of a child placing agency may also include the supervision of children who are 16 or 17 years of age and living in unlicensed residences.

"Child welfare agency" means any agency or facility maintained by the state or any county or municipality thereof, or any agency or facility maintained by an individual, firm, corporation, association, or organization, public or private, to receive children for care and maintenance or for placement in residential care facilities, including, without limitation, private homes or any facility that provides care for unmarried mothers and their children. A child welfare agency does not include juvenile detention facilities or juvenile correctional facilities operated by or under contract with the Division of Corrections and Rehabilitation, pursuant to §49-2-901 *et seq.* of this code, nor any other facility operated by that division for the secure housing or holding of juveniles committed to its custody.

"Community based" means a facility, program, or service located near the child's home or family and involving community

participation in planning, operation, and evaluation and which may include, but is not limited to, medical, educational, vocational, social, and psychological guidance, training, special education, counseling, substance abuse, and any other treatment or rehabilitation services.

"Community-based juvenile probation sanctions" means any of a continuum of nonresidential accountability measures, programs, and sanctions in response to a technical violation of probation, as part of a system of community-based juvenile probation sanctions and incentives, that may include, but are not limited to:

- (A) Electronic monitoring;
- (B) Drug and alcohol screening, testing, or monitoring;
- (C) Youth reporting centers;
- (D) Reporting and supervision requirements;
- (E) Community service; and
- (F) Rehabilitative interventions such as family counseling, substance abuse treatment, restorative justice programs, and behavioral or mental health treatment.

"Community services" means nonresidential prevention or intervention services or programs that are intended to reduce delinquency and future court involvement.

"Evidence-based practices" means policies, procedures, programs, and practices demonstrated by research to reliably produce reductions in the likelihood of reoffending.

"Facility" means a place or residence, including personnel, structures, grounds, and equipment used for the care of a child or children on a residential or other basis for any number of hours a day in any shelter or structure maintained for that purpose. Facility does not include any juvenile detention facility or juvenile correctional facility operated by or under contract with the Division

of Corrections and Rehabilitation for the secure housing or holding of juveniles committed to its custody.

"Family child care facility" means any facility which is used to provide nonresidential child care services for compensation for seven to 12 children, including children who are living in the household, who are under six years of age. A facility may be in a provider's residence or a separate building.

"Family child care home" means a facility which is used to provide nonresidential child care services for compensation in a provider's residence. The provider may care for four to six children at one time, including children who are living in the household, who are under six years of age.

"Family resource network" means:

(A) A local community organization charged with service coordination, needs and resource assessment, planning, community mobilization, and evaluation, and which has met the following criteria:

(i) Has agreed to a single governing entity;

(ii) Has agreed to engage in activities to improve service systems for children and families within the community;

(iii) Addresses a geographic area of a county or two or more contiguous counties;

(iv) Has, as the majority of the members of the governing body, nonproviders, which includes family representatives and other members who are not employees of publicly funded agencies, with family representatives as the majority of those members who are nonproviders;

(v) Has members of the governing body who are representatives of local service agencies, including, but not limited to, the public health department, the behavioral health center, the local health and human resources agency, and the county school district; and



(vi) Adheres to principles consistent with the cabinet's mission as part of its philosophy.

(B) A family resource network may not provide direct services, which means to provide programs or services directly to children and families.

"Family support", for the purposes of §49-2-601 *et seq.* of this code, means goods and services needed by families to care for their family members with developmental disabilities and to enjoy a quality of life comparable to other community members.

"Family support program" means a coordinated system of family support services administered by the Department of Health and Human Resources through contracts with behavioral health agencies throughout the state.

"Fictive kin" means an adult of at least 21 years of age, who is not a relative of the child, as defined herein, but who has an established, substantial relationship with the child, including but not limited to teachers, coaches, ministers, parents or family members of the child's friends, or foster parents with whom the child has previously been placed.

"Foster family home" means a private residence which is used for the care on a residential basis of no more than six children who are unrelated, by blood, marriage, or adoption, to any adult member of the household.

"Foster parent" means a person with whom the department has placed a child and who has been certified by the department, a child placing agency, or another agent of the department to provide foster care.

"Health care and treatment" means:

- (A) Developmental screening;
- (B) Mental health screening;
- (C) Mental health treatment;

(D) Ordinary and necessary medical and dental examination and treatment;

(E) Preventive care including ordinary immunizations, tuberculin testing, and well-child care; and

(F) Nonemergency diagnosis and treatment. However, nonemergency diagnosis and treatment does not include an abortion.

"Home-based family preservation services" means services dispensed by the Department of Health and Human Resources or by another person, association, or group who has contracted with that division to dispense services when those services are intended to stabilize and maintain the natural or surrogate family in order to prevent the placement of children in substitute care. There are two types of home-based family preservation services and they are as follows:

(A) Intensive, short-term intervention of four to six weeks; and

(B) Home-based, longer-term after care following intensive intervention.

"Informal family child care" means a home that is used to provide nonresidential child care services for compensation for three or fewer children, including children who are living in the household who are under six years of age. Care is given in the provider's own home to at least one child who is not related to the caregiver.

"Kinship parent" means a person with whom the department has placed a child to provide a kinship placement.

"Kinship placement" means the placement of the child with a relative of the child, as defined herein, or a placement of a child with a fictive kin, as defined herein.

"Needs Assessment" means an evidence-informed assessment which identifies the needs a child or family has, which, if left unaddressed, will likely increase the chance of reoccurring.

"Nonsecure facility" means any public or private residential facility not characterized by construction fixtures designed to physically restrict the movements and activities of individuals held in lawful custody in that facility and which provides its residents access to the surrounding community with supervision.

"Nonviolent misdemeanor offense" means a misdemeanor offense that does not include any of the following:

(A) An act resulting in bodily injury or death;

(B) The use of firearm or other deadly weapon in the commission of the offense;

(C) A domestic abuse offense involving a significant or likely risk of harm to a family member or household member;

(D) A criminal sexual conduct offense; or

(E) Any offense for driving under the influence of alcohol or drugs.

"Out-of-home placement" means a post-adjudication placement in a foster family home, kinship parent home, group home, nonsecure facility, emergency shelter, hospital, psychiatric residential treatment facility, staff secure facility, hardware secure facility, detention facility, or other residential placement other than placement in the home of a parent, custodian, or guardian.

"Out-of-school time" means a child care service which offers activities to children before and after school, on school holidays, when school is closed due to emergencies, and on school calendar days set aside for teacher activities.

"Placement" means any temporary or permanent placement of a child who is in the custody of the state in any foster home, kinship parent home, group home, or other facility or residence.

"Pre-adjudicatory community supervision" means supervision provided to a youth prior to adjudication, for a period of

supervision up to one year for an alleged status or delinquency offense.

"Regional family support council" means the council established by the regional family support agency to carry out the responsibilities specified in §49-2-601 *et seq.* of this code.

"Relative family child care" means a home that provides nonresidential child care services only to children related to the caregiver. The caregiver is a grandparent, great-grandparent, aunt, uncle, great-aunt, great-uncle, or adult sibling of the child or children receiving care. Care is given in the provider's home.

"Relative of the child" means an adult of at least 21 years of age who is related to the child, by blood or marriage, within at least three degrees.

"Residential services" means child care which includes the provision of nighttime shelter and the personal discipline and supervision of a child by guardians, custodians, or other persons or entities on a continuing or temporary basis. It may include care or treatment, or both, for transitioning adults. Residential services does not include or apply to any juvenile detention facility or juvenile correctional facility operated by the Division of Corrections and Rehabilitation, created pursuant to this chapter, for the secure housing or holding of juveniles committed to its custody.

"Restorative justice program" means a voluntary, community based program which utilizes evidence-based practices that provide an opportunity for a juvenile to accept responsibility for and participate in setting consequences to repair harm caused by the juvenile against the victim and the community by means of facilitated communication including, but not limited to, mediation, dialogues, or family group conferencing, attended voluntarily by the victim, the juvenile, a facilitator, a victim advocate, community members, or supporters of the victim or the juvenile.

"Risk and needs assessment" means a validated, standardized actuarial tool which identifies specific risk factors that increase the

likelihood of reoffending and the factors that, when properly addressed, can reduce the likelihood of reoffending.

"Scattered-site living arrangement" means a living arrangement where youth, 17 to 26 years of age, live in a setting that allows staff to be available as needed, depending on the youth's level of autonomy. Sites for such living arrangements shall be in community environments to allow the youth full access to services and resources in order to fully develop independent living skills.

"Secure facility" means any public or private residential facility which includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility.

"Staff secure facility" means any public or private residential facility characterized by staff restrictions of the movements and activities of individuals held in lawful custody in such facility, and which limits its residents' access to the surrounding community, but is not characterized by construction fixtures designed to physically restrict the movements and activities of residents.

"Standardized screener" means a brief, validated nondiagnostic inventory or questionnaire designed to identify juveniles in need of further assessment for medical, substance abuse, emotional, psychological, behavioral, or educational issues, or other conditions.

"State family support council" means the council established by the Department of Health and Human Resources pursuant to §49-2-601 *et seq.* of this code to carry out the responsibilities specified in §49-2-101 *et seq.* of this code.

"Supervised group setting" means a setting where youth, 16 to 21 years of age, live with staff onsite or are available 24 hours per day and seven days per week. In this setting, staff provide face to face daily contact with youth.

"Time-limited reunification services" means individual, group, and family counseling, inpatient, residential, or outpatient

substance abuse treatment services, mental health services, assistance to address domestic violence, services designed to provide temporary child care, and therapeutic services for families, including crisis nurseries and transportation to or from those services, provided during 15 of the most recent 22 months a child or juvenile has been in foster or in a kinship placement, as determined by the earlier date of the first judicial finding that the child is subjected to abuse or neglect, or the date which is 60 days after the child or juvenile is removed from home.

"Technical violation" means an act that violates the terms or conditions of probation or a court order that does not constitute a new delinquent offense.

"Truancy diversion specialist" means a school-based probation officer or truancy social worker within a school or schools who, among other responsibilities, identifies truants and the causes of the truant behavior, and assists in developing a plan to reduce the truant behavior prior to court involvement.

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## CHAPTER 50

**(H. B. 5520 - By Delegates Hillenbrand, Kelly, Steele, Ward,  
Thorne, Akers, and Garcia)**

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[Passed March 8, 2024; in effect ninety days from passage.]

[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §49-4-727 and §49-4-729 of the Code of West Virginia, 1931, as amended, all relating to juvenile competency; modifying the presumption of competence of a child 13 and over; modifying the presumption of incompetence to age 12 and under; clarifying that the presumption applies to the adjudicatory phase of the case and authorizing pre-adjudicatory procedures; allowing cases where the juvenile is presumed to be competent to proceed up to adjudication but no further if his or her competency is at issue.

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

### **CHAPTER 49. CHILD WELFARE.**

#### **ARTICLE 4. COURT ACTIONS.**

##### **§49-4-727. Juvenile competency proceedings.**

(a) Subject to the provisions of subsection (c) of this section, a juvenile's attorney, the prosecuting attorney, or the court may raise the issue of his or her competency to participate in the proceeding any time during proceedings under this article.

(b) In any delinquency proceeding pursuant to this article, a juvenile 13 years of age or older is presumed to be competent. If a juvenile's attorney, the prosecuting attorney, or the court raise the issue of competency, all adjudication or disposition proceedings shall be stayed until the issue of competency is resolved: *Provided*, That the juvenile's attorney, guardian ad litem, or prosecuting attorney may seek, or the court may order, any pre-adjudicatory

procedures or case specific alternatives permitted by the Rules of Juvenile Procedure while the issue of competency is pending. A juvenile has the burden of proof to rebut this presumption by showing incompetency by a preponderance of the evidence.

(c) In any delinquency proceeding pursuant to this article, if the juvenile is under 13 years of age, there exists a rebuttable presumption that he or she is incompetent to be adjudicated, unless judicially determined to be competent pursuant to the procedures set forth in §49-4-728 through §49-4-734 of this code: *Provided*, That the juvenile's attorney, guardian ad litem, or prosecuting attorney may seek, or the court may order, any pre-adjudicatory procedures or case specific alternatives permitted by the Rules of Juvenile Procedure or any disposition alternatives set forth in §49-4-734 of this code for a juvenile presumed incompetent. The state has the burden of proof to rebut this presumption by showing competency by a preponderance of the evidence.

(d) Regardless of the age of the juvenile, the court may dismiss the petition without ordering a competency evaluation or competency hearing if the prosecuting attorney, the juvenile's attorney, and the guardian ad litem, if previously appointed, agree that there is compelling evidence that the juvenile is not competent to participate in the proceedings: *Provided*, That a court may not order services authorized by §49-4-733 of this code without a competency evaluation.

(e) If and when the issue of a juvenile's competency is raised under subsection (b) of this section or, a rebuttable presumption of incompetency exists under subsection (c) of this section, the court shall appoint a guardian ad litem for the juvenile. The Supreme Court of Appeals is requested to establish a training program for persons acting as guardians ad litem in juvenile competency matters.

**§49-4-729. Motion for determination of competency, time frames, order for evaluation.**

(a) When the prosecuting attorney, the juvenile's attorney, or the guardian ad litem has reasonable basis to believe that:



(1) A juvenile age 13 or older is incompetent to proceed in the delinquency action, that party shall file a motion for a determination of competency. The motion shall state any known facts to the movant in support thereof. If the court raises the issue sua sponte, it shall, by written order, set forth the basis for ordering a competency evaluation.

(2) A juvenile under the age of 13 is competent to proceed in the delinquency action, the prosecuting attorney shall file a motion for determination of competency. The motion shall state the basis to believe the juvenile is competent to proceed despite the presumption of incompetency due to age and shall state any known facts to the prosecuting attorney in support of the motion. If the court raises the issue sua sponte, the court by written order shall set forth the factual basis supporting the finding that the juvenile is competent to proceed.

(b) Within 10 judicial days after a motion is made, the court shall make one of the following determinations regardless of which presumption applies:

(1) Find that there is compelling evidence that the juvenile is not competent to participate in the proceedings and dismiss the case pursuant to §49-4-727(d) of this code;

(2) Without conducting a hearing, find that there exists a reasonable basis to conduct a competency evaluation; or

(3) Schedule a hearing to determine whether there exists a reasonable basis to conduct a competency evaluation. The hearing shall be held within 30 judicial days. The court's determination shall be announced no later than three judicial days after the conclusion of the hearing.

(c) If the court determines there is a reasonable basis to order a competency evaluation pursuant to §49-4-731 of this code, or if the prosecutor and the juvenile's attorney agree to the evaluation, the court shall order a competency evaluation. If the court orders a competency evaluation, the court shall order that the competency

evaluation be conducted in the least restrictive environment, taking into account the public safety and the best interests of the juvenile.

(1) Notwithstanding any other provisions of this code, the court shall provide in its order that the qualified forensic evaluator shall have access to all relevant confidential and public records related to the juvenile, including competency evaluations and reports conducted in prior delinquent proceedings. The court shall provide to the qualified forensic evaluator a copy of the petition and the names and contact information for the judge, prosecutor, juvenile's attorney, and parents or legal guardians.

(2) Within five judicial days after the court orders an evaluation, the prosecutor shall deliver to the evaluator copies of relevant police reports and other background information relevant to the juvenile that are in the prosecutor's possession.

(3) Within five judicial days after the court orders an evaluation, the juvenile's attorney shall deliver to the qualified forensic evaluator copies of police reports and other records including, but not limited to, educational, medical, psychological, and neurological records that are relevant to the evaluation and that are in the attorney's possession. Upon good cause shown, the court may extend the time frame to deliver these documents noting that time is of the essence.

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## CHAPTER 51

(Com. Sub. for S. B. 628 - By Senators Tarr and Plymale)

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[Passed March 8, 2024; in effect from passage]  
[Approved by the Governor on March 27, 2024.]

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AN ACT finding and declaring certain claims against the state and its agencies to be moral obligations of the state; and directing the Auditor to issue warrants for the payment thereof.

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

**§1. Finding and declaring certain claims against the Department of Administration, Office of Technology; Department of Environmental Protection; Department of Health and Human Resources; Department of Military Affairs & Public Safety, Division of Corrections and Rehabilitation; Department of Transportation, Division of Highways; Department of Transportation, Division of Motor Vehicles; State of West Virginia; and West Virginia Legislature, Joint Committee on Government and Finance, to be moral obligations of the state and directing payment thereof.**

The Legislature has considered the findings of fact and recommendations reported to it by the Legislative Claims Commission concerning various claims against the state and agencies thereof and, in respect to each of the following claims, the Legislature adopts those findings of fact as its own and in respect of the claims herein, the Legislature has independently made findings of fact and determinations of award and hereby declares it to be the moral obligation of the state to pay each such claim in the amount specified below and directs the Auditor to issue warrants for the payment thereof out of any fund appropriated and available for the purpose.

(a) *Claim against the Department of Administration, Office of Technology:*

(TO BE PAID FROM SPECIAL REVENUE FUND)

(1) Ricoh USA, Inc. .... \$1,975.45

(b) *Claims against the Department of Environmental Protection:*

(TO BE PAID FROM SPECIAL REVENUE FUND)

(1) Gartner Inc..... \$27,605.25

(2) Snyder Environmental Service, Inc. .... \$2,940.00

(c) *Claims against the Department of Health and Human Resources:*

(TO BE PAID FROM GENERAL REVENUE FUND)

(1) West Virginia Association of Rehabilitation Facilities ..... \$106.65

(2) West Virginia Association of Rehabilitation Facilities .....\$38.18

(3) West Virginia Association of Rehabilitation Facilities .....\$41.53

(4) West Virginia Association of Rehabilitation Facilities ..... \$7,749.14

(5) West Virginia Association of Rehabilitation Facilities ..... \$164.19

(6) West Virginia Association of Rehabilitation Facilities .....\$99.39

(7) West Virginia Association of Rehabilitation Facilities ..... \$2,883.83

(8) West Virginia Association of Rehabilitation Facilities .....\$83.06

(9) West Virginia Association of Rehabilitation Facilities ..... \$7,016.37

(10) West Virginia Association of Rehabilitation Facilities ..... \$1,942.56

(11) West Virginia Association of Rehabilitation Facilities ..... \$3,638.96

(12) West Virginia Association of Rehabilitation Facilities ..... \$34,865.65

(13) West Virginia Association of Rehabilitation Facilities ..... \$14,404.94

(14) West Virginia Association of Rehabilitation Facilities ..... \$755.81

(d) *Claims against the Department of Military Affairs & Public Safety,  
Division of Corrections and Rehabilitation:*

(TO BE PAID FROM GENERAL REVENUE FUND)

(1)	Donald Adams.....	\$87.53
(2)	Anthony Cartagena .....	\$34.98
(3)	Anthony Cartagena .....	\$25.00
(4)	Miguel Delgado .....	\$110.17
(5)	Andrew T. Miller .....	\$48.30
(6)	Glen Mitchell.....	\$150.00
(7)	Brian C. Morgan .....	\$286.89
(8)	Darrin Pandelos .....	\$85.52
(9)	Ray Parsons .....	\$129.90
(10)	Clarence Slaughter .....	\$99.99
(11)	Darrell Washington.....	\$100.00

(e) *Claims against Department of Transportation, Division of Highways:*

(TO BE PAID FROM STATE ROAD FUND)

(1)	Scott Abe .....	\$1,500.00
(2)	Derrick B. Adkins .....	\$213.08
(3)	Leonard L. Adkins and Debra L. Adkins .....	\$500.00
(4)	After Hours Bail Bonds and Stephen Thompson .....	\$500.00
(5)	Michael Alvarez.....	\$228.84
(6)	Charles R. Anderegg and Elizabeth M. Anderegg .....	\$486.01
(7)	Joy Anderson.....	\$450.50
(8)	Michael Arbogast.....	\$500.00

(9)	Howard Armstead.....	\$100.00
(10)	Lee Matthew Arnold.....	\$243.73
(11)	Jimmy Atkins and Robin Atkins.....	\$500.00
(12)	Natala Auvil .....	\$434.80
(13)	Anne E. Baker .....	\$172.43
(14)	Myra M. Bartilson and Bryan B. Bartilson .....	\$378.40
(15)	Myra M. Bartilson and Bryan B. Bartilson .....	\$347.18
(16)	Harry L. Beckman, Sr. and Pamela Beckman .....	\$500.00
(17)	Regina Bell .....	\$250.00
(18)	Samuel Berhanu and Seble Wongel Hailu, In Their Capacity as Co-Administrator and Co-Administratrix of the Estate of Leah Samuel Berhanu .....	\$50,000.00
(19)	Harry L. Biggs and Louise Biggs .....	\$1,000.00
(20)	Samson D. Bland and Nancy Bland Poth.....	\$660.00
(21)	Kevin E. Blaschak.....	\$235.95
(22)	Nicholas Blumert and Ashley Blumert .....	\$100.00
(23)	Frederick D. Bosley .....	\$500.00
(24)	James Boston.....	\$322.13
(25)	Shannon Bowling.....	\$9,122.00
(26)	Raymond L. Bradley Jr. and Emily Bradley .....	\$628.87
(27)	Clayton Brandli .....	\$1,000.00
(28)	Brenda Brandon .....	\$500.00
(29)	Barbara M. Brown .....	\$249.49
(30)	Sharon R. Brown.....	\$275.75

(31)	Sandra Bucklew and Steve Bucklew .....	\$124.34
(32)	Stephanie Burdette .....	\$364.50
(33)	Stephanie Burdette .....	\$500.00
(34)	Jessica Burkhammer .....	\$250.00
(35)	Raymond Burns .....	\$500.00
(36)	Lenford E. Burrell, Sr. and Asbie M. Burrell.....	\$400.00
(37)	Samuel Byrnside and Corra Byrnside .....	\$175.23
(38)	Danny N. Cadier .....	\$687.79
(39)	Jamie Caldwell.....	\$325.46
(40)	Toney Calhoun and Pamela Calhoun .....	\$500.00
(41)	Tammy L. Campbell and Arlie E. Campbell .....	\$160.06
(42)	Monica L. Carlucci and Robert Carlucci.....	\$500.00
(43)	David J. Carpenter and Kayla J. Carpenter .....	\$1,000.00
(44)	Zamara Carr.....	\$113.69
(45)	Casey Catlett and David A. Catlett, Jr. ....	\$1,000.00
(46)	Thomas Centofanti and Shadley Centofanti .....	\$1,000.00
(47)	James Chaffin.....	\$209.12
(48)	Charles Chitekwe .....	\$377.32
(49)	Cody Chrisman .....	\$111.30
(50)	Clifton Clark.....	\$573.77
(51)	Clear Water Services LLC. ....	\$250.00
(52)	Roy Anson Cline.....	\$1,000.00
(53)	Brett D. Clutters .....	\$423.98
(54)	Craig Collins and Judy Collins .....	\$250.00

(55)	Collision Appraisal Reinspection Service and John E. Carter, III.....	\$500.00
(56)	Joseph A. Compton.....	\$467.74
(57)	Charles R. Conner.....	\$179.76
(58)	Logan Conrad.....	\$175.23
(59)	Logan Conrad.....	\$186.25
(60)	Patty Jo Contic .....	\$251.44
(61)	Terry V. Cooper .....	\$500.00
(62)	Casey Corbett.....	\$471.82
(63)	Brittany R. Cottrill and Phyllis Pigott.....	\$142.27
(64)	Eugene Cowger and Irma Cowger.....	\$100.00
(65)	Linda R. Cox and Thomas M. Cox.....	\$250.00
(66)	Linda L. Craig .....	\$280.90
(67)	William Crowder .....	\$1,000.00
(68)	Donald J. Currence .....	\$173.84
(69)	Sharon Daniels and Timmy Daniels.....	\$148.35
(70)	Brian A. Darst .....	\$334.96
(71)	Jonathan T. Davis.....	\$500.00
(72)	Raylene DeLeon and Roberto DeLeon .....	\$200.00
(73)	Shirley L. Dempsey .....	\$477.00
(74)	Shirley L. Dempsey .....	\$311.59
(75)	Brandon DePriest and Debra DePriest .....	\$1,275.03
(76)	Garrett A. Dietz and Michelle Y. Dietz.....	\$500.00
(77)	Amy L. Dillon .....	\$485.46



(78)	Matthew Ditchen and Mike Ditchen .....	\$556.83
(79)	Michael J. Dotson, Jr. ....	\$500.00
(80)	Austin M. Doughty .....	\$484.36
(81)	Aliyah Drake and Asya Drake .....	\$2,000.00
(82)	Phillip L. Duran.....	\$500.00
(83)	Dayton A. Duvall, Jr. ....	\$375.49
(84)	Cierra Eddy and William Eddy.....	\$434.58
(85)	Theresa A. Eddy.....	\$368.99
(86)	Virgil E. Edmonds .....	\$197.44
(87)	Kenneth C. Egnor, III .....	\$1,000.00
(88)	Virginia Elliott and Rodney Elliott .....	\$293.00
(89)	Warren S. Elliott and Marianne Elliott.....	\$500.00
(90)	William R. Ellis, Jr.....	\$500.00
(91)	Michele L. Ennis.....	\$330.57
(92)	Pamela H. Faber and James Faber .....	\$262.80
(93)	Denise M. Facemyre.....	\$500.00
(94)	David Farrah.....	\$471.11
(95)	Robert Farrow .....	\$500.00
(96)	Andrew R. Fife and Jayme Fife .....	\$293.18
(97)	Nathan Fordyce .....	\$1,000.00
(98)	Shawna C. Foster .....	\$207.79
(99)	Tina M. Foster and Eric Foster .....	\$2,247.08
(100)	Darla Fox-Gales .....	\$219.60
(101)	James Frye and Tammy Frye.....	\$500.00

(102) Deborah L. Gainer .....	\$587.42
(103) Donald Gainer and Christena Gainer.....	\$886.36
(104) John D. Gaupel and Marilyn Gaupel.....	\$438.70
(105) Lacie Geary .....	\$273.18
(106) Richelle Gemmell .....	\$317.05
(107) Beverly J. Gerard .....	\$131.98
(108) Suzanne Gillespie and Larry Gillespie .....	\$367.33
(109) Joseph Anthony Gorayeb .....	\$500.00
(110) Vivian Graf.....	\$316.34
(111) Theresa Grimes .....	\$102.72
(112) John Gue and Debra Gue .....	\$900.00
(113) Shane Hall .....	\$1,000.00
(114) John W. Hanifan and Agnes Hanifin.....	\$675.00
(115) William C. Harlow.....	\$96.06
(116) David Harmon and Crystal Harmon.....	\$282.97
(117) James Harr.....	\$667.45
(118) Heather D. Harrison.....	\$500.00
(119) Dewey Hastings .....	\$365.05
(120) Jami L. Hefner and Mark H. Hefner.....	\$800.00
(121) Melissa Hemsley and Thomas Hemsley .....	\$208.65
(122) Scott Henderson .....	\$216.12
(123) Wanda L. Henline .....	\$193.50
(124) Kerry Herron .....	\$1,000.00
(125) Tanika Hill.....	\$212.71

(126) George Hilvers .....	\$563.97
(127) Theresa Hitchcock .....	\$165.44
(128) Daniel Holbrook.....	\$692.93
(129) Jennifer C. Holmes, Stanley W. Holmes, and Dustin D. Holmes .....	\$140.39
(130) Dallas Horrocks.....	\$608.73
(131) Chazie Howdershelt and Jodi Howdershelt .....	\$110.19
(132) Juanita Howerton .....	\$500.00
(133) Agueda Hudkins-Teague.....	\$655.06
(134) Samuel Huff and Mackenzie Huff.....	\$491.20
(135) Alan Huffman .....	\$500.00
(136) Timothy L. Hughes and Diane C. Hughes .....	\$296.80
(137) Lawrence W. Hunt and Phyllis M. Hunt.....	\$257.92
(138) Elizabeth Hunter and Paul Hunter .....	\$422.15
(139) Donald R. Irvin.....	\$505.67
(140) Diana Jarvis and Roger Jarvis .....	\$250.00
(141) James Jasinski and Samantha Jasinski.....	\$407.53
(142) Tina M. Jernigan and Brian J. Jernigan .....	\$500.00
(143) Randall Blake Jett .....	\$1,000.00
(144) Jing De Jiang .....	\$500.00
(145) Jeffrey Johns.....	\$198.88
(146) Allen Johnson.....	\$500.00
(147) Earnest L. Johnson .....	\$500.00
(148) Faith M. Johnson.....	\$214.29

(149) Keith Leo Johnson, Jr. ....	\$250.00
(150) Todd Johnson .....	\$279.60
(151) April Jones and Stanley Jones.....	\$500.00
(152) Tod W. Jones .....	\$8,000.00
(153) Dak Jones	\$500.00
(154) Pamela Jones and Lisa Chapman.....	\$331.61
(155) Tracey D. Jones and Nicole B. Jones .....	\$205.54
(156) Joseph Justice .....	\$1,000.00
(157) Kenneth D. Justice .....	\$274.73
(158) Ryan Kehler.....	\$759.60
(159) Hubert M. Kennett and Greta M. Kennett.....	\$500.00
(160) Patricia Kephart.....	\$1,000.00
(161) Delwood R. Kesner.....	\$250.00
(162) Sandra K. Kiger and Wayne Kiger .....	\$283.25
(163) Brenda Kincaid and Cathy Kincaid .....	\$250.00
(164) Clarence E. Kinder.....	\$250.00
(165) Joseph Kinsley .....	\$500.00
(166) Tammi L. Kirk .....	\$381.60
(167) Tammi L. Kirk .....	\$171.59
(168) Cassandra Kisner .....	\$250.00
(169) Chelsi Koger.....	\$826.67
(170) Sandy Kyer.....	\$544.73
(171) Shawnda Kyle and Jesse Kyle .....	\$261.60
(172) Debra Lake .....	\$250.00

(173) Amber Lanham and Jeremy Lanham .....	\$1,500.00
(174) Brian J. Lanham .....	\$373.42
(175) Jill Drooger Leathers .....	\$190.49
(176) Tavis B. Lee .....	\$953.99
(177) Gary A. Legg, Jr.....	\$159.00
(178) Billy G. Lilly, Jr. ....	\$500.00
(179) Robyn Lindamood .....	\$350.00
(180) Hayward Luckey.....	\$127.19
(181) Destiny Lylyk.....	\$294.07
(182) Taylor Lynch.....	\$500.00
(183) Sasha MacIver and Jonathan MacIver.....	\$301.74
(184) Roy P. Maddox .....	\$500.00
(185) Joseph Manchin, IV .....	\$190.46
(186) Sondra Maraguglio .....	\$250.00
(187) Aaron Marko .....	\$462.80
(188) Albert Martin.....	\$500.00
(189) Kent Martin and Tammi Martin.....	\$1,000.00
(190) David Mason and Alexis Mason.....	\$500.00
(191) Eva D. Mason.....	\$645.42
(192) Chris Massey .....	\$275.52
(193) Chris Massey .....	\$175.23
(194) Nancy J. Massey .....	\$500.00
(195) Donna L. Maynor.....	\$500.00
(196) Joseph C. McComas, II .....	\$254.00

(197) Charlotte McIntyre and Monty McIntyre.....	\$500.00
(198) Ian McKenzie.....	\$185.50
(199) Edward L. McPherson.....	\$2,875.50
(200) Michael Meeks.....	\$500.00
(201) Gregory B. Meikle and Paula J. Meikle.....	\$471.87
(202) Gregory B. Meikle and Paula J. Meikle.....	\$173.31
(203) Lora B. Meyers.....	\$884.24
(204) Armon Millner.....	\$135.88
(205) Clarence D. Minger.....	\$455.80
(206) Larry F. Minto and Michele Minto.....	\$215.00
(207) Janet Mize and John Mize.....	\$1000.00
(208) Lorrie A. Moles.....	\$268.57
(209) Jackie L. Mollohan, Jr. and Ashley Mollohan.....	\$145.51
(210) Heather C. Montgomery.....	\$349.25
(211) Justin Mooney.....	\$289.71
(212) Heather N. Moore.....	\$243.68
(213) Stephen K. Moss.....	\$1,000.00
(214) Kristen Mowder.....	\$360.40
(215) Micah S. Mullenax.....	\$297.00
(216) Samantha Mullins.....	\$480.00
(217) Maximus Myers.....	\$3,591.52
(218) Gabriel Scott Neace.....	\$1,378.80
(219) Joey A. Neeley.....	\$653.85
(220) Anthony Neff.....	\$500.00

(221) Anthony Neff .....	\$500.00
(222) James M. Newlon .....	\$84.53
(223) Gena Nicholas .....	\$500.00
(224) Douglas R. Nowery .....	\$250.00
(225) Kim Nuckles.....	\$406.76
(226) Tina M. O'Neill .....	\$495.11
(227) Cindy Jo Orndoff .....	\$127.90
(228) Earl D. Osborne, Jr.....	\$1,475.93
(229) Miranda Osburn .....	\$500.00
(230) Harold Page and Betty Page.....	\$500.00
(231) Misty Parsons and Chris Parsons.....	\$295.67
(232) Megan Peaytt and Michael Peaytt .....	\$480.00
(233) Gerald R. Phelps and Bonnie G. Phelps .....	\$156.28
(234) April Pierson.....	\$293.18
(235) Sarah Woodrum Pilgrim.....	\$500.00
(236) Glenda Pizzino and Danny Pizzino .....	\$500.00
(237) Andrew G. Podolak .....	\$236.04
(238) James V. Polino.....	\$419.40
(239) Robert L. Poulton.....	\$500.00
(240) Rachelle Prudnick .....	\$395.77
(241) David Earl Quick .....	\$425.56
(242) Deborah Quisenberry.....	\$743.54
(243) Bernard L. Raber and Anna Ruth Raber .....	\$250.00
(244) Anthony Ramsey.....	\$500.00

(245) Judith O. Reckart.....	\$1,000.00
(246) Rodger R. Reed.....	\$1,000.00
(247) Shannon D. Reed .....	\$500.00
(248) Tammy Lyn Rhodes .....	\$1,500.00
(249) Leslie Richardson-Merritt .....	\$500.00
(250) Michael Riddle.....	\$500.00
(251) Terri Rilling and Jacob Rilling.....	\$427.68
(252) Franklin L. Roberts .....	\$500.00
(253) Thomas Robertson .....	\$1,000.00
(254) Jenna Robinson .....	\$145.51
(255) Ashton M. Rodabaugh and Chet Rodabaugh .....	\$373.54
(256) Tyler Rogers.....	\$250.00
(257) Keriann Ross and Justin Carr.....	\$399.25
(258) Kevin Ross .....	\$609.46
(259) DeAnna Ryan and Patrick Ryan.....	\$243.46
(260) Donald W. Ryan.....	\$253.65
(261) John A. Sacchetti Jr. and Denise M. Sacchetti.....	\$500.00
(262) Massih Saheli .....	\$434.91
(263) Brian C. Sanders and Pamela A. Sanders.....	\$1,000.00
(264) Danielle B. Sandler .....	\$573.72
(265) Kyra Savrese .....	\$500.00
(266) Shawna Sayre and Kevin Smith.....	\$111.06
(267) Misty Scarbrough.....	\$301.64
(268) Tara Schell and Shane Schell.....	\$421.47



(269) Charles Schultz.....	\$151.68
(270) Jordan Seaward.....	\$500.00
(271) Frank M. Semplice.....	\$167.76
(272) Seneca Village, LLC.....	\$5,500.00
(273) Shawn Shamshiry .....	\$557.10
(274) Florencia A. Shaver .....	\$281.11
(275) Kenneth Showe .....	\$330.69
(276) Tanya Sisson .....	\$222.31
(277) Robert A. Skidmore, Sr. ....	\$1,252.00
(278) Randall S. Smith and Lisa Smith .....	\$192.58
(279) Rebecca Ann Smith .....	\$350.85
(280) Gage Sneed and Olivia Sneed.....	\$500.00
(281) Kathy Spry.....	\$500.00
(282) Christopher Starcher .....	\$500.00
(283) Sharon Starcher .....	\$422.65
(284) Linda Stemple .....	\$223.52
(285) Joey Stepek.....	\$1,043.18
(286) Darby Stevens and Jerry Stevens.....	\$500.00
(287) Carl D. Stewart, II.....	\$2,000.00
(288) Daniel Stokum.....	\$1,000.00
(289) Kevin K. Stone and Kenneth R. Stone .....	\$131.96
(290) Tina Stout and Danny Stout .....	\$500.00
(291) Janell Stratton and Louis Gallo .....	\$743.10
(292) Sarah Strawderman and Jeremy Strawderman .....	\$342.12

(293) Flem Stroud and Yvonne Stroud .....	\$5,000.00
(294) Kelly Jo Summers.....	\$383.72
(295) Richard L. Tanner, Jr. and Melody Tanner.....	\$280.88
(296) Scarlett Tarley .....	\$1,000.00
(297) Edna Taylor and Dick Taylor.....	\$150.18
(298) Randy L. Tennant .....	\$268.89
(299) Haley Alexis Teter and Mitzy Teter .....	\$500.00
(300) Sharon Thomas and Donald Thomas .....	\$500.00
(301) Richard A. Toler .....	\$171.95
(302) Rhonda Toney .....	\$138.03
(303) Mekayla Toothman.....	\$221.53
(304) Michael E. Torian .....	\$500.00
(305) Leslie Tower and Benjamin Tower .....	\$500.00
(306) Carl Trosper and Joy Trosper.....	\$500.00
(307) Joseph Tucker.....	\$1,048.34
(308) Rodney Tucker.....	\$500.00
(309) Tarren Tucker.....	\$500.00
(310) Aisha Tufail.....	\$500.00
(311) John M. Turner and Jana L. Turner .....	\$500.00
(312) Bertie Vance and Todd Mowery.....	\$263.94
(313) Barry Vaught.....	\$426.61
(314) John M. Wales.....	\$369.80
(315) Nancy Weaver and Roger Weaver .....	\$100.00
(316) Teresa L. Webb and Kevin B. Webb.....	\$1,000.00

(317) Casey Wellman and Shari Pinson.....	\$15,000.00
(318) Stephen T. Wentz.....	\$500.00
(319) Don Lee Wilcox and Michele R. Wilcox.....	\$3,002.76
(320) Michael Wiley and Emily Wiley .....	\$328.60
(321) Austin Wilson and Stephanie Wilson.....	\$500.00
(322) Jacqueline Wilson .....	\$325.42
(323) Joseph Paul Wiltsey, Jr. ....	\$416.10
(324) Thomas C. Wood .....	\$452.00
(325) Shannon Woodard .....	\$500.00
(326) West Virginia Association of Rehabilitation Facilities .....	\$16,108.76
(327) West Virginia Association of Rehabilitation Facilities .....	\$34,990.49
(328) Jaime Wykle .....	\$254.43
(329) Joseph N. Yerace and Linda Yerace.....	\$224.78
(330) Amy Zankowitz .....	\$293.07
(331) Kimberly Zwier and Michael Zwier.....	\$310.73
(f) <i>Claims against the Department of Transportation, Division of Motor Vehicles:</i>	

(TO BE PAID FROM STATE ROAD REVENUE FUND)

(1) West Virginia Association of Rehabilitation Facilities .....	\$70,130.92
(2) West Virginia Association of Rehabilitation Facilities .....	\$1,850.00
(3) West Virginia Association of Rehabilitation Facilities .....	\$93.24
(4) West Virginia Association of Rehabilitation Facilities .....	\$403.20
(5) West Virginia Association of Rehabilitation Facilities .....	\$94.50
(6) West Virginia Association of Rehabilitation Facilities .....	\$870.66

- (7) West Virginia Association of Rehabilitation Facilities .....\$97.40
- (8) West Virginia Association of Rehabilitation Facilities ..... \$10,854.25
- (g) *Claim against the State of West Virginia*

(TO BE PAID FROM GENERAL REVENUE FUND)

- (1) Charles Jason Lively .....\$1,568,936.00
- (h) *Claim against the West Virginia Legislature, Joint Committee on Government and Finance*

(TO BE PAID FROM GENERAL REVENUE FUND)

- (1) Alpha Technologies, Inc..... \$3,735.88

The Legislature finds that the above moral obligations and the appropriations made in satisfaction thereof shall be the full compensation for all claimants and that prior to the payments to any claimant provided in this bill, the Legislative Claims Commission shall receive a release from said claimant releasing any and all claims for moral obligations arising from the matters considered by the Legislature in the finding of the moral obligations and the making of the appropriations for said claimant. The Legislative Claims Commission shall deliver all releases obtained from claimants to the department against which the claim was allowed.

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## CHAPTER 52

**(S. B. 507 - By Senator Grady)**

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[Passed February 20, 2024; in effect 90 days from passage (May 20, 2024)]  
[Approved by the Governor on February 29, 2024.]

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AN ACT to repeal §18-13-1, §18-13-2, §18-13-3, §18-13-4, and §18-13-5 of the Code of West Virginia, 1931, as amended, relating to repeal of West Virginia EDGE.

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

### **ARTICLE 13. WEST VIRGINIA EDGE.**

#### **§1. Repeal of article creating West Virginia EDGE.**

That §18-13-1, §18-13-2, §18-13-3, §18-13-4, and §18-13-5 of the Code of West Virginia, 1931, as amended, are repealed.

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## CHAPTER 53

### **(H. B. 4984 - By Delegates Summers, Tully, Miller, and Rohrbach)**

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[Passed March 5, 2024; in effect ninety days from passage.]

[Approved by the Governor on March 22, 2024.]

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AN ACT to repeal §11-13I-1, §11-13I-2, and §11-13I-3 of the Code of West Virginia, 1931, all relating to repealing tax credit for employing certain former employees of the Colin Anderson Center.

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

#### **ARTICLE 13I. TAX CREDIT FOR EMPLOYING FORMER EMPLOYEES OF COLIN ANDERSON CENTER WHO LOST THEIR JOBS DUE TO THE CLOSURE OF COLIN ANDERSON CENTER.**

##### **§11-13I-1. Legislative purpose.**

[Repealed]

##### **§11-13I-2. Credit allowed; amount and duration of credit; recapture of credit and effective date.**

[Repealed]

##### **§11-13I-3. Application of credit; limitation of credit; tax commissioner to promulgate forms and legislative rule; notice of credit.**

[Repealed]

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## CHAPTER 54

**(S. B. 430 - By Senator Woodrum)**

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[Passed March 8, 2024; in effect from passage]  
[Approved by the Governor on March 26, 2024.]

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AN ACT to amend and reenact §46B-3-7 and §46B-3-9 of the Code of West Virginia, 1931, as amended, all relating to the regulation of the rental of consumer goods under rent-to-own agreements; disclosure requirements when consumer is in default; and limitations on charges and fees.

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

### **ARTICLE 3. DEFAULT.**

#### **§46B-3-7. Disclosure requirements.**

(a) The dealer shall make all disclosures required by this section.

(b) In all circumstances listed in subsection (c) of this section, the dealer shall disclose the following information with respect to the goods that are the subject of the rental agreement in a clear, conspicuous, and easily understood manner:

- (1) Retail value;
- (2) Rent-to-own charge;
- (3) Rental period;
- (4) Number of periodic payments required for ownership;
- (5) Amount of each periodic payment;

(6) Total of all payments; and

(7) Whether the goods are new or have been previously rented or are otherwise used.

(c) The dealer shall make the disclosures required in this section:

(1) On a label attached or posted on top of the goods displayed to any potential consumer if the goods are displayed on the premises of the dealer and offered under a rent-to-own agreement by that same dealer;

(2) In any rent-to-own agreement as defined in §46B-1-5 of this code;

(3) In any telephone communication with a potential consumer; and

(4) In any radio, television, or printed advertisement for the goods when the amount of the periodic payment for the item is included in the advertisement.

(d) For any goods displayed or offered online and for which a consumer can enter into a rent-to-own agreement online or remotely through electronic commerce, a dealer may, in lieu of attaching the disclosure required by §46B-3-7(c)(1) of this code to the goods, provide the same information electronically so long as such information is disclosed in a clear, conspicuous, and easily understood manner.

(e) For any goods offered to the consumer under a rent-to-own agreement by one dealer, but displayed by any other person or on the premises of any other dealer, the dealer offering the rent-to-own agreement may provide the information required under §46B-3-7(b) of this code electronically, as described under §46B-3-7(d) of this code, or on a label, as described under §46B-3-7(c)(1) of this code.



(f) Any oral communications concerning the terms and conditions of the transaction shall be incorporated into a written agreement which shall govern the transaction.

(g) In any transaction involving more than one dealer, only one dealer may make the disclosures required by this article: *Provided*, That when the name of the dealer is required to be disclosed, all dealers shall be disclosed.

(h) A dealer may disclose information that is not required by this section only when the additional information is not stated, used, or placed in a manner that may contradict, obscure, or distract attention from the information required by this section.

#### **§46B-3-9. Limitations on charges and fees.**

(a) Any consumer seeking to fulfill obligations pursuant to §46B-3-5 of this code may be charged a fee no greater than the retail value divided by the total of payments multiplied by the amount of the periodic payments which have not yet become due.

(b) A dealer may not charge a fee for delivery or pickup unless the charge is provided for in the written agreement, the parties agree that the dealer shall deliver or pick up the goods, and the charge is reasonably related to the costs of delivery.

(c) Any late fee imposed by a dealer may not exceed five percent of the periodic payment or \$15, whichever is less. Only one late charge may be imposed for any payment for which a late charge may be charged. Under a rental agreement in which periodic payments are due weekly, a late charge may not be imposed until the payment is three days late. Otherwise, a late charge may not be imposed until the payment is five days late.

(d) The total of payments in a rent-to-own transaction shall not be greater than 240 percent of the retail value.

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## CHAPTER 55

**(S. B. 802 - By Senators Hamilton, Caputo, Deeds, Hunt, Karnes, Martin, Plymale, Stover, Swofel, Woelfel, and Taylor)**

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[Passed March 4, 2024; in effect 90 days from passage (June 2, 2024)]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §46A-6A-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §47-11F-8 of said code, all relating to Consumer Protection—New Motor Vehicle Warranties and the Farm Equipment Dealer Contract Act; including in the definition of "motor vehicle" a self-propelled vehicle designed primarily for, and used in, the occupation or business of farming, with a horsepower unit of 20 or greater; and the right to bring an action for breach of warranty involving a self-propelled vehicle designed primarily for, and used in, farming.

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

### **CHAPTER 46A. WEST VIRGINIA CONSUMER CREDIT AND PROTECTION ACT.**

#### **ARTICLE 6A. CONSUMER PROTECTION—NEW MOTOR VEHICLE WARRANTIES.**

##### **§46A-6A-2. Definitions.**

When used in this article, the following words, terms, and phrases shall have the meaning ascribed to them, except where the context indicates a different meaning:

(1) "Consumer" means:

(A) The purchaser, other than for purposes of resale, of a new motor vehicle used primarily for personal, family, or household purposes, a person to whom the new motor vehicle is transferred for the same purposes during the duration of an express warranty applicable to the motor vehicle, and any other person entitled by the terms of the warranty to enforce the obligations of the warranty; or

(B) The purchaser, other than for purposes of resale, of a new vehicle described in paragraph (B), subdivision (4) of this section a person to whom the new vehicle is transferred during the duration of an express warranty applicable to the vehicle, and any other person entitled by the terms of the warranty to enforce the obligations of the warranty;

(2) "Manufacturer" means a person engaged in the business of manufacturing, assembling, or distributing motor vehicles, who will, under normal business conditions during the year, manufacture, assemble, or distribute to dealers at least 10 new motor vehicles;

(3) "Manufacturer's express warranty" and "warranty" mean the written warranty of the manufacturer of a new motor vehicle of its condition and fitness for use, including any terms or conditions precedent to the enforcement of obligations under that warranty; and

(4) "Motor vehicle" means:

(A) Any passenger automobile purchased in this state or registered and titled in this state, including any pickup truck or van registered as a Class A motor vehicle under the provisions of §17A-10-1 *et seq.* of this code, and any self-propelled motor vehicle chassis of a motor home registered as a Class A or Class B motor vehicle under the provisions of §17A-10-1 *et seq.* of this code; or

(B) Any self-propelled vehicle designed primarily for, and used in, the occupation or business of farming, with a horsepower unit of 20 or greater.

## **CHAPTER 47. REGULATION OF TRADE.**

### **ARTICLE 11F. FARM EQUIPMENT DEALER CONTRACT ACT.**

#### **§47-11F-8. Civil remedies applicable.**

(a) The provisions of any agreement to the contrary notwithstanding, if a supplier fails or refuses without just cause to repurchase any inventory or portion thereof when required to do so under the provisions of this article within the time periods prescribed thereby, such supplier shall be civilly liable for: (1) 100 percent of the current net price of the inventory or portion thereof not repurchased; (2) the amount the dealer paid for freight costs from the supplier's location to the dealer's location; (3) the reasonable cost of assembly performed by the dealer; (4) reasonable attorney's fees and court costs incurred by the dealer in requiring the supplier to comply with this article of the code; and (5) interest on the current net price of the inventory or portion thereof not repurchased, computed at the prime rate of interest commencing the 91st day after termination of the contract agreement, and recomputed quarterly thereafter.

(b) Any person who suffers monetary loss due to a violation of this article or because he or she refuses to accede to a proposal for an arrangement that, if consummated, is in violation of this article, may bring civil action to enjoin further violation and to recover damages sustained by him or her together with the costs of the suit, including reasonable attorney's fees and court costs.

(c) If there is a failure to provide the required notice of termination or otherwise comply with provisions of this article, the supplier shall be civilly liable for the dealer's loss of business for the time period the supplier is in violation of the notice of termination provisions of the article, plus reasonable attorney's fees and court costs.

(d) The provisions of this section are in addition to all legal or equitable remedies available at law, as well as any remedies

available pursuant to any agreement between the supplier and dealer.

(e) A civil action commenced under the provisions of this article may be brought until the expiration of five years after the violation complained of is or reasonably should have been discovered, whichever occurs first.

(f) Subsection (e) of this section applies if a supplier fails or refuses to repurchase a self-propelled vehicle designed for farm use, which is the subject of the contract, with a horse power unit of 20 or greater, and which vehicle is defined in §46A-6A-2 of this code as a "motor vehicle" for purposes the Consumer Protection – New Motor Vehicle Warranties, that has an issue which is not corrected after being returned to the supplier three times.

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## CHAPTER 56

**(Com. Sub. for S. B. 850 - By Senator Trump)**

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[Passed March 9, 2024; in effect 90 days from passage (June 7, 2024)]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §46A-6N-1, §46A-6N-4, §46A-6N-6, §46A-6N-7, and §46A-6N-9 of the Code of West Virginia, 1931, as amended, all relating to consumer litigation financing; defining terms; adding term; removing commercial tort claims exclusion from definition of litigation financing; excluding certain non-profit organizations from the definition of litigation financing; prohibiting assignment of litigation financing contract in certain instances; requiring disclosure of third-party litigation financing agreements to parties; clarifying who is to provide disclosure of third-party litigation financing agreements; and establishing cap for the annual fee a litigation financier may charge a natural person.

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

### **ARTICLE 6N. CONSUMER LITIGATION FINANCING.**

#### **§46A-6N-1. Definitions.**

For purposes of this article:

(1) "Consumer" means any person who resides, is present, or is domiciled in this state who claims an entitlement to a judgment, award, settlement, or verdict with respect to a legal claim but does not include an attorney representing that person;

(2) "Litigation financier" means a person, entity, or partnership engaged in the business of litigation financing; and

(3) "Litigation financing" or "litigation financing transaction":

(A) Means a transaction in which financing is provided to a consumer in return for a consumer's assigning to the litigation financier a right to receive payment contingent in any respect on the outcome of the legal claim; and

(B) Does not include:

(i) Legal services provided on a contingency fee basis, or advanced legal costs, where such services or costs are provided to or on behalf of a consumer by an attorney representing the consumer in the dispute and in accordance with the West Virginia Rules of Professional Conduct;

(ii) A consumer loan, as defined by §46A-1-102 of this code;

(iii) A claim under the Workers' Compensation Law, compiled in §23-1-1 *et seq.* of this code;

(iv) Lending or financing arrangements between an attorney or law firm and a lender, provided such arrangements do not give the lender any particularized interest in the outcome of any legal claim or portfolio of legal claims; or

(v) Nonprofit organizations provided any financing provided to or by the nonprofit organization does not afford the non-party agreeing to pay legal expenses profit from the legal claim beyond repayment of the amount it has contractually agreed to provide, along with reasonable interest not to exceed the Wall Street Journal prime rate at the time the agreement was executed, plus three percent per year.

**§46A-6N-4. Litigation financier prohibitions.**

(a) A litigation financier shall not:

(1) Pay or offer to pay commissions, referral fees, or other forms of consideration to any attorney, law firm, medical provider, chiropractor, physical therapist, or any of their employees for referring a consumer to a litigation financier;

(2) Accept any commissions, referral fees, rebates, or other forms of consideration from an attorney, law firm, medical provider, chiropractor, physical therapist, or any of their employees;

(3) Advertise false or misleading information regarding its products or services;

(4) Refer a consumer or potential consumer to a specific attorney, law firm, medical provider, chiropractor, physical therapist, or any of their employees: *Provided*, That if a consumer does not have legal representation, the provider may refer the consumer to a local or state bar referral service operated by a bar association;

(5) Fail to promptly supply copies of any and all complete litigation financing contracts to the consumer and the attorney representing the consumer in the dispute;

(6) Attempt to obtain in the litigation for which the litigation financing transaction exists a waiver of any remedy, including, but not limited to, compensatory, statutory, or punitive damages to which the consumer might otherwise be entitled;

(7) Attempt to effect in the litigation for which the litigation financing transaction exists mandatory arbitration or otherwise effect waiver of a consumer's right to a trial by jury;

(8) Offer or provide legal advice to the consumer regarding the litigation financing or the underlying dispute;

(9) Assign, which includes securitizing, a litigation financing contract between a consumer who is a natural person and a litigation financier, in whole or in part, to a third party: *Provided*, That:

(A) §46A-6N-4(9) of this code does not prevent a litigation financier that retains responsibility for collecting payment, administering, or otherwise enforcing the litigation financing contract from making an assignment that is:



(i) To a wholly owned subsidiary of the litigation financier;

(ii) To an affiliate of the litigation financier that is under common control with the litigation financier; or

(iii) A grant of a security interest that is made pursuant to §46-9-101 *et seq.* of this code or is otherwise permitted by law; and

(B) If an assignment is authorized and made pursuant to §46A-6N-4(9) of this code, for purposes of this section, “litigation financier” includes a successor-in-interest to a litigation financing contract;

(10) Report a consumer to a credit reporting agency if insufficient funds remain from the net proceeds to repay the litigation financier; or

(11) Receive any right to direct or make any decisions with respect to the conduct of the consumer’s legal claim or any settlement or resolution. The right to make such decisions shall remain solely with the consumer and his or her attorney.

(b) An attorney or law firm retained by a consumer shall not have a financial interest in a company offering litigation financing to consumers and shall not receive a referral fee or other consideration from the company, its employees, or its affiliates.

(c) A personal injury attorney or law firm, practicing in West Virginia, retained by a consumer shall not have a financial interest in a company offering litigation financing to consumers and shall not receive a referral fee or other consideration from the company, its employees, or its affiliates.

#### **§46A-6N-6. Third-party agreements.**

(a) Except as otherwise stipulated or ordered by the court, a party or his or her counsel shall, without awaiting a discovery request, provide to the other parties any agreement under which any litigation financier, other than an attorney permitted to charge a contingent fee representing a party, has a right to receive

compensation that is contingent in any respect on the outcome of the legal claim.

(b) For purposes of this section only, the terms "litigation financing" and "litigation financier" also include financing provided to an attorney or law firm where the right to receive repayment is contingent in any respect on the outcome of the consumer's legal claim.

**§46A-6N-7. Violation; enforcement.**

(a) Any violation of this article shall make the litigation financing contract unenforceable by the litigation financier, the consumer, law firm, or any successor-in-interest to the litigation financing contract. The court may, in the event that judgment is awarded to the plaintiff, assess costs of the action, including reasonable attorneys' fees, against the defendant.

(b) Nothing in this article shall be construed to limit the exercise of powers or the performance of the duties of the Attorney General, including those provided by the West Virginia Consumer Credit and Protection Act, which the Attorney General is otherwise authorized or required to exercise or perform by law.

**§46A-6N-9. Fees; terms; incorporation of obligations in agreement.**

(a) A litigation financier may not charge a consumer who is a natural person an annual fee of more than 18 percent of the original amount of money provided to the consumer for the litigation financing transaction.

(b) Litigation financiers shall not charge a consumer the annual fee authorized by §46A-6N-9(a) of this code more than one time each year with regard to any single legal claim regardless of the number of litigation financing transactions that the litigation financier enters into with the consumer with respect to such legal claim.

(c) Fees assessed by a litigation financier may compound semiannually but may not compound based on any lesser time period.

(d) In calculating the annual percentage fee or rate of return, a litigation financier must include all charges payable directly or indirectly by the consumer and must compute the rate based only on amounts actually received and retained by the consumer.

(e) A litigation financier may not assess fees for any period exceeding 42 months from the date of the contract with the consumer.

(f) Litigation financiers shall not enter into an agreement with a consumer that has the effect of incorporating the consumer's obligations to the litigation financier that are contained in the original litigation financing transaction into a subsequent litigation financing transaction.

(g) Litigation financiers shall not knowingly provide financing to a consumer who has previously assigned and/or sold a portion of the consumer's right to proceeds from his or her legal claim without first making payment to and/or purchasing a prior unsatisfied litigation financier's entire funded amount and contracted charges unless a lesser amount is otherwise expressly agreed to in writing by the litigation financiers; except multiple litigation financiers may agree to contemporaneously provide financing to a consumer, provided that the consumer and the consumer's attorney consent to the agreement in writing.

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## CHAPTER 57

**(Com. Sub. for S. B. 269 - By Senators Deeds, Grady, Takubo, Trump, Caputo, Swope, Woodrum, Hunt, and Woelfel)**

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[Passed January 26, 2024; in effect from passage]  
[Approved by the Governor on February 2, 2024.]

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AN ACT to amend and reenact §47-19-3 of the Code of West Virginia, 1931, as amended; and to repeal §60A-4-403a of said code, relating to excluding test strips from the definition of drug paraphernalia; and specifying that possession, sale, or purchase of drug test strips is not prohibited.

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

### **CHAPTER 47. REGULATION OF TRADE.**

#### **ARTICLE 19. DRUG PARAPHERNALIA.**

##### **§47-19-3. Drug paraphernalia defined.**

(a) The following items, if marketed for use or designed for the use with controlled substances, are considered drug paraphernalia for the purpose stated in §47-19-1 *et seq.* of this code:

(1) Kits marketed for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(2) Kits marketed for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

(3) Isomerization devices marketed for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

(4) Testing equipment marketed for use, or designed for use in identifying, or in analyzing the strength, effectiveness, or purity of controlled substances: *Provided*, That test strips are not considered drug paraphernalia for the purpose stated in §47-19-1 *et seq.* of this code;

(5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, marketed for use, or designed for use in cutting controlled substances;

(7) Separation gins and sifters marketed for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

(8) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(9) Capsules, balloons, envelopes, and other containers marketed for use, or designed for use in packaging small quantities of controlled substances;

(10) Hypodermic syringes, needles, and other objects marketed for use, or designed for use in parenterally injecting controlled substances into the human body;

(11) Paper of colorful design, with names oriented for use with controlled dangerous substances and displayed: *Provided*, That white paper or tobacco-oriented paper not necessarily designed for use with controlled substances is not covered;

(12) Pipes displayed in the proximity of roach clips, or literature encouraging illegal use of controlled substances, are

covered by this article: *Provided*, That pipes otherwise displayed are not covered by this article;

(13) Roach clips: Meaning objects used to hold burning material, such as a marijuana cigarette, that have become too small or too short to be held in the hand;

(14) Miniature cocaine spoons and cocaine vials; and

(15) Chillums or bong.

(b) In determining whether an object is marketed for use or designed for use as drug paraphernalia, the State Tax Commissioner or other authority should consider the following:

(1) The proximity of the object, in time and space, to a controlled substance;

(2) The existence of any residue of controlled substances on the object;

(3) Instructions, oral or written, provided with the object concerning its use;

(4) Descriptive materials accompanying the object which explain or depict its use;

(5) National and local advertising concerning its use;

(6) The manner in which the object is displayed for sale;

(7) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(8) Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise; and

(9) The existence and scope of legitimate uses for the object in the community.

**CHAPTER 60A. UNIFORM CONTROLLED  
SUBSTANCES.**

**ARTICLE 4. OFFENSES AND PENALTIES.**

**§60A-4-403a. Prohibition of illegal drug paraphernalia  
businesses; definitions; places deemed common and public  
nuisances; abatement; suit to abate nuisances; injunction;  
search warrants; forfeiture of property; penalties.**

[Repealed.]

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## CHAPTER 58

(Com. Sub. for S. B. 668 - By Senator Takubo)

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[Passed February 23, 2024; in effect 90 days from passage (May 23, 2024)]  
[Approved by the Governor on March 6, 2024.]

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AN ACT to amend and reenact §60A-10-4 of the Code of West Virginia, 1931, as amended, relating to increasing the amount of ephedrine, pseudoephedrine, or phenylpropanolamine a person may purchase annually.

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

### ARTICLE 10. METHAMPHETAMINE LABORATORY ERADICATION ACT.

#### **§60A-10-4. Purchase, receipt, acquisition and possession of substances to be used as precursor to manufacture of methamphetamine or another controlled substance; offenses; exceptions; penalties.**

(a) A pharmacy may not sell, transfer, or dispense to the same person, and a person may not purchase more than three and six-tenths grams per day, more than seven and two-tenths grams in a 30-day period, or more than 86 and four-tenths grams annually of ephedrine, pseudoephedrine, or phenylpropanolamine without a prescription. The limits shall apply to the total amount of ephedrine, pseudoephedrine, and phenylpropanolamine contained in the products, and not the overall weight of the products.

(1) Any person who knowingly purchases, receives, or otherwise possesses more than seven and two-tenths grams in a 30-day period of ephedrine, pseudoephedrine, or phenylpropanolamine in any form without a prescription is guilty of a misdemeanor and, upon conviction thereof, shall be confined



in a jail for not more than one year, fined not more than \$1,000, or both fined and confined.

(2) Any pharmacy, wholesaler, or other entity operating the retail establishment which sells, transfers, or dispenses a product in violation of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 for the first offense, or more than \$10,000 for each subsequent offense.

(b) Notwithstanding the provisions of subdivision (1), subsection (a), of this section, any person convicted of a second or subsequent violation of the provisions of said subdivision or a statute or ordinance of the United States or another state which contains the same essential elements 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, fined not more than \$25,000, or both imprisoned and fined.

(c) The provisions of subsection (a) of this section shall not apply to:

(1) Products dispensed pursuant to a valid prescription;

(2) Drug products which are for pediatric use primarily intended for administration to children under the age of 12;

(3) Drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, or optical isomers, or salts of optical isomers, or other designated precursor which have been determined by the Board of Pharmacy to be in a form which is not feasible for being used for the manufacture of methamphetamine; or

(4) Persons lawfully possessing drug products in their capacities as distributors, wholesalers, manufacturers, pharmacists, pharmacy interns, pharmacy technicians, or health care professionals.

(d) Notwithstanding any provision of this code to the contrary, any person who knowingly possesses any amount of ephedrine, pseudoephedrine, phenylpropanolamine, or other designated

precursor with the intent to use it in the manufacture of methamphetamine or who knowingly possesses a substance containing ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, optical isomers, or salts of optical isomers in a state or form which is, or has been, altered or converted from the state or form in which these chemicals are, or were, commercially distributed is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than two nor more than 10 years, fined not more than \$25,000, or both imprisoned and fined.

(e) (1) Any pharmacy, wholesaler, manufacturer, or distributor of drug products containing ephedrine, pseudoephedrine, phenylpropanolamine, their salts, or optical isomers, or salts of optical isomers, or other designated precursor shall obtain a registration annually from the State Board of Pharmacy as described in §60A-10-6 of this code. Any such pharmacy, wholesaler, manufacturer, or distributor shall keep complete records of all sales and transactions as provided in §60A-10-8 of this code. The records shall be gathered and maintained pursuant to legislative rule promulgated by the Board of Pharmacy.

(2) Any drug products possessed without a registration as provided in this section are subject to forfeiture upon conviction for a violation of this section.

(3) In addition to any administrative penalties provided by law, any violation of this subsection is a misdemeanor, punishable upon conviction by a fine in an amount not more than \$10,000.

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## CHAPTER 59

**(Com. Sub. for S. B. 540 - By Senator Woodrum)**

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[Passed March 6, 2024; in effect 90 days from passage (June 4, 2024)]  
[Approved by the Governor on March 26, 2024.]

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AN ACT to amend and reenact §1-1-5 of the Code of West Virginia, 1931, as amended, relating to updating the West Virginia coordinate systems.

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

### **ARTICLE 1. LIMITS AND JURISDICTION.**

#### **§1-1-5. West Virginia coordinate systems; definitions; plane coordinates, limitations of use; conversion factor for meters to feet; official geodetic datum.**

(a) The following acronyms used throughout this section shall have the following meanings:

(1) "FGDC" means the Federal Geographic Data Committee or its successors;

(2) "NSRS" means the National Spatial Reference System or its successors;

(3) "NGS" means the National Geodetic Survey or its successors;

(4) "SPCS" means the State Plane Coordinate System or its successors; and

(5) "WVCS" means the West Virginia Coordinate System.

(b) The most recent system of plane coordinates which has been established by the NGS, based on the NSRS, and known as the SPCS, for defining and stating the positions or locations of points within West Virginia shall be known and designated as the West Virginia Coordinate System.

(c) The plane coordinate values used to express the position or location of a point in this system shall consist of two distances, expressed in feet and decimals of a foot or in meters and decimals of a meter. One of these distances, to be known as the x-coordinate, shall give the position in an east-and-west direction. The other, to be known as the y-coordinate, shall give the position in a north-and-south direction.

(d) The associated factor of one meter equals 1/0.3048 feet shall be used in any conversion necessitated by changing values from meters to feet.

(e) Information and mathematical data for defining the WVCS, and previous versions thereof, including but not limited to, the West Virginia Coordinate System of 1927 and the West Virginia Coordinate System of 1983, and information and mathematical data for translating or converting coordinates between the WVCS and the previous versions thereof, shall be the information and data published by the NGS for such purposes.

(f) For purposes of describing the location of any survey station in the State of West Virginia, it shall be considered a complete, legal, and satisfactory description of the location to give the position of the survey station on the WVCS as defined in this section.

(g) Any survey that establishes WVCS coordinates to express definite positions, which is to be used or relied upon by any federal, state, or local government entity, or by the public generally, shall be performed:

(1) By a professional surveyor licensed to practice surveying in the State of West Virginia pursuant to §30-13A-1 *et seq.* of this code;

(2) In compliance with all other laws, rules, or regulations governing surveying in the State of West Virginia; and

(3) In compliance with the Geospatial Positioning Accuracy Standards established and published by the FGDC, and in effect at the time the survey is performed.

(h) In addition to any other requirements imposed by law, rule or regulation, any map, plat, report, description or geospatial product that claims to report WVCS coordinates to express definite positions, to be used or relied upon by any federal, state, or local government entity, or by the public generally, shall show, or have attached thereto, metadata that meets the requirements established by the FGDC in effect at the time the map, plat, report, description, or geospatial product was produced, including a description of the methodology used to establish the WVCS coordinate values reported that is adequate for users to evaluate the accuracy of the coordinates.

(i) For purposes of describing the location of any land boundary corner in the State of West Virginia, it shall be considered a complete, legal, and satisfactory description of the location to give the position of the land boundary corner on the WVCS as required in this section, in addition to other location information as may otherwise be required by law, rule, or regulation: *Provided*, That nothing contained in this section requires a purchaser or mortgagee of real property to rely wholly on a land description, any part of which depends exclusively upon the WVCS.

(j) No coordinates based on the WVCS, purporting to define the position of a point on a land boundary, may be presented to be recorded in any public records or deed records unless a certification is attached thereto and, recorded simultaneously therewith, certifying the coordinates were established in compliance with the laws, rules, and regulations governing surveying in West Virginia by a professional surveyor licensed to practice surveying in West Virginia pursuant to §30-13A-1 *et seq.* of this code.

(k) A plat and a description of survey purporting to define the position of a point on a land boundary by the use of the WVCS must show the following:

(1) The accuracy of the coordinates stated at the 95 percent confidence level and in compliance with the Geospatial Positioning Accuracy Standards established and published by the FGDC in effect at the time of the survey. The coordinate accuracies reported by the surveyor shall take into account the network accuracy of existing control, as well as additional systematic effects;

(2) The applicable datum, datum tag, epoch date in a decimal year format, and the zone that are the basis of the coordinates. The datum, datum tag, epoch date, and zone shall be as published by the NGS and shall be shown by an appropriate note, or by suffix such as "NAD83 (2011) epoch 2010.00, WVCS, South Zone"; and

(3) The signature and seal of the professional surveyor licensed to practice surveying in West Virginia pursuant to §30-13A-1 *et seq.* of this code.

(l) The use of the term "West Virginia Coordinate System" on any map, report, or survey, or other document shall be limited to coordinates based on the WVCS as defined in this section.

(m) Nothing in this section prevents the recording in any public record of any deed, map, plat, survey, description, or of any other document or writing of whatever nature which would otherwise constitute a recordable instrument or document even though the same is not based upon or done in conformity with the WVCS established by this section, nor does nonconformity with the WVCS invalidate any deed, map, plat, survey, description, or other document which is otherwise proper.

(n) The official geodetic datums to which geodetic coordinates (including, but not limited to, latitude, longitude, ellipsoid height, orthometric height, or dynamic height) are referenced within the State of West Virginia shall be as defined for the NSRS.

(o) Any map, plat, report, description, or geospatial product that establishes or reports geodetic positions referenced to the

NSRS for the purpose of expressing definite positions that is to be used by or relied on by any federal, state, or local government entity or by the public generally shall comply with the accuracy and reporting requirements set forth above for the WVCS.

(p) The provisions of this chapter may not be construed to prohibit the appropriate use of other coordinate systems, datums, and other geodetic reference networks.

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## CHAPTER 60

**(H. B. 4297 - By Delegates Brooks, Chiarelli, Hott, Kelly, Kirby, Mallow, Maynor, E. Pritt, Steele and DeVault)**

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[Passed March 9, 2024; in effect ninety days from passage.]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §15A-3-10 of the Code of West Virginia, 1931, as amended, relating to recognizing that certain designated correctional officers are law enforcement officers for purposes of the Law Enforcement Officers Safety Act, 18 U.S.C. §926B; establishing requirements for eligibility; setting forth training requirements; stating the intent of the Legislature; and declaring that the Commissioner of Corrections has discretion as to eligibility and operation of the program.

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

### **ARTICLE 3. DIVISION OF CORRECTIONS AND REHABILITATION.**

#### **§15A-3-10. Law-enforcement powers of employees; authority to carry firearms.**

(a) Other than as outlined in this section, a correctional officer employed by the division is not a law-enforcement officer as that term is defined in §30-29-1 of this code.

(b) The commissioner is a law-enforcement official, and may, and permit and allow or disallow his or her designated employees to use, publicly provided carriage to travel from their residences to their workplace and return: *Provided*, That the usage is subject to the supervision of the commissioner and is directly connected with and required by the nature and in the performance of the official's or designated employee's duties and responsibilities.



(c) All employees of the division are responsible for enforcing rules and laws necessary for the control and management of correctional units and the maintenance of public safety that is within the scope of responsibilities of the division.

(d) Persons employed by the Division of Corrections and Rehabilitation as correctional officers may make arrests of persons already charged with a violation of law who surrender themselves to the correctional officer, arrest persons already in the custody of the division for violations of law occurring in the officer's presence, detain or arrest persons for violations of state law committed on the property of any facility under the jurisdiction of the commissioner, and conduct investigations, pursue, and apprehend escapees from the custody of a facility of the division.

(e) The commissioner may designate correctional employees as correctional peace officers who may:

(1) Detain persons for violations of state law committed on the property of any state correctional institution;

(2) Conduct investigations regarding criminal activity occurring within a correctional facility;

(3) Execute criminal process or other process in furtherance of these duties; and

(4) Apply for, obtain, and execute search warrants necessary for the completion of their duties and responsibilities.

(f) The Corrections Special Operations Team is continued and consists of the Corrections Emergency Response Team, the K9 unit, and the Crisis Negotiations team created under the former Division of Corrections. The Corrections Special Operations Team serves as the first responder necessary for the protection of life, liberty, and property. It has limited law-enforcement authority regarding matters occurring at jails, correctional centers, and juvenile centers, and arrest powers to apprehend escapees, absconders, and in all matters arising on the grounds of a facility under the care and control of the commissioner: *Provided*, That at any time the Corrections Special Operations Team is apprehending

an escapee or an absconder outside the confinement of the facility grounds, it does so with the assistance and cooperation of local law enforcement or the West Virginia State Police.

(g) Notwithstanding any provision of this code to the contrary, the commissioner may issue a certificate authorizing any correctional employee who has successfully completed the division's training program for firearms certification to carry a firearm in the performance of his or her official duties. The training program shall be approved by the commissioner and be equivalent to the training requirements applicable to deputy sheriffs for the use and handling of firearms. Any correctional employee authorized to do so by the commissioner may carry division-issued firearms while in the performance of his or her official duties, which shall include travel to and from work sites. To maintain certification, a correctional employee must successfully complete an annual firearms qualification course equivalent to that required of certified law-enforcement officers as established by the law enforcement professional standards program. The certificate shall be on a form prescribed by the commissioner and shall bear his or her official signature.

(h) In recognition of the duties of their employment supervising the confinement and transportation of inmates, and their arrest powers referenced in this section which constitute law enforcement, correctional officers with the power to arrest and who have been authorized to carry firearms by the Commissioner are determined to be qualified law-enforcement officers as that term is used in 18 U.S.C. § 926B.

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

(1) The Commissioner of Corrections has a written policy authorizing correctional officers to carry a concealed firearm for self-defense purposes;

(2) There is in place a requirement that the designated correctional officers annually qualify in the use of a firearm with

standards for qualification which are equal to, or exceed, those required of sheriff's deputies by the Law-Enforcement Professional Standards Program;

(3) The Commissioner issues a photographic identification and certification card which identify the designated correctional officers as qualified law-enforcement employees pursuant to the provisions of this subsection.

(j) Any policy instituted pursuant to this section shall include provisions which:

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

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

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

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

(l) It is the intent of the Legislature in enacting the amendments to this section during the 2024 regular session of the Legislature to authorize designated correctional officers wishing to do so to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. § 926B.

(m) The privileges authorized by the amendments to this section enacted during the 2024 regular session of the Legislature are wholly within the discretion of the Commission<sup>‡</sup>.

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<sup>‡</sup>**NOTE:** This word was “commissioner” in the amendment but the “er” was omitted from the enrolled bill. The bill above reflects the enrolled bill presented to the Governor.

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## CHAPTER 61

### (H. B. 5549 - By Delegate Linville)

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[Passed March 4, 2024; in effect ninety days from passage.]  
[Approved by the Governor on March 26, 2024.]

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AN ACT to amend and reenact §15A-4-15 of the Code of West Virginia, 1931, as amended, relating to allowing license plates, road signs, and markers to be obtained from sources other than the Division of Corrections and Rehabilitation.

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

#### ARTICLE 4. CORRECTIONS MANAGEMENT.

##### **§15A-4-15. Manufacture of license plates, road signs or markers.**

(a) The commissioner is hereby authorized and empowered to establish and operate a plant in his or her institution for the manufacture of road signs and markers of any description for state roads and of license plates.

(b) The Commissioner of Motor Vehicles shall secure all license plates from the division: *Provided*, That the Commissioner of Motor Vehicles may secure license plates from alternative sources if the division is unable to provide a six-month supply of license plates due to a shortage of resources, labor, or other circumstance beyond the control of the division.

(c) The Commissioner of Highways may obtain road signs and markers of any description for state roads from the division.

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## CHAPTER 62

**(S. B. 149 - By Senators Swope, Boley, Nelson, Oliverio,  
Phillips, Tarr, Woodrum, and Deeds)**

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[Passed March 8, 2024; in effect from passage]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §7-12-3 of the Code of West Virginia, 1931, as amended, relating to the composition of county authority boards; removing the requirement that municipalities be represented on county authority boards; removing the requirement that certain board members must be representatives of business, industry, and labor.

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

### **ARTICLE 12. COUNTY AND MUNICIPAL DEVELOPMENT AUTHORITIES.**

#### **§7-12-3. Management and control of county authority vested in board; appointment and terms of members; vacancies; removal of members.**

The management and control of a county authority, its property, operations, business, and affairs shall be lodged in a board of not fewer than 12 nor more than 21 persons who shall be appointed by the county commission and be known as members of the authority. The county commission shall appoint one member to represent the county commission on the board. Members of the board shall be appointed by the county commission. The members of the authority first appointed shall serve respectively for terms of one year, two years and three years, divided equally or as nearly equal as possible between these terms. Thereafter, members shall be appointed for terms of three years each. A member may be reappointed for such additional term or terms as the county

commission may deem proper. If a member resigns, is removed or for any other reason his or her membership terminates during his or her term of office, a successor shall be appointed by the county commission to fill out the remainder of his or her term. Members in office at the expiration of their respective terms shall continue to serve until their successors have been appointed and have qualified. The county commission may at any time remove any member of the board by an order duly entered of record and may appoint a successor member for any member so removed.

Other persons, firms, unincorporated associations, and corporations, who reside, maintain offices, or have economic interests in the county, are eligible to participate in and request the county commission to appoint members to the development authority as the said authority shall by its bylaws provide.

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## CHAPTER 63

**(S. B. 171 - By Senators Hamilton, Smith, Taylor, Oliverio,  
Deeds, Swope, Rucker, and Woodrum)**

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[Passed February 13, 2024; in effect 90 days from passage]  
[Approved by the Governor on February 23, 2024.]

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AN ACT to amend and reenact §7-1-3 and §7-1-3ff of the Code of West Virginia, 1931, as amended, all relating to prohibiting county commissions from adopting any ordinance, rule, license requirement, or other authorization that exceeds state law, rule, or regulation regarding agricultural operations; revoking any ordinance, rule, or regulation previously adopted by county commissions that exceeds state law, rule, or regulation regarding agricultural operations; prohibiting county commissions from adopting any ordinance, rule, regulation, or other authorization that prohibits or alters permissible use of federal or state pesticides, herbicides, or insecticides; prohibiting county commissions from adopting ordinances that regulate dwellings or other buildings on agricultural land or operations; and requiring appointment of at-large member on county enforcement agency to have background or knowledge of agricultural operations.

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

### **ARTICLE 1. COUNTY COMMISSIONS GENERALLY.**

#### **§7-1-3. Jurisdiction, powers, and duties.**

(a) The county commissions, through their clerks, shall have the custody of all deeds and other papers presented for record in their counties and the same shall be preserved therein, or otherwise disposed of as now is, or may be prescribed by law. They shall have jurisdiction in all matters of probate, the appointment and

qualification of personal representatives, guardians, committees, curators and the settlement of their accounts and in all matters relating to apprentices. They shall also, under the rules as now are, or may be prescribed by law, have the superintendence and administration of the internal police and fiscal affairs of their counties, including the establishment and regulation of roads, ways, streets, avenues, drives and the like, and the naming or renaming thereof, in cooperation with local postal authorities, the Division of Highways and the directors of county emergency communications centers, to assure uniform, nonduplicative conversion of all rural routes to city-type addressing on a permanent basis, bridges, public landings, ferries and mills, with authority to lay and disburse the county levies. They shall, in all cases of contest, judge of the election, qualification and returns of their own members, and of all county and district officers, subject to appeal as prescribed by law. The tribunals as have been heretofore established by the Legislature under and by virtue of section thirty-four, article VIII of the Constitution of 1872, for police and fiscal purposes, shall, until otherwise provided by law, remain and continue as at present constituted in the counties in which they have been respectively established, and shall be and act as to police and fiscal matters in lieu of the county commission herein mentioned, until otherwise provided by law. And until otherwise provided by law, the clerk as is mentioned in section twenty-six of said article, as amended, shall exercise any powers and discharge any duties heretofore conferred on, or required of, any court or tribunal established for judicial purposes under said section, or the clerk of the court or tribunal, respectively, respecting the recording and preservation of deeds and other papers presented for record, matters of probate, the appointment and qualification of personal representatives, guardians, committees, curators and the settlement of their accounts and in all matters relating to apprentices. The county commission may not limit the right of any person to purchase, possess, transfer, own, carry, transport, sell or store any revolver, pistol, rifle or shotgun or any ammunition or ammunition components to be used therewith nor to so regulate the keeping of gunpowder so as to, directly or indirectly, prohibit the ownership of the ammunition: *Provided*, That no provision in this section may be construed to limit the authority of a county to



restrict the commercial use of real estate in designated areas through planning or zoning ordinance.

(b) County commissions may not adopt or enact an ordinance, rule, license requirement, or other authorization that contravenes or is stricter than any state law, rule, or regulation relating to agricultural operations, as defined in §19-19-2 of this code. Any ordinance, rule, regulation, license requirement, or other authorization previously adopted by a county commission that contravenes or is stricter than any state law, rule, or regulation regarding agricultural operations is revoked.

(c) County commissions may not adopt an ordinance, rule, or regulation, or take other action, that prohibits the purchase, or alters the permissible use or application, of any federally or state-registered pesticide, herbicide, or insecticide product.

**§7-1-3ff. Authority of county commission to regulate unsafe or unsanitary structures and refuse on private land; authority to establish an enforcement agency; county litter control officers; procedure for complaints; lien and sale of land to recover costs; entry on land to perform repairs and alterations or to satisfy lien; receipt of grants and subsidies.**

(a) Plenary power and authority are hereby conferred upon every county commission to adopt ordinances regulating the repair, alteration, or improvement, or the vacating and closing or removal or demolition, or any combination thereof, of any dwellings or other buildings, except for buildings or dwellings on agricultural lands or operations as defined in §19-19-2 of this code, unfit for human habitation due to dilapidation, defects increasing the hazard of fire, accidents, or other calamities, lack of ventilation, light or sanitary facilities, or any other conditions prevailing in any dwelling or building, whether used for human habitation or not, which would cause the dwellings or other buildings to be unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare, whether the result of natural or manmade force or effect.

(b) Plenary power and authority are hereby conferred upon every county commission to adopt ordinances regulating the

removal and cleanup of any accumulation of refuse or debris, overgrown vegetation, or toxic spillage or toxic seepage located on private lands which is determined to be unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare, whether the result of natural or manmade force or effect.

(c) The county commission, in formally adopting ordinances, shall designate an enforcement agency which shall consist of the county engineer (or other technically qualified county employee or consulting engineer), county health officer or his or her designee, a fire chief from a county fire company, the county litter control officer, if the commission chooses to hire one, and two members-at-large, one of whom has a background in, or knowledge of, agricultural operations as defined in §19-19-2 of this code, selected by the county commission to serve two-year terms. The county sheriff shall serve as an ex officio member of the enforcement agency and the county officer charged with enforcing the orders of the county commission under this section.

(d) In addition to the powers and duties imposed by this section, county litter control officers shall have authority to issue citations for open dumps, as prohibited by §22-15-10(a) of this code, unlawful disposal of litter, as prohibited by §22-15A-4 of this code, and failure to provide proof of proper disposal of solid waste, as prohibited by §22C-4-10(a) of this code, after completing a training course offered by the West Virginia Department of Environmental Protection: *Provided*, That any litter control officer who is trained and certified as a law-enforcement officer and whose certification is active has the same authority as any other law-enforcement officer to enforce all litter laws in this code. Nothing in this subsection supersedes the authority or duty of the Department of Environmental Protection or other law-enforcement officers to preserve law and order and enforce the litter control program.

(e) Any ordinance adopted pursuant to the provisions of this section shall provide fair and equitable rules of procedure and any other standards considered necessary to guide the enforcement agency, or its agents, in the investigation of dwelling or building conditions, accumulation of refuse or debris, overgrown vegetation, or toxic spillage or toxic seepage and shall provide for

fair and equitable rules of procedure for instituting and conducting hearings in the matters before the county commission. Any entrance upon premises for the purpose of making examinations shall be made in a manner that causes the least possible inconvenience to the persons in possession.

(f) (1) Complaints authorized by this section shall be brought before the county commission. Complaints shall be initiated by citation issued by the county litter control officer or petition of the county engineer (or other technically qualified county employee or consulting engineer) on behalf of, and at the direction of, the enforcement agency, but only after that agency has investigated and determined that any dwelling, building, accumulation of refuse or debris, overgrown vegetation, or toxic spillage or toxic seepage is unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare and should be repaired, altered, improved, vacated, removed, closed, cleaned, or demolished.

(2) The county commission shall cause the owner or owners of the private land in question to be served with a copy of the complaint. Service shall be accomplished in the manner provided in rule four of the West Virginia Rules of Civil Procedure.

(3) The complaint shall state the findings and recommendations of the enforcement agency and that unless the owner or owners of the property file with the clerk of the county commission a written request for a hearing within 10 days of receipt of the complaint, an order will be issued by the county commission implementing the recommendations of the enforcement agency.

(4) If the owner or owners of the property file a request for a hearing, the county commission shall issue an order setting this matter down for hearing within 20 days. Hearings shall be recorded by electronic device or by court reporter. The West Virginia Rules of Evidence do not apply to the proceedings, but each party has the right to present evidence and examine and cross-examine all witnesses.

(5) The enforcement agency has the burden of proving its allegation by a preponderance of the evidence and has the duty to go forward with the evidence.

(6) At the conclusion of the hearing, the county commission shall make findings of fact, determinations, and conclusions of law as to whether the dwelling or building: Is unfit for human habitation due to dilapidation; has defects that increase the hazard of fire, accidents, or other calamities; lacks ventilation, light, or sanitary facilities; or any other conditions prevailing in the dwelling or building, whether used for human habitation or not and whether the result of natural or manmade force or effect, which would cause the dwelling or other building to be unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare; or whether there is an accumulation of refuse or debris, overgrown vegetation, toxic spillage or toxic seepage on private lands which is determined to be unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare, whether the result of natural or manmade force or effect.

(7) The county commission has authority to order the owner or owners thereof to repair, alter, improve, vacate, remove, close, clean up, or demolish the dwelling or building in question or to remove or clean up any accumulation of refuse or debris, overgrown vegetation, or toxic spillage or toxic seepage within a reasonable time and to impose daily civil monetary penalties on the owner or owners who fail to obey an order.

(8) Appeals from the county commission to the circuit court shall be in accordance with the provisions of §58-3-1 *et seq.* of this code.

(g) Upon the failure of the owner or owners of the private land to perform the ordered duties and obligations as set forth in the order of the county commission, the county commission may advertise for and seek contractors to make the ordered repairs, alterations, or improvements or the ordered demolition, removal, or clean up. The county commission may enter any contract with any contractor to accomplish the ordered repairs, alterations, or improvements or the ordered demolition, removal, or clean up.

(h) A civil proceeding may be brought in circuit court by the county commission against the owner or owners of the private land or other responsible party that the subject matter of the order of the county commission to subject the private land in question: (1) To a lien for the amount of the contractor's costs in making these ordered repairs, alterations, or improvements or ordered demolition, removal, or clean up, together with any daily civil monetary penalty imposed; (2) to order and decree the sale of the private land in question to satisfy the lien; (3) to order and decree that the contractor may enter upon the private land in question at any and all times necessary to make ordered repairs, alterations, or improvements, or ordered demolition, removal, or clean up; and (4) to order the payment of all costs incurred by the county with respect to the property and for reasonable attorney fees and court costs incurred in the prosecution of the action.

(i) County commissions may receive and accept grants, subsidies, donations, and services in kind consistent with the objectives of this section.

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## CHAPTER 64

**(Com. Sub. for S. B. 451 - By Senators Phillips, Hunt, Jeffries, Nelson, Queen, Rucker, Smith, Stuart, Swope, Takubo, Taylor, Trump, Woodrum, Woelfel, Plymale, and Deeds)**

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[Passed March 6, 2024; in effect from passage]  
[Approved by the Governor on March 26, 2024.]

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AN ACT to amend and reenact §7-4-6 of the Code of West Virginia, 1931, as amended, relating to training of newly appointed or elected prosecuting attorneys; and directing the Prosecuting Attorneys Institute to conduct the training for all newly appointed and newly elected prosecuting attorneys.

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

### **ARTICLE 4. PROSECUTING ATTORNEY, REWARDS, AND LEGAL ADVICE.**

#### **§7-4-6. West Virginia Prosecuting Attorneys Institute.**

(a) There is continued the West Virginia Prosecuting Attorneys Institute, a public body whose membership shall consist of the 55 elected county prosecuting attorneys in the state. The Institute shall meet at least once each calendar year and the presence of 28 of the 55 prosecutors at any meeting constitutes a quorum for the conduct of the Institute's business.

(b) There is continued the executive council of the West Virginia Prosecuting Attorneys Institute, which shall consist of seven prosecuting attorneys elected by the membership of the West Virginia Prosecuting Attorneys Institute at its annual meeting and two persons appointed annually by the county commissioner's association of West Virginia. The executive council shall elect one member of the council to serve as chairman of the institute for a

term of one year without compensation. The executive council shall serve as the regular executive body of the institute.

(c) There is continued the position of Executive Director of the West Virginia Prosecuting Attorneys Institute to be employed by the executive council of the institute. The executive director of the West Virginia Prosecuting Attorneys Institute shall serve at the will and pleasure of the executive council of the institute. The executive director shall be licensed to practice law in the State of West Virginia and shall devote full time to his or her official duties and may not engage in the private practice of law.

(d) The duties and responsibilities of the institute, as implemented by and through its executive council and its executive director, include the following:

(1) The provision for special prosecuting attorneys to pursue a criminal matter, a juvenile delinquency matter, or a matter involving child abuse neglect pursuant to Chapter 49 of this code, or in any matter in which a special prosecutor previously appointed has failed to take any action on the matter within such time as the executive director considers unreasonable, not to exceed three terms of court from the date on which the special prosecutor was appointed: *Provided*, That such replacement or original appointment may be any attorney with a license in good standing in this state in any county upon the request of a circuit court judge of that county and upon the approval of the executive council;

(2) The establishment and implementation of general and specialized training programs for prosecuting attorneys, their staffs and, where determined practical by the executive council and executive director, all statutorily authorized law-enforcement or investigative agencies of the state or its political subdivisions;

(3) The establishment of a training program for all newly appointed or newly elected prosecuting attorneys;

(4) The provision of materials for prosecuting attorneys and their staffs, including legal research, technical assistance, and technical and professional publications;

(5) The compilation and dissemination of information on behalf of prosecuting attorneys and their staffs on current developments and changes in the law and the administration of criminal justice;

(6) The establishment and implementation of uniform reporting procedures for prosecuting attorneys and their professional staffs in order to maintain and to provide accurate and timely data and information relative to criminal prosecutorial matters;

(7) The acceptance and expenditure of grants, moneys for reimbursement of expenses, gifts, and acceptance of services from any public or private source;

(8) The entering into of agreements and contracts with public or private agencies, groups, organizations, or educational institutions;

(9) The identification of experts and other resources for use by prosecutors in criminal matters;

(10) The recommendation to the Legislature or the Supreme Court of Appeals of the State of West Virginia on measures required, or procedural rules to be promulgated, to make uniform the processing of juvenile cases in the 55 counties of the state; and

(11) The development of a written handbook for prosecutors and their assistants to use which delineates relevant information concerning the elements of various crimes in West Virginia and other information the institute considers appropriate.

(e) Each prosecuting attorney is subject to appointment by the institute to serve as a special prosecuting attorney in any county where the prosecutor for that county or his or her office has been disqualified from participating in a particular criminal case, a juvenile delinquency matter, or a matter involving child abuse neglect pursuant to Chapter 49 of this code, or in any matter in which a special prosecutor previously appointed has failed to take any action on the matter within such time as the executive director considers unreasonable, not to exceed three terms of court from the



date on which the special prosecutor was appointed: *Provided*, That such replacement or original appointment may be any attorney with a license in good standing in this state. The circuit judge of any county of this state, who disqualifies the prosecutor or his or her office from participating in a particular criminal case, a juvenile delinquency matter, or a matter involving child abuse or neglect pursuant to chapter 49 of this code in that county, shall seek the appointment by the institute of a special prosecuting attorney to substitute for the disqualified prosecutor. The executive director of the institute shall, upon written request to the institute by any circuit judge as a result of disqualification of the prosecutor or for other good cause shown, and upon approval of the executive council, appoint a prosecuting attorney to serve as a special prosecuting attorney. The special prosecuting attorney appointed shall serve without any further compensation other than that paid to him or her by his or her county, except that he or she is entitled to be reimbursed for his or her legitimate expenses associated with travel, mileage, and room and board from the county to which he or she is appointed as a prosecutor. The county commission in which county he or she is special prosecutor is responsible for all expenses associated with the prosecution of the criminal action. A person who is serving as a prosecuting attorney or an assistant prosecuting attorney of any county is not required to take an additional oath when appointed to serve as a special prosecuting attorney.

(f) The executive director of the institute shall maintain an appointment list that shall include the names of all 55 prosecuting attorneys and that shall also include the names of any assistant prosecuting attorney who wishes to serve as a special prosecuting attorney upon the same terms and conditions as set forth in this section. The executive director of the institute, with the approval of the executive council, shall appoint special prosecuting attorneys from the appointment list for any particular matter giving due consideration to the proximity of the proposed special prosecuting attorney's home county to the county requesting a special prosecutor and giving due consideration to the expertise of the special prosecuting attorney.

(g) Each county commission shall pay, on a monthly basis, a special prosecution premium to the Treasurer of the state for the funding of the West Virginia Prosecuting Attorneys Institute. The monthly premiums shall be paid according to the following schedule:

### MONTHLY PREMIUMS

Assessed Valuation of Property  
of All Classes in the County

Category	Minimum	Maximum	Premium
A	\$1,500,000,000	Unlimited	\$400
B	\$1,000,000,000	\$1,499,999,000	\$375
C	\$ 800,000,000	\$ 999,999,000	\$350
D	\$ 700,000,000	\$ 799,999,000	\$325
E	\$ 600,000,000	\$ 699,999,000	\$300
F	\$ 500,000,000	\$ 599,999,000	\$250
G	\$ 400,000,000	\$ 499,999,000	\$200
H	\$ 300,000,000	\$ 399,999,000	\$150
I	\$ 200,000,000	\$ 299,999,000	\$100
J	-0-	\$ 199,999,000	\$ 50

(h) Upon receipt of a premium, grant, reimbursement or other funding source, excluding federal funds as provided in §4-2-1 *et seq.* of this code, the Treasurer shall deposit the funds into a special revenue fund to be known as the West Virginia Prosecuting Attorneys Institute Fund. All costs of operating the West Virginia Prosecuting Attorneys Institute shall be paid from the West Virginia Prosecuting Attorneys Institute Fund upon proper authorization by the executive council or by the executive director

of the institute and subject to annual appropriation by the Legislature of the amounts contained within the fund.

(i) The institute shall annually, by the first day of the regular Legislative session, provide the Joint Committee on Government and Finance with a report setting forth the activities of the institute and suggestions for legislative action.

(j) Neither the institute nor its employees acting in their employment capacity shall engage in activities before governmental bodies which advocate positions on issues other than those issues consistent with the duties of the institute set forth in subsection (d) of this section.

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## CHAPTER 65

### (S. B. 530 - By Senators Rucker and Karnes)

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[Passed March 7, 2024; in effect 90 days from passage (June 5, 2024)]

[Approved by the Governor on March 22, 2024.]

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AN ACT to amend and reenact §7-20-6 of the Code of West Virginia, 1931, as amended, relating to removing the requirement for counties to draft and adopt comprehensive zoning ordinances.

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

#### **ARTICLE 20. FEES AND EXPENDITURES FOR COUNTY DEVELOPMENT.**

##### **§7-20-6. Criteria and requirements necessary to implement collection of fees.**

(a) As a prerequisite to authorizing counties to levy impact fees related to population growth and public service needs, counties shall meet the following requirements:

(1) A demonstration that population growth rate history as determined from the most recent base decennial census counts of a county, utilizing generally approved standard statistical estimate procedures, in excess of one percent annually averaged over a five-year period since the last decennial census count; or a demonstration that a total population growth rate projection of one percent per annum for an ensuing five-year period, based on standard statistical estimate procedures, from the current official population estimate of the county;

(2) Adopting a countywide comprehensive plan;

(3) Reviewing and updating any comprehensive plan at no less than five-year intervals;

(4) Drafting and adopting a subdivision control ordinance;

(5) Keeping in place a formal building permit and review system which provides a process to regulate the authorization of applications relating to construction or structural modification. The county shall adopt, pursuant to §7-1-3n of this code, the state building code into any such building permit and review system; and

(6) Providing an improvement program which shall include:

(A) Developing and maintaining a list within the county of particular sites with development potential;

(B) Developing and maintaining standards of service for capital improvements which are fully or partially funded with revenues collected from impact fees; and

(C) Lists of proposed capital improvements from all areas, containing descriptions of any such proposed capital improvements, cost estimates, projected time frames for constructing such improvements and proposed or anticipated funding sources.

(b) Capital improvement programs may include provisions to provide for the expenditure of impact fees for any legitimate county purpose. This may include the expenditure of fees for partial funding of any particular capital improvement where other funding exists from any source other than the county or exists in combination with other funds available to the county: *Provided*, That for such expenditures to be considered legitimate, no county or other local authority may deny or withhold any reasonable benefit that may be derived therefrom from any development project for which such impact fee or fees have been paid.

(c) Capital improvement programs for public elementary and secondary school facilities may include provisions to spend impact fees based on a computation related to the following: (1) The

existing local tax base; and (2) the adjusted value of accumulated infrastructure investment, based on net depreciation, and any remaining debt owed thereon. Any such computation must establish the value of any equity shares in the net worth of an impacted school system facility, regardless of the existence of any need to expand such facility. Impact fee revenues may only be used for capital replacement or expansion.

(d) Additional development areas may be added to any plan or capital improvements program provided for hereunder if a county government so desires. The standards governing the construction or structural modification for any such additional area shall not deviate from those adopted and maintained at the time such addition is made.

(e) The county may modify annually any capital improvements plan in addition to any impact fee rates based thereon, pursuant to the following:

(1) The number and extent of development projects begun in the past year;

(2) The number and extent of public facilities existing or under construction;

(3) The changing needs of the general population;

(4) The availability of any other funding sources; and

(5) Any other relevant and significant factor applicable to a legitimate goal or goals of any such capital improvement plan.

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## CHAPTER 66

**(Com. Sub. for S. B. 544 - By Senators Jeffries, Grady,  
Hamilton, Nelson, Phillips, Smith, Swope, Takubo, Weld,  
Woelfel, Plymale, Roberts, Queen, and Barrett)**

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[Passed February 27, 2024; in effect 90 days from passage (May 27, 2024)]  
[Approved by the Governor on March 7, 2024.]

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AN ACT to amend and reenact §8-16-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-13A-7 of said code; and to amend and reenact §16-13D-4 of said code, all relating to raising the threshold from \$25,000 to \$50,000 for the requirement of bids for municipal public works projects, including any municipal public utility projects, and for public service district projects; establishing the threshold at \$50,000 for bids for projects under the Regional Water And Wastewater And Stormwater Authority Act; and exempting emergency repairs from bidding requirements.

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

### **CHAPTER 8. MUNICIPAL CORPORATIONS.**

#### **ARTICLE 16. MUNICIPAL PUBLIC WORKS; REVENUE BOND FINANCING.**

##### **§8-16-5. Powers of board; bidding requirements; emergency repairs.**

(a) The board shall have plenary power and authority to take all steps and proceedings, and to make and enter into all contracts or agreements necessary, appropriate, useful, convenient or incidental to the performance of its duties and the execution of its powers and authority under this article: *Provided*, That any contract or agreement relating to the financing, or the construction,

reconstruction, establishment, acquisition, improvement, renovation, extension, enlargement, increase, equipment, operation or maintenance of any such works, and any trust indenture with respect thereto as hereafter provided for, shall be approved by the governing body or bodies.

(b) The board may employ engineers, architects, inspectors, superintendents, managers, collectors, attorneys and such other employees as in its judgment may be necessary in the execution of its powers and duties, and may fix their compensation, all of whom shall do such work as the board may direct. All compensation and expenses incurred in carrying out the provisions of this article shall be paid solely from funds provided under the authority of this article, and the board shall not exercise or carry out any power or authority herein given it so as to bind said board or any municipality beyond the extent to which money shall have been, or may be provided under the authority of this article.

(c) No contract or agreement with any contractor or contractors for labor or materials, or both, exceeding in amount the sum of \$50,000 may be made without advertising for bids, which bids shall be publicly opened and an award made to the lowest responsible bidder, with power and authority in the board to reject any and all bids: *Provided*, That for purposes of the bid requirements imposed by this section, the term “board” includes the governing body of any municipal public utility.

(d) After the construction, reconstruction, establishment, acquisition, renovation or equipment of any such works, the board shall maintain, operate, manage and control the same, and may order and complete any improvements, extensions, enlargements, increase or repair (including replacements) of and to the works that the board may consider expedient, if funds therefor be available, or are made available, as provided in this article, and shall establish rules for the use, maintenance and operation of the works, and do all things necessary or expedient for the successful operation thereof, and for stormwater systems and associated stormwater management programs, those activities which include, but are not limited to, stormwater and surface runoff water quality improvement activities necessary to comply with all federal and



state requirements. All public ways or public works damaged or destroyed by the board in carrying out its authority under this article shall be restored or repaired by the board and placed in their original condition, as nearly as practicable, if requested so to do by proper authority, out of the funds provided under the authority of this article.

(e) Emergency repairs shall be exempt from the bidding requirements of subsection (c) of this section. For the purpose of this subsection, the term emergency repairs means repairs that if not made immediately will seriously impair the use of building components, systems, and public infrastructure or cause danger to persons using the building components, systems, and public infrastructure.

## **CHAPTER 16. PUBLIC HEALTH.**

### **ARTICLE 13A. PUBLIC SERVICE DISTRICTS.**

#### **§16-13A-7. Acquisition and operation of district properties; bidding requirements; contracts to respond to emergency situations.**

The board of these districts shall have the supervision and control of all public service properties acquired or constructed by the district, and shall have the power, and it shall be its duty, to maintain, operate, extend and improve the same, including, but not limited to, those activities necessary to comply with all federal and state requirements, including water quality improvement activities. All contracts involving the expenditure by the district of more than \$50,000 for construction work or for the purchase of labor, materials equipment and improvements, extensions or replacements, shall be entered into only after notice inviting bids shall have been published as a Class I legal advertisement in compliance with the provision of article §59-3-1, *et seq.* of this code, and the publication area for such publication shall be as specified in §16-13A-2 of this code in the county or counties in which the district is located. The publication shall not be less than ten days prior to the making of any such contract. To the extent allowed by law, in-state contractors shall be given first priority in

awarding public service district contracts. Each bid shall be publicly opened and an award made to the lowest responsible bidder, with power and authority in the board to reject any and all bids.

It shall be the duty of the board to ensure that local in-state labor shall be utilized to the greatest extent possible when hiring laborers for public service district construction or maintenance repair jobs. It shall further be the duty of the board to encourage contractors to use American made products in their construction to the extent possible. Any obligations incurred of any kind or character shall not in any event constitute or be deemed an indebtedness within the meaning of any of the provisions or limitations of the Constitution, but all such obligations shall be payable solely and only out of revenues derived from the operation of the public service properties of the district or from proceeds of bonds issued as hereinafter provided. No continuing contract for the purchase of materials or supplies or for furnishing the district with electrical energy or power shall be entered into for a longer period than fifteen years.

Emergency repairs shall be exempt from the bidding requirements of this section. For the purpose of this section, the term emergency repairs means repairs that if not made immediately will seriously impair the use of building components, systems, and public infrastructure or cause danger to persons using the building components, systems, and public infrastructure.

#### **ARTICLE 13D. REGIONAL WATER AND WASTEWATER AND STORMWATER AUTHORITY ACT.**

**§16-13D-4. Furnishing of funds, personnel or services by certain public agencies, agreements for purchase, sale, distribution, transmission, transportation, collection, disposal, and treatment of water, wastewater, or stormwater; terms and conditions; bidding requirements; emergency repairs.**

Any public agency acting individually to organize an authority or entering into an agreement pursuant to this article may

appropriate funds and may sell, lease, give, or otherwise supply to the authority created the personnel or services for the operation of the authority as may be within its legal power to furnish.

Subject to the prior approval of the Public Service Commission pursuant to §24-2-12 of this code, any public agency, whether or not a party to an agreement pursuant to this article, and any publicly or privately owned water distribution company may enter into contracts with any regional authority created pursuant to this article for the purchase of water from the authority or the sale of water to the authority, the treatment of water by either party, and the distribution or transmission of water by either party and any such authority may enter into the contracts. The Public Service Commission shall, within 30 days of the filing date, notify the parties to the contract whether they have filed all required documentation regarding the contract. If the Commission determines that additional information is needed it will inform the agency of the information needed. The Public Service Commission shall act on a filing submitted hereunder within 90 days of the date that the Commission has before it all necessary information from the parties to the contract. Failure of the Commission to act on the filing within the 90-day period shall constitute approval thereof: *Provided*, That the 90-day Commission review period may be extended upon request of the parties to the contract.

Any public agency, whether or not a party to an agreement pursuant to this act, and any publicly or privately owned wastewater transportation or treatment system may enter into contracts with any regional authority created pursuant to this article for the transportation and treatment of wastewater by either party and any authority may enter into the contracts, subject to the prior approval of the Public Service Commission pursuant to §24-2-12 of this code. The Public Service Commission shall, within 30 days of the filing date, notify the parties to the agreement whether they have filed all required documentation regarding the contract. If the Commission determines that additional information is needed it will inform the agency of the information needed. The Public Service Commission shall act on a filing submitted hereunder within 90 days of the date that the Commission has before it all

necessary information from the parties to the contract. Failure by the Commission to act within the 90-day period shall constitute approval thereof: *Provided*, That the 90-day Commission review period may be extended on upon request of the parties to the contract.

No contract or agreement authorized by the provisions of this article with any contractor or contractors for labor or materials, or both, exceeding in amount the sum of \$50,000 may be made without advertising for bids, which bids shall be publicly opened and an award made to the lowest responsible bidder, with power and authority in the commission to reject any and all bids. Emergency repairs shall be exempt from the bidding requirements of this section. For the purpose of this section, the term emergency repairs means repairs that if not made immediately will seriously impair the use of building components, systems, and public infrastructure or cause danger to persons using the building components, systems, and public infrastructure.

Any public agency, whether or not a party to an agreement pursuant to this article, and any publicly or privately owned stormwater system may enter into contracts with any regional authority created pursuant to this article for the collection and disposition of stormwater by either party and any authority may enter into contracts.

Any contract may include an agreement for the purchase of water not actually received or the treatment of wastewater not actually treated, or the collection and disposition of stormwater not actually collected and disposed. No contract may be made for a period in excess of 40 years, but renewal options may be included therein. The obligations of any public agency under any contract shall be payable solely from the revenues produced from the public agency's water, stormwater and wastewater system, and the Public Service Commission, in the case of a public agency whose rates are subject to its jurisdiction, shall permit the public agency to recover through its rates revenues sufficient to meet its obligations under the agreement.

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## CHAPTER 67

**(S. B. 551 - By Senator Nelson)**

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[Passed March 8, 2024; in effect 90 days from passage (June 6, 2024)]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §8-13A-12 of the Code of West Virginia, 1931, as amended, relating to business improvement districts; and modifying requirements related to levy of service fees.

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

### **ARTICLE 13A. BUSINESS IMPROVEMENT DISTRICTS.**

#### **§8-13A-12. Levy of service fees; classification of properties; factors to consider.**

(a) Upon receipt of a recommended program of services and a proposed budget from the district board, the governing body of the municipality may annually, by ordinance, levy business improvement service fees which may only be applicable to properties located within the improvement district and only to the extent necessary to fund the budget proposed by the district board. All revenue from the fees shall be placed in a special business improvement district fund and may only be used to fund the services provided under this article.

(b) The ordinance creating a business improvement district may provide for the division of property within the district into two or more zones or uses in the event significant differences exist relative to the property and the improvements. The ordinance may establish different rates of assessment for each zone or use, or may provide that the rate be a certain percentage of the assessment

levied in the zone or on the use, subject to the highest rate of assessment.

(c) The amount of the business improvement service fee shall be in addition to any municipality-wide license fees or any other tax, fee or charge levied for the general benefit and use of the municipality.

(d) Each assessment is a lien on the commercial property that is assessed, second only to any state, federal or county taxes levied on that property.

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## CHAPTER 68

**(S. B. 607 - By Senators Nelson, Deeds, Hunt, and Hamilton)**

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[Passed February 16, 2024; in effect 90 days from passage (May 16, 2024)]  
[Approved by the Governor on February 28, 2024.]

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AN ACT to amend and reenact §8-22A-16, §8-22A-20, and §8-22A-21 of the Code of West Virginia, 1931, as amended, all relating to the Municipal Police Officers and Firefighters Retirement System; clarifying payment upon death of member with less than 10 years of contributing service; deleting obsolete provision; and clarifying surviving spouse benefits when member dies from duty or non-duty related cause.

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

### **ARTICLE 22A. WEST VIRGINIA MUNICIPAL POLICE OFFICERS AND FIREFIGHTERS RETIREMENT SYSTEM.**

#### **§8-22A-16. Refunds to certain members upon discharge or resignation; deferred retirement; preretirement death; forfeitures.**

(a) Any member who terminates covered employment and is not eligible to receive disability benefits or retirement income payments under this article is, by written request filed with the board, entitled to receive from the fund the member's accumulated contributions. Except as provided in subsection (b) of this section, on withdrawal, the member shall forfeit his or her accrued benefit and cease to be a member.

(b)(1) Any member who ceases employment in covered employment and active participation in this plan and who thereafter becomes reemployed in covered employment may not receive any

credited service for any prior accumulated contributions withdrawn from the plan unless following his or her return to covered employment and active participation in this plan, the member redeposits in the fund the amount of the accumulated contributions withdrawn from previous covered employment, together with interest on the accumulated contributions at the rate determined by the board from the date of withdrawal to the date of redeposit. On repayment he or she shall receive the same credit on account of his or her former covered employment as if no refund had been made.

(2) The repayment authorized by this subsection shall be made in a lump sum within 60 months of the police officer's or firefighter's reemployment in covered employment.

(c) Every member who completes 60 months of regular contributory service may, on cessation of covered employment, either withdraw his or her accumulated contributions in accordance with this section or choose not to withdraw his or her accumulated contribution and receive retirement income payments, if eligible, on attaining normal retirement age.

(d) If a member dies from any cause other than those specified in §8-22A-20 of this code and does not have 10 or more years of contributory service, the member's accumulated contributions may be paid to a named beneficiary or beneficiaries. If no beneficiary is named, then the accumulated contributions shall be paid to the estate of the deceased member.

(e) Notwithstanding any other provision of this article, forfeitures under the plan may not be applied to increase the benefits any member would otherwise receive under the plan.

**§8-22A-20. Awards and benefits to surviving spouse – When member dies in performance of duty, etc.**

(a) The surviving spouse of any member who dies by reason of injury, illness, or disease resulting from an occupational risk or hazard inherent in or peculiar to the service required of members, while the member was or is engaged in the performance of his or her duties as a police officer or firefighter, or the surviving spouse



of a member who dies from any cause while receiving benefits pursuant to §8-22A-17 of this code, is entitled to receive and shall be paid from the fund benefits as determined in this section. To the surviving spouse annually, in equal monthly installments during his or her lifetime, an amount equal to the greater of: (1) Two thirds of the annual compensation received by the deceased member during the last 12 full months of contributory service; or (2) if the member dies after his or her meeting normal retirement age requirements, the monthly amount which the spouse would have received had the member retired the day before his or her death, elected a 100 percent joint and survivor annuity with the spouse as the joint annuitant, and then died.

(b) Benefits for a surviving spouse received under this section, §8-22A-22, and §8-22A-23 of this code, are in lieu of receipt of any other benefits under this article for the spouse or any other person or under the provisions of any other state retirement system based on the member's covered employment.

**§8-22A-21. Awards and benefits to surviving spouse – when member dies from nonservice-connected causes.**

(a) If a member who has been a contributing member for at least 10 years dies prior to retirement from any cause other than those specified in §8-22A-20 of this code, and not due to vicious habits, intemperance, or willful misconduct on his or her part, the fund shall pay annually in equal monthly installments to the surviving spouse during his or her lifetime, a sum equal to the greater of: (1) One half of the annual compensation received by the deceased member during the last 12 full months of contributory service; or (2) if the member dies after meeting normal retirement age requirements, the monthly amount which the spouse would have received had the member retired the day before his or her death, elected a 100 percent joint and survivor annuity with the spouse as the joint annuitant, and then died.

(b) In any case where a member who had been a contributing member for at least 10 years, had not obtained the age of 60, and was receiving benefits pursuant to §8-22A-18 of this code, dies and leaves a surviving spouse, the fund shall pay annually in equal

monthly installments to the surviving spouse during his or her lifetime a sum equal to the greater of: (1) One half of the annual compensation received by the deceased member during the last 12 full months of contributory service; or (2) if the member dies after meeting normal retirement age requirements, the monthly amount which the spouse would have received had the member retired the day before his or her death, elected a 100 percent joint and survivor annuity with the spouse as the joint annuitant, and then died.

(c) Benefits for a surviving spouse received under this section, or other sections of this article are in lieu of receipt of any other benefits under this article for the spouse or any other person or under the provisions of any other state retirement system based on the member's covered employment.

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## CHAPTER 69

### (Com. Sub. for S. B. 730 - By Senator Deeds)

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[Passed March 8, 2024; in effect 90 days from passage (June 6, 2024)]  
[Approved by the Governor on March 20, 2024.]

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AN ACT to amend and reenact §11A-1-17 of the Code of West Virginia, 1931, as amended, relating to sheriff's commission for collection of taxes.

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

#### **ARTICLE 1. ACCRUAL AND COLLECTION OF TAXES.**

##### **§11A-1-17. Sheriff's commission for collection.**

After the sheriff has collected 85 percent of the combined total of all taxes assessed on real and personal property, he or she shall, in addition to the salary and compensation now authorized by law, be allowed a commission of \$15,000 annually. The commission so allowed shall be charged against the various funds for which the taxes are collected and become a regular part of the budgeted and annual compensation of the sheriff and paid in accordance with provisions of §7-7-9 of this code.

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## CHAPTER 70

### (S. B. 782 - By Senators Swope, Jefferies, and Plymale)

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[Passed March 4, 2024; in effect 90 days from passage (June 2, 2024)]

[Approved by the Governor on March 27, 2024.]

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §8A-13-1, §8A-13-2, §8A-13-3, and §8A-13-4, all relating to local permitting deadlines and extensions for applications for a permit, license, variance, or any other type of prior approval from a governing body or planning commission of a municipality or county for an action related to the development or improvement of property.

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

### ARTICLE 13. LOCAL PERMITTING DEADLINES.

#### §8A-13-1. Definition.

For purposes of this article, "request" means an application for a permit, license, variance, or any other type of prior approval from a governing body or planning commission of a municipality or county for an action related to the development or improvement of property.

#### §8A-13-2. Deadline.

(a) If an applicant submits a request to a governing body or planning commission of a municipality or county, then the governing body or planning commission of the municipality or county must approve or deny the applicant's request within 60 days. The following applies if:

(1) The governing body or planning commission fails to approve or deny the applicant's request within 60 days, then the request is approved.

(2) The time limit in this section begins upon the governing body or planning commission's receipt of a request from an applicant.

(3) The governing body or planning commission approves the request, then the governing body or planning commission may not impose on the applicant additional requirements related to the request.

(4) The governing body or planning commission denies the request, then the governing body or planning commission must provide the applicant a statement in writing of the reasons for the denial.

(5) A governing body or planning commission denies a request for being incomplete, then the governing body or planning commission must provide the applicant a statement in writing of the reasons the request is incomplete. The request is incomplete if the request fails to contain all information required by law or by a previously adopted rule, ordinance, or policy.

### **§8A-13-3. Extension.**

The time limit in §8A-13-2 of this code may be extended. The following applies:

The time limit in §8A-13-2 of this code is extended if a request requires prior approval of a state or federal agency. The time limit is extended to 60 days after the required prior approval is granted. The extension may not exceed 60 days, unless approved by the applicant.

An applicant may request an extension in writing.

### **§8A-13-4. Applicability.**

The time limit in §8A-13-2 of this code does not apply to state agencies.

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## CHAPTER 71

**(S. B. 872 - By Senators Barrett, Woodrum, Hamilton, Jeffries, Maroney, Phillips, Queen, Smith, Stuart, Swope, and Weld)**

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[Passed March 9, 2024; in effect from passage]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §7-17-12 of the Code of West Virginia, 1931, as amended, relating to county fire service fees; expanding authority of county commission after receipt of resolution from county fire board; and providing for amendment of fire fee by ballot referendum upon county commission determination that amendment of fee is necessary.

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

### **ARTICLE 17. COUNTY FIRE BOARDS.**

#### **§7-17-12. County fire service fees; petition; election; dedication; and amendment.**

(a) Every county commission which provides fire protection services has plenary power and authority to provide by ordinance for the continuance or improvement of such service, to make regulations with respect thereto, and to impose by ordinance, upon the users of such services, reasonable fire service rates, fees, and charges to be collected in the manner specified in the ordinance.

(b) Any fees imposed under this article are dedicated to the county fire board for the purposes provided in this article.

(c) A county commission can impose by ordinance, upon the users of such service, a reasonable fire service fee, by one of two methods:

(1) Ten percent of the qualified voters shall present a petition duly signed by them in their own handwriting, and filed with the clerk of the county commission, directing that the county commission impose such a fee. The county commission shall not have a lien on any property as security for payments due under the ordinance. Any ordinance enacted under the provisions of this section shall be published as a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the county in which the county fire board is located. In the event 30 percent of the qualified voters of the county by petition duly signed by them in their own handwriting and filed with the clerk of the county commission within 45 days after the expiration of such publication protest against such ordinance as enacted or amended, the ordinance may not become effective until it is ratified by a majority of the legal votes cast thereon by the qualified voters of such county at any primary or general election as the county commission directs. Voting thereon may not take place until after notice of the submission has been given by publication as above provided for the publication of the ordinance after it is adopted. The powers and authority hereby granted to county commissions are in addition to and supplemental to the powers and authority otherwise granted to them by other provisions of this code; or

(2) If the county fire board determines an amendment in the fee imposed in subsection (a) of this article is necessary, it may, by resolution, request the county commission for such a change. Upon receipt of the resolution from the county fire board, the county commission may take such action on the resolution as, in the sole exercise of its discretion, the commission determines is appropriate, including, but not limited to, rejection thereof. If the county commission agrees that an amendment of the fee is necessary, it shall, by ballot referendum, amend the ordinance imposing a fire fee and adopt the changes in the fee it has determined is necessary.

(A) This referendum, to determine whether it is the will of the voters of a county that an amendment to the fire fee is necessary, may be held at any regular primary or general election, or, in conjunction with any other countywide election. Any election at which the question of amending the fire fee is voted upon shall be held at the

voting precincts established for holding primary or general elections. All of the provisions of the election laws, when not in conflict with the provisions of this article, shall apply to voting and elections hereunder, insofar as practicable. The county commission shall, not less than 90 days before the election, order that the issue be placed on the ballot and referendum held at the next primary or general election to determine whether it is the will of the voters of the county that a fire fee be amended: *Provided*, That prior to issuing the order, the county commission shall publish the ordinance which must contain the anticipated allocation of any fees or charges and which would be enacted should the referendum succeed as a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the county in which the county fire board is located.

(B) The ballot, or the ballot labels where voting machines are used, shall have printed thereon substantially the following:

"Shall the county commission be permitted to amend the fire fee in \_\_\_\_\_ County, West Virginia?

\_\_\_ For the fee amendment.

\_\_\_ Against the fee amendment.

(Place a cross mark in the square opposite your choice.)"

(C) If a majority of legal votes cast upon the question be for the fire fee amendment, the county commission shall, after the certification of the results of the referendum, thereafter adopt an ordinance, within 60 days of certification, establishing the fire fee amendment in the county: *Provided*, That such program shall be implemented and operational no later than 12 months following certification. If a majority of the legal votes cast upon the question be against the fire fee amendment, then the policy shall not take effect, but the question may again be submitted to a referendum at any subsequent election in the manner herein provided.

(d) In the event that a majority of the votes cast upon a question submitted pursuant to this section at any primary election be against the question, the question may again be submitted to the voters at the next succeeding general election.



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## CHAPTER 72

### (Com. Sub. for H. B. 4812 - By Delegate Foster)

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[Passed March 9, 2024; in effect ninety days from passage.]

[Approved by the Governor on March 26, 2024.]

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AN ACT to amend and reenact §8-13-5 of the Code of West Virginia, 1931, as amended, relating to business and occupation or privilege tax imposed by municipalities; and setting a limit on the amount of fees that may be collected by third party vendors or contractors who collect business and occupation taxes on behalf of a municipality.

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

#### ARTICLE 13. TAXATION AND FINANCE.

##### **§8-13-5. Business and occupation or privilege tax; limitation on rates; effective date of tax; exemptions; activity in two or more municipalities; administrative provisions.**

(a) *Authorization to impose tax.* — (1) Whenever any business activity or occupation, for which the state imposed its annual business and occupation or privilege tax under §11-13-1 *et seq.* of this code, prior to July 1, 1987, is engaged in or carried on within the corporate limits of any municipality, the governing body thereof shall have plenary power and authority, unless prohibited by general law, to impose a similar business and occupation tax thereon for the use of the municipality.

(2) Municipalities may impose a business and occupation or privilege tax upon every person engaging or continuing within the municipality in the business of aircraft repair, remodeling, maintenance, modification, and refurbishing services to any aircraft, or to an engine or other component part of any aircraft as a separate business activity.

(b) *Maximum tax rates.* — In no case shall the rate of the municipal business and occupation or privilege tax on a particular activity exceed the maximum rate imposed by the state, exclusive of surtaxes, upon any business activities or privileges taxed under §11-13-2a, §11-13-2b, §11-13-2c, §11-13-2d, §11-13-2e, §11-13-2g, §11-13-2h, §11-13-2i, and §11-13-2j of this code, as those rates were in effect under §11-13-1 *et seq.* of this code, on January 1, 1959, or in excess of one percent of gross income under §11-13-2k of this code, or in excess of three-tenths of one percent of gross value or gross proceeds of sale under §11-13-2m of this code. The rate of municipal business and occupation or privilege tax on the activity described in subdivision (2), subsection (a) of this section shall be ten one-hundredths of one percent. The rate of municipal business and occupation or privilege tax on the activity of a health maintenance organization holding a certificate of authority under the provisions of §33-25A-1 *et seq.* of this code, shall not exceed one-half of one percent to be applied solely to that portion of gross income received from the Medicaid program pursuant to Title XIX of the Social Security Act, the state employee programs administered by the Public Employees Insurance Agency pursuant to §5-16-1 *et seq.* of this code, and other federal programs, for health care items or services provided directly or indirectly by the health maintenance organization, that is expended for administrative expenses; and shall not exceed one half of one percent to be applied to the gross income received from enrollees, or from employers on behalf of enrollees, from sources other than Medicaid, state employee programs administered by the Public Employees Insurance Agency, and other federal programs for health care items or services provided directly or indirectly by the health maintenance organization: *Provided*, That this tax rate limitation shall not extend to that part of the gross income of health maintenance organizations which is received from the use of real property other than property in which any company maintains its office or offices in this state, whether the income is in the form of rentals or royalties. This provision concerning the maximum municipal business and occupation tax rate on the activities of health maintenance organizations is effective beginning after December 31, 1996. Any payments of business and occupation tax made by a health maintenance organization to a municipality for

calendar year 1997 is not subject to recovery by the health maintenance organization. Administrative expenses shall include all expenditures made by a health maintenance organization other than expenses paid for claims incurred or payments made to providers for the benefits received by enrollees.

(c) *Effective date of local tax.* — Any taxes levied pursuant to the authority of this section may be made operative as of the first day of the then current fiscal year or any date thereafter: *Provided*, That any new imposition of tax or any increase in the rate of tax upon any business, occupation or privilege taxed under §11-13-2e of this code, applies only to gross income derived from contracts entered into after the effective date of the imposition of tax or rate increase, and which effective date shall not be retroactive in any respect: *Provided, however*, That no tax imposed or revised under this section upon public utility services may be effective unless and until the municipality provides written notice of the same by certified mail to said public utility at least 60 days prior to the effective date of said tax or revision thereof.

(d) *Exemptions.* —

(1) A municipality shall not impose its business and occupation or privilege tax on any activity that was exempt from the state's business and occupation tax under the provisions of §11-13-3 of this code, prior to July 1, 1987, and determined without regard to any annual or monthly monetary exemption also specified therein: *Provided*, That on and after July 1, 2007, a municipality may impose its business and occupation or privilege tax on any activity of a corporation, association, or society organized and operated exclusively for religious or charitable purposes that was exempt from the state's business and occupation tax under the provisions of §11-13-3 of this code, prior to July 1, 1987, but only to the extent that the income generated by the activity is subject to taxation under the provisions of §511 of the Internal Revenue Code of 1986, as amended.

(2) Effective July 1, 2023, the municipal business and occupation or privilege tax on the sale of new automobiles that have never been registered in the name of an individual shall be

reduced by 50 percent of the total amount of the tax: *Provided*, That, effective July 1, 2024, the remaining municipal business and occupation or privilege tax on the sale of new automobiles that have never been registered in the name of an individual shall be reduced by an additional 50 percent of the total amount of the tax: *Provided, however*, That July 1, 2025, the municipal business and occupation or privilege tax on the sale of new automobiles that have never been registered in the name of an individual shall be completely eliminated. For the purposes of this section, an automobile is a self-propelled vehicle used on the roads and highways by the use of motor vehicle fuel or propelled by one or more electric motors using energy stored in batteries or a combination thereof. An automobile shall include a light-duty truck with an enclosed cabin and an open loading area at the rear and a sport utility vehicle. An automobile does not include a motorcycle.

(e) *Activity in two or more municipalities.* — Whenever the business activity or occupation of the taxpayer is engaged in or carried on in two or more municipalities of this state, the amount of gross income, or gross proceeds of sales, taxable by each municipality shall be determined in accordance with legislative rules as prescribed by the Tax Commissioner. It is the intent of the Legislature that multiple taxation of the same gross income, or gross proceeds of sale, under the same classification by two or more municipalities shall not be allowed, and that gross income, or gross proceeds of sales, derived from activity engaged in or carried on within this state, that is presently subject to state tax under §11-13-2c or §11-13-2h of this code, which is not taxed or taxable by any other municipality of this state, may be included in the measure of tax for any municipality in this state, from which the activity was directed, or in the absence thereof, the municipality in this state in which the principal office of the taxpayer is located. Nothing in this subsection shall be construed as permitting any municipality to tax gross income or gross proceeds of sales in violation of the Constitution and laws of this state or the United States, or as permitting a municipality to tax any activity that has a definite situs outside its taxing jurisdiction.

(f) Where the governing body of a municipality imposes a tax authorized by this section, the governing body may offer tax credits from the tax as incentives for new and expanding businesses located within the corporate limits of the municipality.

(g) *Administrative provisions.* — The ordinance of a municipality imposing a business and occupation or privilege tax shall provide procedures for the assessment and collection of the tax, which shall be similar to those procedures in §11-13-1 *et seq.* of this code, as in existence on June 30, 1978, or to those procedures in §11-10-1 *et seq.* of this code, and shall conform with such provisions as they relate to waiver of penalties and additions to tax.

(h) *Timely payment.* — Payments for taxes due under this section that are postmarked after the due date by which they are owed shall be considered late and may be subject to late fees or penalties: *Provided*, That payments that are received by the municipality after the due date, but that were postmarked on or before the due date shall be considered to be on time and shall not be assessed any late fees or penalties.

(i) Any third-party vendors who contract with a city or municipality to collect business and occupation taxes authorized by this section on behalf of a municipality may not charge for their services more than 20% of the amount of taxes collected.

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## CHAPTER 73

**(Com. Sub. for H. B. 5122 - By Delegates Hillenbrand, Ward, Adkins, Petitto, Brooks, Gearheart, Ridenour, Fast, Fehrenbacher, Foggin, and Heckert)**

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[Passed March 1, 2024; in effect ninety days from passage.]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §7-14-8 and §8-14-12 of the Code of West Virginia, 1931, as amended, all relating to civil service for certain law enforcement officers; renumbering certain subsections; removing upper age restrictions for original appointment as deputy sheriff and reappointment of former deputy sheriff; clarifying requirements for reappointment of former deputy sheriff; and removing upper age restrictions for original appointment as municipal police officer and reappointment of former municipal police officer.

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

### **CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**

#### **ARTICLE 14. CIVIL SERVICE FOR DEPUTY SHERIFFS.**

##### **§7-14-8. Form of application; age requirements; exceptions.**

(a) The civil service commission in each county shall require persons applying for admission to any competitive examination provided for under this article or under the rules and regulations of the commission to file in its office, within a reasonable time prior to the proposed competitive examination, a formal application in which the applicant shall state under oath or affirmation:

- (1) His or her full name, residence and post-office address;

(2) His or her United States citizenship, age and the place and date of his or her birth;

(3) His or her health and his or her physical capacity for the position of deputy sheriff;

(4) His or her business, employments and residences for at least three previous years; and

(5) Such other information as may reasonably be required, relative to the applicant's qualifications and fitness for the position of deputy sheriff.

(b) Blank forms for the applications shall be furnished by the commission, without charge, to all persons requesting applications. The commission may require, in connection with the application, such certificates of citizens, physicians or others, having pertinent knowledge concerning the applicant, as the good of the service may require.

(c) No application for original appointment shall be received on and after the effective date of this article, if the person applying is less than eighteen years of age at the date of his or her application. There shall be no other age-based restrictions on applications for original appointments.

(d) Any applicant who formerly served as a deputy sheriff for more than six months before resignation is eligible for reinstatement by appointment if:

(1) No charges of misconduct or other misfeasance are pending against the applicant;

(2) The applicant seeks reinstatement within two years of resignation as a deputy sheriff;

(3) The applicant resides in the same county as the original appointment; and

(4) The applicant completes a medical and psychological examination to certify the applicant can perform the duties of a deputy sheriff.

The commission may reinstate the applicant without a competitive examination in the commission's discretion.

(e) If an applicant is successfully reinstated as a deputy sheriff pursuant to subsection (d), the applicant shall be the lowest in rank in the sheriff's office next above the probationers of the office.

## **CHAPTER 8. MUNICIPAL CORPORATIONS.**

### **ARTICLE 14. LAW AND ORDER; POLICE FORCE OR DEPARTMENTS; POWERS, AUTHORITY AND DUTIES OF LAW-ENFORCEMENT OFFICIALS AND POLICEMEN; POLICE MATRONS; SPECIAL SCHOOL ZONE AND PARKING LOT OR PARKING BUILDING POLICE OFFICERS; CIVIL SERVICE FOR CERTAIN POLICE DEPARTMENTS.**

#### **Part V. Civil Service for Certain Police Departments.**

#### **§8-14-12. Form of application; age and residency requirements; exceptions.**

(a) The policemen's civil service commission in each Class I and Class II city shall require a person applying for admission to any competitive examination provided under the civil service provisions of this article or under the commission's rules to file in its office, within a reasonable time prior to the proposed examination, a formal application in which the applicant shall state under oath or affirmation:

(1) The applicant's full name, residence, and post-office address;

(2) The applicant's United States citizenship, age, and the place and date of the applicant's birth;



(3) The applicant's state of health and the applicant's physical capacity for the public service;

(4) The applicant's business and employments and residences for at least three previous years; and

(5) Other information as may reasonably be required, touching upon the applicant's qualifications and fitness for the public service.

(b) Applications shall be furnished by the commission, without charge. The commission may require, in connection with the application, the certificates of citizens, physicians, and others, having pertinent knowledge concerning the applicant, as the good of the service may require.

(c) Notwithstanding the provisions of §11-5-1 *et seq.* of this code, a person may not submit an application for original appointment if the person is less than 18 years of age at the date of the individual's application. There shall be no other age-based restrictions on applications for original appointments.

(d) Notwithstanding the requirements established in this section, if an applicant: (1) Formerly served upon the paid police department of the city to which he or she makes application, for a period of more than his or her probationary period; (2) resigned from the department at a time when there were no charges of misconduct or other misfeasance pending against the applicant; and (3) applies for appointment by reinstatement within a period of two years from the date of resignation from the paid police department to which the individual seeks appointment by reinstatement, then the individual is eligible for appointment by reinstatement in the discretion of the policemen's civil service commission. Age will not be a factor in appointment consideration. The applicant, providing his or her former term of service so justifies, may be appointed by reinstatement to the paid police department without a competitive examination, but the applicant shall undergo a medical examination. The applicant shall be the lowest in rank in the department next above the probationers of the department.

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## CHAPTER 74

**(Com. Sub. for H. B. 5188 - By Delegates Chiarelli, Mallow,  
DeVault, Sheedy, Hornby, E. Pritt, and Hornbuckle)**

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[Passed March 8, 2024; in effect ninety days from passage.]  
[Approved by the Governor on March 22, 2024.]

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AN ACT to amend §8-22A-17 of the Code of West Virginia, 1931, as amended, relating to providing certain partial disability benefits for members in the WV Municipal Police Officers and Firefighters Retirement System.

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

**ARTICLE 22A. WEST VIRGINIA MUNICIPAL POLICE  
OFFICERS AND FIREFIGHTERS RETIREMENT  
SYSTEM.**

**§8-22A-17. Awards and benefits for disability — duty related;  
exception during early period.**

(a) Any member who after the effective date of this article and during covered employment: (1) Has been or becomes totally or partially disabled by injury, illness or disease; and (2) the disability is a result of an occupational risk or hazard inherent in or peculiar to the services required of members; or (3) the disability was incurred while performing police officer or firefighter functions during either scheduled work hours or at any other time; and (4) in the opinion of two physicians after medical examination, at least one of whom shall be named by the board, the member is by reason of the disability unable to perform adequately his or her previous work as a police officer or firefighter, is entitled to receive and shall be paid from the fund in monthly installments the compensation under either subsection (b) or (c) of this section.

(b) If the member is totally disabled, the member shall receive 90 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.

(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.

(d) If the member remains totally disabled until attaining 65 years of age, the member shall then receive the retirement benefit provided in §8-22A-14 and §8-22A-15 of this code.

(e) The disability benefit payments will begin the first day of the month following termination of employment and receipt of the disability retirement application by the Consolidated Public Retirement Board.

(f) For purposes of this article, unless a federal law or regulation or the context clearly requires a different meaning, "partially disabled" means a member's inability to engage in the duties of a police officer or firefighter by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months. A member may be determined partially disabled for the purposes of this article and maintain the ability to engage in other gainful employment which exists within the state, but which ability would not enable him or her to earn an amount at least equal to two thirds of the average annual compensation earned by all active members of this plan during the plan year ending as of the most recent June 30, as of which plan data has been assembled and used for the actuarial valuation of the plan.

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## CHAPTER 75

**(Com. Sub. for H. B. 5267 - By Delegates Gearheart, C. Pritt,  
Anderson, Griffith, Kump, Marple, and Williams)**

**[By Request of the Consolidated Public Retirement Board]**

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[Passed February 19, 2024; in effect ninety days from passage.]  
[Approved by the Governor on March 6, 2024.]

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AN ACT to amend and reenact §7-14D-13, §7-14D-18, §7-14D-19, and §7-14D-24a of the Code of West Virginia, 1931, as amended, all relating to the Deputy Sheriff Retirement System; providing payment upon death of member with less than 10 years of contributory service; providing surviving spouse benefits when member dies from duty or non-duty related cause; and providing age calculation for a member who elected early retirement who then returned to work.

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

### **ARTICLE 14D. DEPUTY SHERIFF RETIREMENT SYSTEM ACT.**

#### **§7-14D-13. Refunds to certain members upon discharge or resignation; deferred retirement; preretirement death; forfeitures.**

(a) Any member who terminates covered employment and is not eligible to receive disability or retirement income benefits under this article is, by written request filed with the board, entitled to receive from the fund the member's accumulated contributions after offset of any outstanding loan balance, plus accrued interest, pursuant to §7-14D-23 of this code. Except as provided in subsection (b) of this section, upon withdrawal the member shall forfeit his or her accrued benefit and cease to be a member.

(b) Any member of this plan who ceases employment in covered employment and active participation in this plan, and who thereafter becomes reemployed in covered employment may not receive any credited service for any prior withdrawn or offset accumulated contributions from either this plan or the Public Employees Retirement System relating to the prior covered employment unless following his or her return to covered employment and active participation in this plan, the member redeposits in this plan the amount of the withdrawn accumulated contributions submitted on salary earned while a deputy sheriff, together with interest on the accumulated contributions at the rate determined by the board from the date of withdrawal to the date of redeposit. Upon repayment he or she shall receive the same credit on account of his or her former service in covered employment as if no refund had been made. The repayment authorized by this subsection shall be made in a lump sum within 60 months of the deputy sheriff's reemployment in covered employment or if later, within 60 months of the effective date of this article.

(c) A member of this plan who has elected to transfer from the Public Employees Retirement System into this plan pursuant to §7-14D-5(b) of this code may not, after having transferred into and become an active member of this plan, reinstate to his or her credit in this plan any service credit relating to periods of nondeputy sheriff service which were withdrawn from the Public Employees Retirement System plan prior to his or her elective transfer into this plan.

(d) Every member who completes 60 months of covered employment is eligible, upon cessation of covered employment, to either withdraw his or her accumulated contributions in accordance with subsection (a) of this section, or to choose not to withdraw his or her accumulated contribution and to receive retirement income payments upon attaining normal retirement age.

(e) In the event a member dies from any cause other than those specified in §7-14D-18 of this code and does not have 10 or more years of contributory service, the member's accumulated contributions may be paid to a named beneficiary or beneficiaries.

If no beneficiary is named, then the accumulated contributions shall be paid to the estate of the deceased member.

(f) Notwithstanding any other provision of this article, forfeitures under the plan shall not be applied to increase the benefits any member would otherwise receive under the plan.

**§7-14D-18. Awards and benefits to surviving spouse – When member dies in performance of duty, etc.**

(a) The surviving spouse of any member who dies by reason of injury, illness or disease resulting from an occupational risk or hazard inherent in or peculiar to the service required of members, while the member was or is engaged in the performance of his or her duties as a deputy sheriff, or the survivor spouse of a member who dies from any cause while receiving benefits pursuant to §7-14D-14 of this code, is entitled to receive and shall be paid from the fund benefits as follows: To the surviving spouse annually, in equal monthly installments during his or her lifetime an amount equal to the greater of: (i) Two thirds of the annual compensation received by the deceased member during the last 12 full months of contributory service; or (ii) if the member dies after meeting early or normal retirement age requirements, the monthly amount which the spouse would have received had the member retired the day before his or her death, elected a one hundred percent joint and survivor annuity with the spouse as the joint annuitant, and then died.

(b) Benefits for a surviving spouse received under this section, §7-14D-20 and §7-14D-21 of this code are in lieu of receipt of any other benefits under this article for the spouse or any other person or under the provisions of any other state retirement system based upon the member's covered employment.

**§7-14D-19. Awards and benefits to surviving spouse – when member dies from nonservice-connected causes.**

(a) In any case where a member who has been a contributing member for at least 10 years dies prior to retirement from any cause other than those specified in §7-14D-18 of this code and not due to

vicious habits, intemperance, or willful misconduct on his or her part, the fund shall pay annually in equal monthly installments to the surviving spouse during his or her lifetime, a sum equal to the greater of: (i) One half of the annual compensation received by the deceased member during the last 12 full months of contributory service; or (ii) if the member dies after meeting early or normal retirement age requirements, the monthly amount which the spouse would have received had the member retired the day before his or her death, elected a 100 percent joint and survivor annuity with the spouse as the joint annuitant, and then died.

(b) In any case where a retired member who had been a contributing member for at least 10 years, had not obtained the age of 60 and was receiving benefits pursuant to §7-14D-15 of this code dies and leaves a surviving spouse, the fund shall pay annually in equal monthly installments to the surviving spouse during his or her lifetime a sum equal to the greater of: (i) One half of the annual compensation received by the deceased member during the last 12 full months of contributory service; or (ii) if the member dies after meeting early or normal retirement age requirements, the monthly amount which the spouse would have received had the member retired the day before his or her death, elected a 100 percent joint and survivor annuity with the spouse as the joint annuitant, and then died.

(c) Benefits for a surviving spouse received under this section, §7-14D-20, and §7-14D-21 of this code are in lieu of receipt of any other benefits under this article for the spouse or any other person or under the provisions of any other state retirement system based upon the member's covered employment.

**§7-14D-24a. Return to covered employment by retired member.**

(a) The annuity of any member who retires under the provisions of this article and who resumes service in covered employment shall be suspended while the member continues in covered employment. The monthly annuity payment for the month in which the service resumes shall be prorated to the date of commencement of service, and the member shall again become a contributing

member during resumption of service. At the conclusion of resumed service in covered employment the member shall have his or her annuity recalculated to take into account the entirety of service in covered employment.

(b) Notwithstanding the provisions of subsection (a) of this section, the annuity of a member who retires under the provisions of this article shall not be suspended if the member resumes covered employment and the following conditions are met:

(1) The member has been retired for at least 180 days;

(2) The retired member did not retire as a result of a disability pursuant to the provisions of §7-14D-14 of this code;

(3) The retired member is a certified, or certifiable, law-enforcement officer as provided in §30-29-5 of this code;

(4) The sheriff of the county seeking to re-employ the retired member has fewer than five deputies in his or her employ and has been unable to recruit additional qualified deputy sheriffs despite the exercise of due diligence;

(5) The re-employment of the retired member is for a period not to exceed five years or until such time as the sheriff may recruit additional deputy sheriffs to provide for five full-time deputy sheriffs not hired pursuant to this subsection, whichever is sooner; and the sheriff is required to post the vacancy until it is filled by a non-retirant;

(6) The retired member may not again become a contributing member of the Deputy Sheriff Retirement System while performing services under the provisions of this subsection; and

(7) The employer of any deputy sheriff rehired pursuant to this subsection shall remit an employer contribution pursuant to §7-14D-7 of this code on the deputy sheriff's monthly salary.

(c) Any retired member who is seeking re-employment pursuant to the provisions of this section shall not be subject to the maximum age restriction set forth in §7-14-8 of this code.



(d) Unless acted upon by the Legislature, the provisions of subsections (b) and (c) of this section will sunset on July 1, 2026. On or before October 1, 2025, any employer of a member of the Deputy Sheriff Retirement System rehired pursuant to subsection (b) of this section must make a report to the Joint Standing Committee on Pensions and Retirement.

(e) Any member who retired under the early retirement provisions of §7-14D-11(b) of this code, and is subsequently reemployed in covered employment pursuant to subsection (a) of this section, and who again retires shall have his or her retirement annuity recalculated as if he or she were retiring at an age calculated by adding his or her original early retirement age to the number of years and months during which he or she was reemployed and contributing to the plan. In the event the artificially determined age, as determined in accordance with the preceding sentence, exceeds 60, the board shall not make any reduction for early retirement.

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## CHAPTER 76

**(Com. Sub. for S. B. 548 - By Senator Trump)**

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[Passed March 8, 2024; in effect 90 days from passage (June 6, 2024)]

[Approved by the Governor on March 26, 2024.]

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AN ACT to amend and reenact §51-11-4 of the Code of West Virginia, 1931, as amended, relating to clarifying the appellate jurisdiction of the Intermediate Court of Appeals.

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

### **ARTICLE 11. THE WEST VIRGINIA APPELLATE REORGANIZATION ACT.**

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

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

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

(1) Final judgments or orders of a circuit court in all civil cases, including, but not limited to, those in which there is a request for legal or equitable relief, entered after June 30, 2022: *Provided*, That the Supreme Court of Appeals may, on its own accord, obtain jurisdiction over any civil case filed in the Intermediate Court of Appeals;

(2) Final judgments or orders of a family court, entered after June 30, 2022, except for final judgments or final orders issued by a family court in any domestic violence proceeding pursuant to W.

Va. Code §48-27-1 *et seq.* of this code, which appeals shall first be made to a circuit court;

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

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

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

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

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

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

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

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

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

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

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

(5) Any proceedings of the Lawyer Disciplinary Board;

(6) Any proceedings of the Judicial Investigation Commission;

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

(8) Interlocutory appeals;

(9) Certified questions of law;

(10) Judgments or final orders issued in proceedings where the relief sought is one or more of the following extraordinary remedies: writ of prohibition, writ of mandamus, writ of quo warranto, writ of certiorari, writ of habeas corpus, special receivers, arrests in civil cases, and personal safety orders; and

(11) Judgments or final orders issued by circuit court upon its review of a family court judgment or final order in any domestic violence proceeding pursuant to §48-27-101 *et seq.* of this code.

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## CHAPTER 77

**(Com. Sub. for S. B. 649 - By Senators Hunt and Chapman)**

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[Passed March 7, 2024; in effect 90 days from passage (June 5, 2024)]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §5-10-48 of the Code of West Virginia, 1931, as amended; and to amend and reenact §51-9-10 of said code, all relating to clarifying per diem compensation and reimbursable expenses for senior justices and judges of the intermediate, circuit and family courts recalled into service.

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

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF  
THE GOVERNOR, SECRETARY OF STATE, AND  
ATTORNEY GENERAL; BOARD OF PUBLIC WORKS;  
MISCELLANEOUS AGENCIES, COMMISSIONS,  
OFFICES, PROGRAMS, ETC.**

**ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES  
RETIREMENT ACT.**

**§5-10-48. Reemployment after retirement; options for holder  
of elected public office.**

(a) The Legislature finds that a compelling state interest exists in maintaining an actuarially sound retirement system and that this interest necessitates that certain limitations be placed upon an individual's ability to retire from the system and to then later return to state employment as an employee with a participating public employer while contemporaneously drawing an annuity from the system. The Legislature hereby further finds and declares that the interests of the public are served when persons having retired from

public employment are permitted, within certain limitations, to render post-retirement employment in positions of public service, either in elected or appointed capacities. The Legislature further finds and declares that it has the need for qualified employees and that in many cases an employee of the Legislature will retire and be available to return to work for the Legislature as a per diem employee. The Legislature further finds and declares that in many instances these employees have particularly valuable expertise which the Legislature cannot find elsewhere. The Legislature further finds and declares that reemploying these persons on a limited per diem basis after they have retired is not only in the best interests of this state but has no adverse effect whatsoever upon the actuarial soundness of this particular retirement system.

(b) For the purposes of this section: (1) "Regularly employed on a full-time basis" means employment of an individual by a participating public employer, in a position other than as an elected or appointed public official, which normally requires 12 months per year service and at least 1,040 hours of service per year in that position; (2) "temporary full-time employment" or "temporary part-time employment" means employment of an individual on a temporary or provisional basis by a participating public employer, other than as an elected or appointed public official, in a position which does not otherwise render the individual as regularly employed; (3) "former employee of the Legislature" means any person who has retired from employment with the Legislature and who has at least 10 years' contributing service with the Legislature; and (4) "reemployed by the Legislature" means a former employee of the Legislature who has been reemployed on a per diem basis not to exceed 175 days per calendar year.

(c) If a retirant becomes regularly employed on a full-time basis by a participating public employer, payment of his or her annuity shall be suspended during the period of his or her reemployment and he or she shall become a contributing member to the retirement system. If his or her reemployment is for a period of one year or longer, his or her annuity shall be recalculated and he or she shall be granted an increased annuity due to the additional employment, the annuity to be computed according to §5-10-22 of this code. If

his or her reemployment is for a period less than one year, he or she may request in writing that the employee and employer retirement contributions submitted during reemployment be credited to the participating public employer pursuant to §5-10-44 of this code, and his or her previous annuity shall be reinstated effective the first day of the month following termination of reemployment and the board's receipt of written notice thereof. A retirant may accept legislative per diem, temporary full-time, or temporary part-time employment from a participating employer without suspending his or her retirement annuity so long as he or she does not receive annual compensation in excess of \$25,000.

(d) Senior judges, justices, and magistrates. –

(1) Notwithstanding the provisions of subsection (c) of this section, a retired intermediate court judge, circuit court judge, or family court judge, or justice who is recalled and assigned to temporary service as a senior judge or justice by the West Virginia Supreme Court of Appeals may receive per diem compensation pursuant to the requirements of §51-9-10 of this code while continuing to receive his or her annuity.

(2) Notwithstanding the provisions of subsection (c) of this section, a retired magistrate who is recalled and assigned to temporary service as a senior magistrate by the West Virginia Supreme Court of Appeals may receive per diem compensation pursuant to the requirements of §50-1-6a of this code while continuing to receive his or her annuity.

(e) If a member retires and is then subsequently elected to a public office, or is subsequently appointed to hold an elected public office, or is a former employee of the Legislature who has been reemployed by the Legislature, he or she has the option, notwithstanding subsection (c) of this section, to either:

(1) Continue to receive payment of his or her annuity while holding public office, or during any reemployment of a former employee of the Legislature on a per diem basis, in addition to the salary he or she may be entitled to as an office holder, or as a per diem reemployed former employee of the Legislature; or

(2) Suspend the payment of his or her annuity and become a contributing member of the retirement system as provided in subsection (c) of this section. Notwithstanding the provisions of this subsection, a member who is participating in the system as an elected public official may not retire from his or her elected position and commence to receive an annuity from the system and then be elected or reappointed to the same position unless and until a continuous 12-month period has passed since his or her retirement from the position: *Provided*, That a former employee of the Legislature may not be reemployed by the Legislature on a per diem basis until at least 60 days after the employee has retired: *Provided, however*, That the limitation on compensation provided by subsection (c) of this section does not apply to the reemployed former employee: *Provided further*, That in no event may reemployment by the Legislature of a per diem employee exceed 175 days per calendar year.

(f) A member who is participating in the system simultaneously as both a regular, full-time employee of a participating public employer, and as an elected or appointed member of the legislative body of the state or any political subdivision, may, upon meeting the age and service requirements of this article, elect to retire from his or her regular full-time state employment and may commence to receive an annuity from the system without terminating his or her position as a member of the legislative body of the state or political subdivision: *Provided*, That the retired member shall not, during the term of his or her retirement and continued service as a member of the legislative body of a political subdivision, be eligible to continue his or her participation as a contributing member of the system and shall not continue to accrue any additional service credit or benefits in the system related to the continued service.

(g) Notwithstanding the provisions of §5-10-27b of this code, any publicly elected member of the legislative body of any political subdivision or of the State Legislature, the Clerk of the House of Delegates, and the Clerk of the Senate may elect to commence receiving in-service retirement distributions from this system upon attaining the age of 70 and one-half years: *Provided*, That the



member is eligible to retire under the provisions of §5-10-20 or §5-10-21 of this code: *Provided, however*, That the member elects to stop actively contributing to the system while receiving the in-service distributions.

(h) The Legislature hereby finds and declares that a severe shortage of child protective services workers and adult protective services workers exists throughout the state, and therefore, a compelling state interest exists in expanding the use of retired employees to serve this critical need. Notwithstanding any provision of subsection (c) of this section to the contrary, a person receiving retirement benefits or who is eligible to receive retirement benefits pursuant to the provisions of this chapter, may accept employment as a child protective services worker or an adult protective services worker on a full-time or part-time basis without having payment of his or her retirement annuity suspended and without reentering the retirement system as a contributing member. This subsection is only applicable if the retired employee meets the minimum qualifications of the position, has been retired for at least 60 days, and is hired to fill an existing child protective services or adult protective services vacancy. The retired employee may continue to work under this subsection only as long as that position remains vacant. The vacant position shall be posted until it is filled by a regularly employed person meeting the minimum qualifications to serve as a child protective service worker or an adult protective service worker. The provisions of this subsection shall expire July 1, 2025.

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

### **§51-9-10. Services of senior judges and justices.**

(a) The Legislature finds that:

(1) Section seven, article VIII of the Constitution of West Virginia expressly requires the Legislature to fix judicial salaries by statute, providing that: "[j]ustices, judges and magistrates shall receive the salaries fixed by law".

(2) Occasionally, circumstances may require the extended assignment of senior judges and justices, necessitating the Legislature to prescribe such circumstances when the limitations on compensation of senior judges and justices receiving retirement benefits may be exceeded.

(b) The Legislature recognizes and acknowledges the authority of the West Virginia Supreme Court of Appeals to recall retired judges and justices for temporary assignment and to create a panel of senior judges and justices to utilize the talent and experience of former intermediate court, circuit court, family court judges, and supreme court justices of this state: *Provided*, That extended assignment of retired judges and justices must not be utilized in such a way as to threaten the qualified status of the Judges' Retirement System under applicable provisions of the Internal Revenue Code, including Treasury Regulation section 1.401(a)-1(b)(1) requiring that a qualified plan must be established primarily to provide payment of definitely determinable benefits to its employees after retirement or attainment of normal retirement age.

(c) Senior intermediate court judges, circuit court judges, and justices recalled and assigned to service shall receive per diem compensation set by the Supreme Court of Appeals, but not to exceed \$430 for each day actually served: *Provided*, That the combined total of per diem compensation and retirement benefits paid to a senior judge or justice during a single calendar year may not exceed the annual salary of a sitting circuit judge, except as set forth in subsection (d) of this section.

(d) Notwithstanding subsection (c) of this section, for purposes of maintaining judicial efficacy and continuity in judicial decision making, a senior judge or justice may continue to receive per diem compensation after the combined total of per diem compensation and retirement benefits paid to the senior judge or justice during that calendar year exceeds the annual salary of a sitting circuit judge if the Chief Justice of the Supreme Court of Appeals enters an administrative order certifying there are certain extraordinary circumstances involving the necessary absence of a sitting judicial officer because of a protracted, but temporary, illness or medical condition, or a lengthy suspension which necessitate the extended

assignment of the senior judge or justice. Immediately upon entering such an order, the Chief Justice shall submit copies of the order to the State Auditor and the State Treasurer.

(e) In addition to the per diem compensation authorized by this section, senior judges and justices recalled to service may be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

(f) Senior family court judges recalled and assigned to service shall receive per diem compensation set by the Supreme Court of Appeals, but not to exceed \$325 for each day actually served: *Provided*, That the combined total per diem compensation and retirement benefits paid to a senior family court judge during a single calendar year may not exceed the annual salary of a sitting family court judge, except as set forth in subsection (d) of this section. In addition to the per diem compensation authorized by this section, senior family court judges recalled to service may be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

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## CHAPTER 78

**(S. B. 837 - By Senators Weld, Trump, Woelfel, and Plymale)**

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[Passed March 9, 2024; in effect from passage]  
[Approved by the Governor on March 13, 2024.]

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AN ACT to amend and reenact §51-2-1 of the Code of West Virginia, 1931, as amended, relating to authorizing Public Defender Corporations, until July 1, 2025, to reorganize its offices to conform the circuit reconfiguration enacted during the regular session of the Legislature, 2023.

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

### **ARTICLE 2. CIRCUIT COURTS; CIRCUIT JUDGES.**

#### **§51-2-1. Judicial circuits; terms of office; legislative findings and declarations; elections; terms of court.**

(a) Beginning on the effective date of this subsection and until December 31, 2024, the state shall be divided into the following judicial circuits with the following number of judges:

(1) The counties of Brooke, Hancock, and Ohio shall constitute the first circuit and shall have four judges;

(2) The counties of Marshall, Tyler, and Wetzel shall constitute the second circuit and shall have two judges;

(3) The counties of Doddridge, Pleasants, and Ritchie shall constitute the third circuit and shall have one judge;

(4) The counties of Wood and Wirt shall constitute the fourth circuit and shall have three judges;

(5) The counties of Calhoun, Jackson, Mason, and Roane shall constitute the fifth circuit and shall have three judges;

(6) The county of Cabell shall constitute the sixth circuit and shall have four judges;

(7) The county of Logan shall constitute the seventh circuit and shall have two judges;

(8) The county of McDowell shall constitute the eighth circuit and shall have two judges;

(9) The county of Mercer shall constitute the ninth circuit and shall have three judges;

(10) The county of Raleigh shall constitute the tenth circuit and shall have four judges;

(11) The counties of Greenbrier and Pocahontas shall constitute the eleventh circuit and shall have two judges;

(12) The county of Fayette shall constitute the twelfth circuit and shall have two judges;

(13) The county of Kanawha shall constitute the thirteenth circuit and shall have seven judges;

(14) The counties of Braxton, Clay, Gilmer, and Webster shall constitute the fourteenth circuit and shall have two judges;

(15) The county of Harrison shall constitute the fifteenth circuit and shall have three judges;

(16) The county of Marion shall constitute the sixteenth circuit and shall have two judges;

(17) The county of Monongalia shall constitute the seventeenth circuit and shall have three judges;

(18) The county of Preston shall constitute the eighteenth circuit and shall have one judge;

(19) The counties of Barbour and Taylor shall constitute the nineteenth circuit and shall have two judges;

(20) The county of Randolph shall constitute the twentieth circuit and shall have one judge;

(21) The counties of Grant, Mineral, and Tucker shall constitute the twenty-first circuit and shall have two judges;

(22) The counties of Hampshire, Hardy, and Pendleton shall constitute the twenty-second circuit and shall have two judges;

(23) The counties of Berkeley, Jefferson, and Morgan shall constitute the twenty-third circuit and shall have six judges;

(24) The county of Wayne shall constitute the twenty-fourth circuit and shall have two judges;

(25) The counties of Lincoln and Boone shall constitute the twenty-fifth circuit and shall have two judges;

(26) The counties of Lewis and Upshur shall constitute the twenty-sixth circuit and shall have two judges;

(27) The county of Wyoming shall constitute the twenty-seventh circuit and shall have one judge;

(28) The county of Nicholas shall constitute the twenty-eighth circuit and shall have one judge;

(29) The county of Putnam shall constitute the twenty-ninth circuit and shall have two judges;

(30) The county of Mingo shall constitute the thirtieth circuit and shall have one judge; and

(31) The counties of Monroe and Summers shall constitute the thirty-first circuit and shall have one judge.

(b) Effective January 1, 2025, the state shall be divided into the following judicial circuits with the following number of judges

who shall be elected by the voters of the entire circuit, but in separate divisions, as required by §3-5-6b of this code.

(1) The counties of Brooke, Hancock, and Ohio shall constitute the first circuit and shall have four judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(2) The counties of Marshall, Tyler, and Wetzel shall constitute the second circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(3) The counties of Doddridge, Pleasants, Ritchie, and Wirt shall constitute the third circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter: *Provided*, That no more than one judge shall be a resident of any county comprising the third circuit: *Provided, however*, That if the highest vote recipients in both divisions are also both residents of the same county, then the candidate with the highest overall number of votes shall be declared the winner of the division in which he or she ran: *Provided, further*, That the candidate who has the highest number of votes in the other division who is not a resident of the same county as the highest overall vote recipient shall be declared the winner of the division in which he or she ran;

(4) The county of Wood shall constitute the fourth circuit and shall have three judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(5) The counties of Calhoun, Jackson, Mason, and Roane shall constitute the fifth circuit and shall have three judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter: *Provided*, That Division 1 in the fifth circuit shall be for a judge who resides in Jackson County at the time of his or her filing and for the duration of his or her service, Division 2 in the fifth circuit shall be for a judge who resides in Mason County at the time of his or her filing and for the

duration of his or her service, and Division 3 in the fifth circuit shall be for a judge who resides in either Calhoun County or Roane County at the time of his or her filing and for the duration of his or her service;

(6) The county of Cabell shall constitute the sixth circuit and shall have four judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(7) The county of Putnam shall constitute the seventh circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(8) The county of Kanawha shall constitute the eighth circuit and shall have eight judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(9) The counties of Boone and Lincoln shall constitute the ninth circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(10) The county of Wayne shall constitute the tenth circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(11) The counties of Logan and Mingo shall constitute the eleventh circuit and shall have three judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter: *Provided*, That Division 1 in the eleventh circuit shall be for a judge who will reside at the time of his or her filing and during his or her service in Mingo County, Division 2 in the eleventh circuit shall be for a judge who will reside at the time of his or her filing and during his or her service in Logan County, and Division 3 in the eleventh circuit shall be for



a judge who will reside at the time of his or her filing and during his or her service in Logan County;

(12) The counties of McDowell and Wyoming shall constitute the twelfth circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter: *Provided*, That Division 1 in the twelfth circuit shall be for a judge who will reside at the time of his or her filing and during his or her service in McDowell County, and Division 2 in the twelfth circuit shall be for a judge who will reside at the time of his or her filing and during his or her service in Wyoming County;

(13) The county of Mercer shall constitute the thirteenth circuit and shall have three judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(14) The county of Raleigh shall constitute the fourteenth circuit and shall have four judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(15) The county of Fayette shall constitute the fifteenth circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(16) The county of Nicholas shall constitute the sixteenth circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(17) The counties of Braxton, Clay, Gilmer, and Webster shall constitute the seventeenth circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter: *Provided*, That no more than one judge shall be a resident of any county comprising the seventeenth circuit: *Provided, however*, That if the highest vote recipients in both divisions are also both residents of the same

county, then the candidate with the highest overall number of votes shall be declared the winner of the division in which he or she ran: *Provided, further*, That the candidate who has the highest number of votes in the other division who is not a resident of the same county as the highest overall vote recipient shall be declared the winner of the division in which he or she ran;

(18) The counties of Lewis and Upshur shall constitute the eighteenth circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter: *Provided*, That Division 1 in the eighteenth circuit shall be for a judge who will reside at the time of his or her filing and during his or her service in Upshur County, and Division 2 in the eighteenth circuit shall be for a judge who will reside at the time of his or her filing and during his or her service in Lewis County;

(19) The county of Harrison shall constitute the nineteenth circuit and shall have three judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(20) The county of Marion shall constitute the twentieth circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(21) The county of Monongalia shall constitute the twenty-first circuit and shall have three judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(22) The counties of Preston and Tucker shall constitute the twenty-second circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(23) The counties of Barbour and Taylor shall constitute the twenty-third circuit and shall have two judges, who shall be elected

at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(24) The county of Randolph shall constitute the twenty-fourth circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(25) The counties of Grant and Mineral shall constitute the twenty-fifth circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(26) The counties of Hampshire, Hardy, and Pendelton shall constitute the twenty-sixth circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(27) The counties of Berkley and Morgan shall constitute the twenty-seventh circuit and shall have five judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(28) The county of Jefferson shall constitute the twenty-eighth circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(29) The counties of Greenbrier and Pocahontas shall constitute the twenty-ninth circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter; and

(30) The counties of Monroe and Summers shall constitute the thirtieth circuit and shall have one judge, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter.

(c) The Raleigh County circuit court shall be a court of concurrent jurisdiction with the remaining single-judge circuit

where the sitting judge in the single-judge circuit is unavailable by reason of sickness, vacation, or other reason.

(d) Any judge in office on the effective date of the reenactment of this section shall continue as a judge of the circuit as constituted under prior enactments of this section, unless sooner removed or retired as provided by law, until December 31, 2024.

(e) The term of office of all circuit court judges shall be for eight years. The term of office for all circuit court judges elected during an election conducted in the year 2024, shall commence on January 1, 2025, and end on December 31, 2032.

(f) For election purposes, in every judicial circuit having two or more judges there shall be numbered divisions corresponding to the number of circuit judges in each circuit. Each judge shall be elected at large from the entire circuit. In each numbered division of a judicial circuit, the candidates for election shall be voted upon, and the votes cast for the candidates in each division shall be tallied separately from the votes cast for candidates in other numbered divisions within the circuit. The candidate receiving the highest number of the votes cast within a numbered division shall be elected, except as provided above with respect to the third and seventeenth circuits.

(g) The Supreme Court of Appeals shall, by rule, establish the terms of court of circuit judges.

(h) Notwithstanding any provisions of this code to the contrary, public defender corporations organized pursuant to the provisions of §29-21-1 *et seq.* of this code shall have until July 1, 2025, to conform their offices to the judicial circuits established in this section by the amendments to this section enacted during the regular session of the Legislature, 2023.

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## CHAPTER 79

**(Com. Sub. for H. B. 5395 - By Delegates Steele and Hanshaw  
(Mr. Speaker))**

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[Passed March 1, 2024; in effect from passage.]  
[Approved by the Governor on March 26, 2024.]

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AN ACT to amend and reenact §21A-7-17 of the Code of West Virginia, 1931, as amended, relating to judicial review of Board decisions; and amending the status of the commissioner shall in relation to judicial review of Board decisions; and to repeal §21A-7-20 of said code, relating to repealing the section making the Board of Review of the West Virginia Bureau of Employment a party to judicial action and identifying the Board's legal counsel.

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

### **ARTICLE 7. CLAIM PROCEDURE.**

#### **§21A-7-17. Finality of board's decision — Judicial review.**

The decision of the board shall be final and benefits shall be paid or denied in accordance therewith, unless a claimant, last employer, or other interested party appeals to the Intermediate Court of Appeals within 30 days after mailing of notification of the board's decision: *Provided*, That, in cases relating to a disqualification under §21A-6-3(4) of this code, the decision of the board shall be final and benefits shall be paid or denied in accordance therewith, unless a claimant, last employer, or other interested party appeals to the Intermediate Court of Appeals within 20 days after mailing of notification of the board's decision.

Parties to the proceedings before the board shall be made defendants in any such appeal; and the commissioner shall be an

interested party with the discretionary authority to appear in any such judicial review.

**§21A-7-20. Board a necessary party to judicial action; legal counsel.**

[Repealed.]

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## CHAPTER 80

**(H. B. 5430 - By Delegates Kelly, Phillips, Hornby, Jeffries,  
Kimble, Hott, Holstein, and Pinson)**

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[Passed March 9, 2024; in effect ninety days from passage.]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §51-3-20, relating to authorizing Supreme Court of Appeals to pay per diem compensation and expenses of certain newly appointed or elected judicial officers receiving training and education prior to taking oath of office and beginning term; and establishing rate of compensation.

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

### **ARTICLE 3. COURTS IN GENERAL.**

#### **§51-3-20. Judicial officer education and training.**

(a) The Supreme Court of Appeals may, in its discretion, pay a newly appointed or elected circuit judge, family court judge, or magistrate per diem compensation and expenses for attending any training and education session prior to taking the oath of office and beginning his or her term.

(b) The Supreme Court of Appeals may compensate the judicial officers specified in subsection (a) of this section up to a rate equivalent to the daily per diem rate of senior status circuit judges, senior status family court judges, or senior status magistrates for each required day of attendance, plus travel expenses.

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## CHAPTER 81

### (S. B. 164 - By Senators Hunt and Deeds)

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[Passed March 9, 2024; in effect 90 days from passage (June 7, 2024)]  
[Approved by the Governor on March 26, 2024.]

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AN ACT to amend and reenact §61-3B-2, §61-3B-3, §61-3B-6, and §61-3B-7 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §61-3B-8, all relating generally to trespass; clarifying protected activities relating to trespass on property other than a structure or conveyance; making double damages applicable to all violations of the article including cleanup costs; authorizing courts presiding in cases for misdemeanor violations of the article to defer entry of judgment and dismiss the charges if payment of ordered damages is made within six months after conviction; and creating criminal penalties.

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

#### **ARTICLE 3B. TRESPASS.**

##### **§61-3B-2. Trespass in structure or conveyance.**

(a) Any person who knowingly enters in, upon, or under a structure or conveyance without being authorized, licensed, or invited, or having been authorized, licensed, or invited is requested to depart by the owner, tenant, or the agent of the owner or tenant, and refuses to do so, is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$100.

(b) Notwithstanding the provisions of subsection (a) of this section, any person who, without permission, knowingly and willfully enters a structure which has a clear posting that the structure has been condemned by any municipal or county



government as unfit for human habitation or use, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$100, or confined in jail not more than six months, or both fined and confined: *Provided*, That for any first violation of this subsection offense of trespass on condemned property, a court may substitute community service or pretrial diversion in lieu of a fine or confinement for trespassing on condemned property.

(c) If the offender is armed with a firearm or other dangerous weapon while in the structure or conveyance, with the intent to do bodily injury to a human being in the structure or conveyance at the time the offender knowingly trespasses, the offender, notwithstanding the provisions of §61-7-1 of this code, is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000, or be confined in jail for not more than one year, or both fined and confined.

**§61-3B-3. Trespass on property other than structure or conveyance.**

(a) It is an unlawful trespass for any person to knowingly, and without being authorized, licensed, or invited, to enter or remain on any property, other than a structure or conveyance, as to which notice against entering or remaining is either given by actual communication to such person or by posting, fencing, or cultivation.

(b) *First offense conviction.* — Upon a first trespassing conviction pursuant to subsection (a) of this section, the person is guilty of a misdemeanor and shall be fined not less than \$100 nor more than \$500.

(c) *Second offense conviction.* — Upon a second trespassing conviction pursuant to subsection (a) of this section, the person is guilty of a misdemeanor and shall be fined not less than \$500 nor more than \$1,000.

(d) *Third offense conviction.* — Upon a third and subsequent trespassing conviction pursuant to subsection (a) of this section, the

person is guilty of a misdemeanor and shall be fined not less than \$1,000 nor more than \$1,500.

(e) If the offender defies an order to leave, personally communicated to him or her by the owner, tenant, or agent of the owner or tenant, or if the offender opens any door, fence, or gate, and thereby exposes animals, crops, or other property to waste, destruction, or freedom, or causes any damage to property by such trespassing on property other than a structure or conveyance, he or she is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500, confined in jail for not more than six months, or both fined and confined.

(f) If the offender is armed with a firearm or other dangerous weapon with the unlawful and felonious intent to do bodily injury to a human being during his or her commission of the offense of trespass on property other than a structure or conveyance, the offender, notwithstanding §61-7-1 of this code, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than six months, fined not less than \$100 nor more than \$1,000, or both confined and fined.

(g) Nothing in this section shall be construed to prevent lawful assembly and petition for the lawful redress of grievances, during any dispute, including, but not limited to, activities protected by the West Virginia Constitution, or the United States Constitution, or any statute of this state or the United States.

#### **§61-3B-6. Mine trespass; penalties.**

(a) A person who willfully enters an underground coal mine, whether active workings, inactive workings, or abandoned workings, without permission, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility not less than one year and nor more than 10 years and shall be fined not less than \$5,000 nor more than \$10,000: *Provided*, That for any conviction pursuant to this subsection, any inactive or abandoned underground workings must be either: (1) Sealed; or (2) clearly identified by signage at some conspicuous place near the entrance

of the mine that includes a notice that the unauthorized entry into the mine is a felony criminal offense.

(b) A person who willfully enters a surface coal mine, whether active workings, inactive workings, or abandoned workings, without permission, and with the intent to commit a felony or any larceny, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail not less than one week and not more than one month and shall be fined not less than \$1,000 nor more than \$5,000. For a second conviction, pursuant to this subsection, the person shall be guilty of a felony and shall be imprisoned in a correctional facility not less than one year and not more than five years and shall be fined not less than \$5,000 nor more than \$10,000. For a third or subsequent conviction, pursuant to this subsection, the person shall be guilty of a felony and shall be imprisoned in a correctional facility not less than five years and not more than 10 years and shall be fined not less than \$10,000 nor more than \$25,000.

(c) If a person violates subsections (a) or (b) of this section, and during any rescue efforts for that person there occurs an injury that causes substantial physical pain, illness, or any impairment of physical condition to any person other than himself or herself, then that person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than one week and not more than one year and shall be fined not less than \$1,000 nor more than \$5,000: *Provided*, That the jail term shall include actual confinement of not less than seven days.

(d) If a person violates subsections (a) or (b) of this section, and during any rescue efforts for that person there occurs an injury that creates a substantial risk of death, causes serious or prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ to any person other than himself or herself, then that person is guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility for not less than two nor more than 10 years and shall be fined not less than \$5,000 nor more than \$10,000.

(e) If a person violates subsections (a) or (b) of this section, and during any rescue efforts of such person, the death of any other person occurs, then that person is guilty of a felony and, upon conviction thereof, shall be imprisoned in a correctional facility for not less than three nor more than 15 years and shall be fined not less than \$10,000 nor more than \$25,000.

(f) The terms "mine", "active workings", "inactive workings", and "abandoned workings" have the same meaning ascribed to them as set forth in §22A-1-2 of this code.

(g) Nothing in this section shall be construed to prevent lawful assembly and petition for the lawful redress of grievances, during any dispute, including, but not limited to, activities protected by the West Virginia Constitution, or the United States Constitution, or any statute of this state or the United States.

**§61-3B-7. Animal or crop facilities trespass; penalties; injunctive relief.**

(a) As used in this section:

(1) "Animal" means poultry, livestock, domestic animals, and captive cervids owned and possessed by persons licensed pursuant to §19-2H-1 *et seq.* of this code. The term does not include an animal used for illegal gaming.

(2) "Animal or crop facility" means a facility that is used in the production, management, sale, or processing of animals or crops. The term includes, but is not limited to:

(A) A building, greenhouse, structure, laboratory, pasture, field, paddock, pond, impoundment, or premises where animals or crops are located;

(B) A managed bee colony;

(C) A livestock market;

(D) A facility used for the preparation of, or processing of, animals, crops, or value-added foods for sale; and

(E) A facility used to carry out any agritourism activity, as that term is defined and used in §19-36-1 *et seq.* of this code.

(3) "Crop" means a shrub, vine, tree, seedling, shoot, slip, or other plant capable of producing food, fiber, medicine, nursery stock, floral products, or aesthetic beauty.

(b) Any person who willfully trespasses on the property of another which constitutes an animal or crop facility with the intent to commit larceny, destroy property, or disrupt the operation of the facility is guilty of willful trespass upon an animal or crop facility.

(c) Any person who conspires with one or more persons to violate subsection (b) of this section and commits an overt act in furtherance thereof is guilty of conspiracy to willfully trespass upon an animal or crop facility.

(d) Any person who violates subsection (b) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000 or confined in jail not more than 30 days, or both fined and confined.

(e) Notwithstanding the provisions of subsection (d) of this section, any person convicted of a second or subsequent violation of subsection (b) or a violation of subsection (c) of this section is guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than \$10,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(f) The owner or operator of an animal or crop facility may bring an action for injunctive relief against a person who engages in, or threatens to engage in, conduct that constitutes a violation of this section:

(1) The action may be brought in the circuit court of any county in which any part of the conduct or threatened conduct occurs or is threatened to occur.

(2) The circuit court may grant any appropriate injunctive relief to prevent or abate the conduct or threatened conduct, including a

temporary restraining order, preliminary injunction, or permanent injunction.

(3) The circuit court may issue injunctive relief without the owner or operator of an animal or crop facility giving security for its issuance.

**§61-3B-8. Liability for damages; deferred judgment; dismissal.**

(a) As applicable to this article, notwithstanding and in addition to any other penalties provided by law, any person who performs or causes damage to property in the course of a willful trespass shall be liable to the property owner in the amount of twice the amount of such damage, including the cost of cleanup.

(b) Notwithstanding any provision of this code to the contrary, a court presiding over a misdemeanor violation of this article may defer entry of the judgment of conviction for a period not to exceed six months and if the damages authorized by subsection (a) of this section are paid within that time period, dismiss the charge.

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## CHAPTER 82

**(Com. Sub. for S. B. 190 - By Senators Weld, Deeds, Trump,  
Woelfel, Barrett, Takubo, and Caputo)**

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[Passed March 8, 2024; in effect 90 days from passage (June 6, 2024)]

[Approved by the Governor on March 22, 2024.]

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AN ACT to amend and reenact §61-8B-1, §61-8B-3, and §61-8B-5 of the Code of West Virginia, 1931, as amended, all relating to removing the definition of “marriage”; amending the definition of “sexual contact” to remove the exception where the victim is married to the actor; eliminating the marital exception to the offenses of first and third degree sexual assault; and removing duplicative language.

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

### **ARTICLE 8B. SEXUAL OFFENSES.**

#### **§61-8B-1. Definition of terms.**

In this article, unless a different meaning plainly is required:

(1) “Forcible compulsion” means:

(A) Physical force that overcomes such earnest resistance that is reasonably expected under the circumstances;

(B) Threat or intimidation, expressed or implied, placing a person in fear of immediate death or bodily injury to himself or herself or another person, or in fear that he or she or another person will be kidnapped; or

(C) Fear by a person under 16 years of age caused by intimidation, expressed or implied, by another person who is at least four years older than the victim.

For the purposes of this definition, "resistance" includes physical resistance or any clear communication of the victim's lack of consent.

(2) "Mentally defective" means that a person suffers from a mental disease or defect which renders that person incapable of appraising the nature of his or her conduct.

(3) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his or her conduct as a result of the influence of a controlled or intoxicating substance administered to that person without his or her consent or as a result of any other act committed upon that person without his or her consent.

(4) "Physically helpless" means that a person is unconscious or for any reason is physically unable to communicate unwillingness to an act.

(5) "Sexual contact" means any intentional touching, either directly or through clothing, of the breasts, buttocks, anus, or any part of the sex organs of another person, or intentional touching of any part of another person's body by the actor's sex organs and the touching is done for the purpose of gratifying the sexual desire of either party.

(6) "Sexual intercourse" means any act between persons involving penetration, however slight, of the female sex organ by the male sex organ or involving contact between the sex organs of one person and the mouth or anus of another person.

(7) "Sexual intrusion" means any act between persons involving penetration, however slight, of the female sex organ or of the anus of any person by an object for the purpose of degrading or humiliating the person so penetrated or for gratifying the sexual desire of either party.

(8) "Bodily injury" means substantial physical pain, illness, or any impairment of physical condition.



(9) "Serious bodily injury" means bodily injury which creates a substantial risk of death, which causes serious or prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

(10) "Deadly weapon" means any instrument, device, or thing capable of inflicting death or serious bodily injury and designed or specially adapted for use as a weapon, or possessed, carried, or used as a weapon.

(11) "Forensic medical examination" means an examination provided to a possible victim of a violation of the provisions of this article by medical personnel qualified to gather evidence of the violation in a manner suitable for use in a court of law, to include: An examination for physical trauma; a determination of penetration or force; a patient interview; and the collection and evaluation of other evidence that is potentially relevant to the determination that a violation of the provisions of this article occurred and to the determination of the identity of the assailant.

### **§61-8B-3. Sexual assault in the first degree.**

(a) A person is guilty of sexual assault in the first degree when:

(1) The person engages in sexual intercourse or sexual intrusion with another person and, in so doing:

(A) Inflicts serious bodily injury upon anyone;

(ii) (B) Employs a deadly weapon in the commission of the act.

(2) The person, being 14 years old or more, engages in sexual intercourse or sexual intrusion with another person who is younger than 12 years old.

(b) Any person violating the provisions of this section is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$10,000 and imprisoned in a state correctional facility not less than 15 nor more than 35 years.

(c) Notwithstanding the provisions of subsection (b) of this section, the penalty for any person violating the provisions of subsection (a) of this section who is 18 years of age or older and whose victim is younger than 12 years of age, shall be imprisonment in a state correctional facility for not less than 25 nor more than 100 years and a fine of not less than \$5,000 nor more than \$25,000.

**§61-8B-5. Sexual assault in the third degree.**

(a) A person is guilty of sexual assault in the third degree when:

(1) The person engages in sexual intercourse or sexual intrusion with another person who is mentally defective or mentally incapacitated; or

(2) The person, being 16 years old or more, engages in sexual intercourse or sexual intrusion with another person who is less than 16 years old and who is at least four years younger than the defendant.

(b) Any person violating the provisions of this section is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than one year nor more than five years, or fined not more than \$10,000 and imprisoned in a state correctional facility not less than one year nor more than five years.

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## CHAPTER 83

**(Com. Sub. for S. B. 504 - By Senators Clements, Grady,  
Woelfel, and Deeds)**

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[Passed March 6, 2024; in effect 90 days from passage (June 4, 2024)]  
[Approved by the Governor on March 22, 2024.]

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AN ACT 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.

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

### **ARTICLE 8B. SEXUAL OFFENSES.**

**§61-8B-11b. Prohibiting sexual intercourse, sexual intrusion, or sexual contact, 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 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 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 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.

(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.

(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.

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## CHAPTER 84

### **(Com. Sub. for S. B. 578 - By Senators Trump, Woelfel, and Deeds)**

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[Passed March 9, 2024; in effect 90 days from passage (June 7, 2024)]

[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §61-3-11 of the Code of West Virginia, 1931, as amended, relating to clarifying that the offense of burglary involves a dwelling or outbuilding belonging to another; clarifying what constitutes a dwelling of another; and establishing criminal penalties.

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

### **ARTICLE 3. CRIMES AGAINST PROPERTY.**

#### **§61-3-11. Burglary; entry of dwelling or outhouse; criminal penalties.**

(a) Any person who breaks and enters, or enters without breaking, a dwelling house of another or outbuilding adjoining the dwelling with the intent to commit a violation of the criminal laws of this state 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 15 years.

(b) The term "dwelling house", as used in subsection (a) of this section, includes, but is not limited to, a mobile home, house trailer, modular home, factory-built home, or self-propelled motor home, used as a dwelling regularly or only from time to time, or any other nonmotorized vehicle primarily designed for human habitation and occupancy and used as a dwelling regularly or only from time to time.

(c) For purposes of this section, a dwelling or adjoining outbuilding is considered to be that of another if the person breaking and entering, or entering without breaking, knows that he or she is prohibited from being there.

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## CHAPTER 85

**(Com. Sub. for S. B. 778 - By Senators Weld and Deeds)**

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[Passed March 8, 2024; in effect 90 days from passage (June 6, 2024)]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §61-11-18 of the Code of West Virginia, 1931, as amended, relating to qualifying offenses for the purpose of enhancing the sentence of a repeat offender.

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

**§61-11-18. Punishment for second or third offense of felony.**

(a) For purposes of this section, "qualifying offense" means any offense or an attempt or conspiracy to commit any of the offenses in the following provisions of this code:

- (1) §60A-4-401(a)(i) and §60A-4-401(a)(ii);
- (2) §60A-4-406;
- (3) §60A-4-409(b)(1) and §60A-4-409 (b)(2);
- (4) §60A-4-411;
- (5) §60A-4-414;
- (6) §60A-4-415;
- (7) §60A-4-416(a);
- (8) §61-2-1;
- (9) §61-2-4;
- (10) §61-2-7;

- (11) §61-2-9(a);
- (12) §61-2-9a(d) and §61-2-9a(e);
- (13) §61-2-9b;
- (14) §61-2-9c;
- (15) §61-2-9d;
- (16) §61-2-10;
- (17) §61-2-10b(b) and §61-2-10b(c);
- (18) Felony provisions of §61-2-10b(d);
- (19) §61-2-12;
- (20) Felony provisions of §61-2-13;
- (21) §61-2-14;
- (22) §61-2-14a(a) and §61-2-14a(d);
- (23) §61-2-14c;
- (24) §61-2-14d(a) and §61-2-14d(b);
- (25) §61-2-14f;
- (26) §61-2-14h(a), §61-2-14h(b), and §61-2-14h(c);
- (27) §61-2-16a(a) and §61-2-16a(b);
- (28) Felony provisions of §61-2-16a(c);
- (29) §61-2-28(d);
- (30) §61-2-29(d) and §61-2-29(e);
- (31) §61-2-29a;
- (32) §61-3-1;



- (33) §61-3-2;
- (34) §61-3-3;
- (35) §61-3-4;
- (36) §61-3-5;
- (37) §61-3-6;
- (38) §61-3-7;
- (39) §61-3-11;
- (40) Felony violation of 61-3-12;
- (41) §61-3-13(a);
- (42) Felony violation of §61-3-18;
- (43) Felony violation of §61-3-19;
- (44) Felony violation of §61-3-20;
- (45) Felony violation of §61-3-20a;
- (46) Felony violation of §61-3-21;
- (47) §61-3-22;
- (48) Felony violation of §61-3-24;
- (49) Felony violation of §61-3-24a;
- (50) §61-3-27;
- (51) §61-3-54;
- (52) §61-3C-14b;
- (53) §61-3E-5;
- (54) Felony violation of §61-5-10;

- (55) §61-5-17(b), §61-5-17(f), §61-5-17(h), and §61-5-17(i);
- (56) §61-5-27;
- (57) §61-6-24;
- (58) Felony provisions of §61-7-7;
- (59) §61-7-12;
- (60) §61-7-15;
- (61) §61-7-15a;
- (62) §61-8-12;
- (63) §61-8-19(b);
- (64) §61-8A-2;
- (65) §61-8A-4;
- (66) §61-8A-5;
- (67) §61-8B-3;
- (68) §61-8B-4;
- (69) §61-8B-5;
- (70) §61-8B-7;
- (71) §61-8B-10;
- (72) §61-8B-11b;
- (73) §61-8C-2;
- (74) §61-8C-3;
- (75) §61-8C-3a;
- (76) §61-8D-2;

- (77) §61-8D-2a;
- (78) §61-8D-3;
- (79) §61-8D-3a;
- (80) §61-8D-4;
- (81) §61-8D-4a;
- (82) §61-8D-5;
- (83) §61-8D-6;
- (84) §61-10-31;
- (85) §61-11-8;
- (86) §61-11-8a;
- (87) §61-14-2; and
- (88) §17C-5-2(b), driving under the influence causing death.

(b) Except as provided by subsection (c) of this section, when any person is convicted of a qualifying offense and is subject to imprisonment in a state correctional facility for the qualifying offender and it is determined, as provided in §61-11-19 of this code, that the person had been previously convicted in the United States of a crime punishable by imprisonment in a state or federal correctional facility, the court shall, if the sentence to be imposed is for a definite term of years, add five years to the time for which the person is or would be otherwise sentenced. Whenever in that case the court imposes an indeterminate sentence, the minimum term shall be twice the term of years otherwise provided for under the sentence.

(c) Notwithstanding any provision of this code to the contrary, when any person is convicted of first degree murder or second degree murder or a violation of §61-8B-3 of this code and it is determined, as provided in §61-11-19 of this code, that the person had been previously convicted in this state of first degree murder,

second degree murder, or a violation of §61-8B-3 of this code, or has been so convicted under any law of the United States or any other state for an offense which has the same or substantially similar elements as any offense described in this subsection, the person shall be punished by imprisonment in a state correctional facility for life and is not eligible for parole.

(d) When it is determined, as provided in §61-11-19 of this code, that the person has been twice previously convicted in the United States of a crime punishable by imprisonment in a state or federal correctional facility which has the same or substantially similar elements as a qualifying offense, the person shall be sentenced to imprisonment in a state correctional facility for life: *Provided*, That prior convictions arising from the same transaction or series of transactions shall be considered a single offense for purposes of this section: *Provided, however*, That the most recent previous qualifying offense which would otherwise constitute a qualifying offense for purposes of this subsection may not be considered if more than 20 years have elapsed between: (1) The release of the person from his or her term of imprisonment or period of supervision resulting from the most recent qualifying offense or the expiration of a period of supervised release resulting from the offense; and (2) the conduct underlying the current charge.

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## CHAPTER 86

**(Com. Sub. for H. B. 4399 - By Delegates Nestor, Kump, and Lewis)**

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[Passed March 9, 2024; in effect ninety days from passage.]

[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §61-11-22, §61-11-22a, and §61-11-25 of the Code of West Virginia, 1931, as amended, relating to general provisions concerning crimes; correcting internal citations; expungement of criminal records; and when a civil action may be filed to expunge criminal records for cases where charges have been dismissed following a full and successful completion of a pretrial diversion or deferred adjudication; relating to exceptions to the allowance to file a civil action for expungement.

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

### **ARTICLE 11. GENERAL PROVISIONS CONCERNING CRIMES.**

#### **§61-11-22. Pretrial diversion agreements; conditions; drug court programs.**

(a) A prosecuting attorney of any county of this state or a person acting as a special prosecutor may enter into a pretrial diversion agreement with a person charged with an offense against the State of West Virginia, when he or she considers it to be in the interests of justice. The agreement is to be in writing and is to be executed in the presence of the person's attorney, unless the person has executed a waiver of counsel.

(b) Any agreement entered into pursuant to the provisions of subsection (a) of this section may not exceed 24 months in duration. The duration of the agreement must be specified in the

agreement. The terms of any agreement entered into pursuant to the provisions of this section may include conditions similar to those set forth in §62-12-9 of this code relating to conditions of probation. The agreement may require supervision by a probation officer of the circuit court, with the consent of the court. An agreement entered into pursuant to this section must include a provision that the applicable statute of limitations be tolled for the period of the agreement.

(c) A person who has entered into an agreement for pretrial diversion with a prosecuting attorney and who has successfully complied with the terms of the agreement is not subject to prosecution for the offense or offenses described in the agreement or for the underlying conduct or transaction constituting the offense or offenses described in the agreement, unless the agreement includes a provision that upon compliance the person agrees to plead guilty or nolo contendere to a specific related offense, with or without a specific sentencing recommendation by the prosecuting attorney.

(d) No person charged with a violation of the provisions of §17C-5-2 of this code may participate in a pretrial diversion program: *Provided*, That a court may defer proceedings in accordance with §17C-5-2b of this code.

(e) No person is eligible for pretrial diversion programs if charged with:

(1) A felony crime of violence against the person where the alleged victim is a family or household member as defined in §48-27-204 of this code;

(2) A violation of §61-8-12 of this code or a felony violation of the provisions of §61-8B-1 *et seq.*, §61-8C-1 *et seq.*, and §61-8D-1 *et seq.* of this code;

(3) A violation of §61-2-9a(a) of this code;

(4) A violation of §61-2-9d of this code;

(5) A violation of § 61-2-28 of this code; or

(6) A violation of §61-2-9 of this code where the alleged victim is a family or household member as defined in §48-27-204 of this code.

**§61-11-22a. Deferred adjudication.**

(a) Upon the entry of a guilty plea to a felony or misdemeanor before a circuit or magistrate court of this state entered in compliance with the provisions of Rule 11 of the West Virginia Rules of Criminal Procedure or Rule 10 of the West Virginia Rules of Criminal Procedure for Magistrate Courts and applicable judicial decisions, the court may, upon motion, defer acceptance of the guilty plea and defer further adjudication thereon and release the defendant upon such terms and conditions as the court deems just and necessary. Terms and conditions may include, but are not limited to, periods of incarceration, drug and alcohol treatment, counseling and participation in programs offered under §62-11A-1 *et seq.*, §62-11B-1 *et seq.*, and §62-11C-1 *et seq.* of this code.

(b) If the offense to which the plea of guilty is entered is a felony, the circuit court may defer adjudication for a period not to exceed three years. If the offense to which the plea of guilty is entered is a misdemeanor, the court may defer adjudication for a period not to exceed two years.

(c) Unless otherwise specified by this section, a person is ineligible for a deferred adjudication program if he or she is charged with;

(1) A felony crime of violence against the person where the alleged victim is a family or household member as defined in §48-27-204 of this code;

(2) A violation of §61-8-12 of this code or a felony violation of the provisions of §61-8B-1 *et seq.*, §61-8C-1 *et seq.*, and §61-8D-1 *et seq.* of this code;

(3) A violation of §61-2-9a(a) of this code;

(4) A violation of §61-2-9d of this code;

(5) A violation of §61-2-28 prosecuted under the provisions of subsections (c) or (d) of that section; or

(6) A violation of §61-2-9(a) of this code, or a violation of §61-2-9(b) or §61-2-9(c) of this code prosecuted under the provisions of subsection (d) of that section, where the alleged victim is a family or household member as defined in §48-27-204 of this code.

(7) A violation of §61-2-9(b) or §61-2-9(c) of this code or §61-2-28(a) or §61-2-28(b) of this code where a weapon was used in the commission of the crime, the defendant has a prior conviction of any of the offenses listed in subsection (c) of this section, the defendant has a prior felony conviction, or the defendant has previously entered into a prior pretrial diversion or deferred adjudication of crimes where the alleged victim is a family or household member as defined in §48-27-203 of this code.

(d) A person charged under §61-2-9a, §61-2-9d, or §61-2-9(a) of this code who has not previously been convicted of any of the offenses set forth in subsection (c) of this section, who has no prior felony conviction, and who has not previously entered into a prior pretrial diversion or deferred adjudication of crimes where the alleged victim is a family or household member as defined in §48-27-204 of this code, is eligible to participate in a deferred adjudication program: *Provided*, That the person is not eligible for dismissal upon successful completion of the deferred period.

(e)(1) A person charged with a first offense violation of §61-2-28(a) or §61-2-28(b) of this code or a violation of §61-2-9(b) or §61-2-9(c) of this code where the alleged victim is a family or household member as defined in §48-27-204 is eligible for deferred adjudication if agreed to by the state and the defendant: *Provided*, That, for purposes of this section, “first offense violation” means the person would not, due to any prior charges or convictions, be subject to the enhancement provisions set forth in §61-2-9(d) or §61-2-28(c) or §61-2-28(d);

(2) In addition to terms and conditions authorized in subsection (a) of this section, a person participating in a deferred adjudication program pursuant to this subsection may be required to participate



in compliance hearings and batterer intervention programs licensed under §48-26-402 of this code;

(3) Notwithstanding the provisions of subsection (b) of this section, a deferral under this subsection shall be for a period of not less than 18 months nor more than three years; and

(4) A person may not participate in more than one deferred adjudication pursuant to this subsection.

(f) If the defendant complies with the court-imposed terms and conditions he or she shall be permitted to withdraw his or her plea of guilty and the matter dismissed or, as may be agreed upon by the court and the parties, enter a plea of guilty or no contest to a lesser offense.

(g) In the event the defendant is alleged to have violated the terms and conditions imposed upon him or her by the court during the period of deferral the prosecuting attorney may file a motion to accept the defendant's plea of guilty and, following notice, a hearing shall be held on the matter.

(h) In the event the court determines that there is reasonable cause to believe that the defendant violated the terms and conditions imposed at the time the plea was entered, the court may accept the defendant's plea to the original offense and impose a sentence in the court's discretion in accordance with the statutory penalty of the offense to which the plea of guilty was entered or impose such other terms and conditions as the court deems appropriate.

(i) The procedures set forth in this section are separate and distinct from that set forth in Rule 11(a)(2) of the West Virginia Rules of Criminal Procedure.

**§61-11-25. Expungement of criminal records for those found not guilty of crimes or against whom charges have been dismissed; expungement of criminal records for those that have successfully completed all requirements of a deferred adjudication or pretrial diversion; exceptions.**

(a) Any person who has been charged with a criminal offense under the laws of this state and who has been found not guilty of the offense, or against whom charges have been dismissed, and not in exchange for a guilty plea to another offense resulting in a conviction, may file a civil petition in the circuit court in which the charges were filed to expunge all records relating to the arrest, charge, or other matters arising out of the arrest or charge. Any person whose charges have been dismissed following a full and successful completion of a pre-trial diversion pursuant to §61-11-22 of this code, or whose charges have been dismissed following the full and successful completion of a deferred adjudication pursuant to §61-11-22a of this code, may file a civil petition in the circuit court for expungement of all charges originally brought, provided that the charges sought to be expunged arose from the same transaction or occurrence, and all records relating to the arrest, charges, or other matters arising out of the arrest or charges may be expunged: *Provided*, That no record in the Division of Motor Vehicles may be expunged by virtue of any order of expungement entered pursuant to §17C-5-2b of this code nor may any charges ultimately dismissed by way of full and successful completion of any deferred adjudication be expunged for violations of §61-2-28(a), §61-2-28(b), §61-2-9(a), §61-2-9a, §61-2-9(b), or §61-2-9(c) of this code where the alleged victim is a family or household member as defined in §48-27-204 of this code: *Provided, further*, That any person who has previously been convicted of a felony may not file a petition for expungement pursuant to this section. The term records as used in this section includes, but is not limited to, arrest records, fingerprints, photographs, index references, or other data whether in documentary or electronic form, relating to the arrest, charge, or other matters arising out of the arrest or charge. Criminal investigation reports and all records relating to offenses subject to the provisions of §15-12-1 *et seq.* of this code because the person was found not guilty by reason of mental illness, intellectual disability, or addiction are exempt from the provisions of this section.

(b) The expungement petition shall be filed not sooner than 60 days following the order of acquittal or dismissal by the court. Any

court entering an order of acquittal or dismissal shall inform the person who has been found not guilty or against whom charges have been dismissed of his or her rights to file a petition for expungement pursuant to this section.

(c) Following the filing of the petition, the court may set a date for a hearing. If the court does so, it shall notify the prosecuting attorney and the arresting agency of the petition and provide an opportunity for a response to the expungement petition.

(d) If the court finds that there are no current charges or proceedings pending relating to the matter for which the expungement is sought, the court may grant the petition and order the sealing of all records in the custody of the court and expungement of any records in the custody of any other agency or official including law enforcement records. Every agency with records relating to the arrest, charge, or other matters arising out of the arrest or charge, that is ordered to expunge records, shall certify to the court within 60 days of the entry of the expungement order, that the required expungement has been completed. All orders enforcing the expungement procedure shall also be sealed.

(e) Upon expungement, the proceedings in the matter shall be considered never to have occurred. The court and other agencies shall reply to any inquiry that no record exists on the matter. The person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application.

(f) Inspection of the sealed records in the court's possession may thereafter be permitted by the court only upon a motion by the person who is the subject of the records or upon a petition filed by a prosecuting attorney that inspection and possible use of the records in question is necessary to the investigation or prosecution of a crime in this state or another jurisdiction. If the court finds that the interests of justice will be served by granting the petition, it may be granted.

(g) There shall be no filing fees charged or costs assessed for filing an action pursuant to this section.

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## CHAPTER 87

**(Com. Sub. for H. B. 4845 - By Delegates Hillenbrand, Chiarelli, McGeehan, C. Pritt, Phillips, Brooks, Shamblin, Thorne, Maynor, Ridenour, and Hanshaw (Mr.Speaker))**

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[Passed March 6, 2024; in effect ninety days from passage.]  
[Approved by the Governor on March 22, 2024.]

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AN ACT to amend and reenact §61-6-20 of the Code of West Virginia, 1931, as amended, relating to increasing the penalties for certain instances of false reporting of an emergency incident, clarifying the applicability of this section; and establishing a protocol for restitution.

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

### **ARTICLE 6. CRIMES AGAINST THE PEACE.**

#### **§61-6-20. Falsely reporting an emergency incident.**

(a) A person is guilty of reporting a false emergency incident when knowing the information reported, conveyed, or circulated is false or baseless, he or she:

(1) Initiates or circulates a false report or warning of or impending occurrence of a fire, explosion, crime, catastrophe, accident, illness, or other emergency under circumstances in which it is likely that public alarm or inconvenience will result or that firefighting apparatus, ambulance apparatus, one or more rescue vehicles or other emergency apparatus might be summoned; or

(2) Reports, by word or action, to any official or quasi-official agency or organization having the function of dealing with emergencies involving danger to life or property, an alleged occurrence or impending occurrence of a fire, explosion, crime, catastrophe, accident, illness, or other emergency in which it is

likely that public alarm or inconvenience will result or that firefighting apparatus, ambulance apparatus, one or more rescue vehicles or other emergency apparatus might be summoned, which did not occur, does not in fact exist; or

(3) Reports to a law-enforcement officer or agency the alleged occurrence of any offense or incident which did not in fact occur, or an allegedly impending occurrence of an offense or incident which is not in fact about to occur, or false information relating to an actual offense or incident or to the alleged implication of some person; or

(4) Without just cause, calls or summons by telephone, fire alarm system, or otherwise, any firefighting apparatus, ambulance apparatus, rescue vehicles, or other emergency vehicles.

(b) Any person who violates the provisions of subsection (a) of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$500 or confined in jail not more than six months, or both fined and confined.

(c) Notwithstanding the provisions of subsection (a) of this section, any person convicted of a second or subsequent violation of the provisions of this section or, of a violation of this section which results in bodily injury to another person is guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than \$10,000, or imprisoned in a state correctional facility for a term of not less than one year nor more than five years, or both fined and imprisoned.

(d) Prior to the sentencing of a person who has been convicted of a violation of this section, the court may enter an order directing any law enforcement agency or emergency service provider involved in the emergency response that wishes to be reimbursed for the costs incurred by the agency or provider during the emergency response, to file with the court within a specified time an itemized statement of those costs. The court may then order the offender to reimburse the agency for all or a portion of those costs.

(e) This section does not apply to any person conducting an authorized emergency drill.

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## CHAPTER 88

**(H. B. 4998 - By Delegates Kirby, Nestor, Brooks,  
Hornbuckle, and E. Pritt)**

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[Passed March 7, 2024; in effect ninety days from passage.]  
[Approved by the Governor on March 26, 2024.]

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AN ACT to amend and reenact §61-3A-3 of the Code of West Virginia, 1931, as amended, relating to modifying the penalties for third offense conviction of shoplifting; eliminating requirement for third offense conviction that the person actually serve one year of confinement or in the alternative home confinement; directing courts to order substance abuse evaluation upon a finding that the defendant is a substance abuser; authorizing directed treatment; and specifying method to determine the number of convictions a defendant has.

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

### **ARTICLE 3A. SHOPLIFTING.**

#### **§61-3A-3. Penalties.**

A person convicted of shoplifting shall be punished as follows:

(a) *First offense conviction.* — Upon a first shoplifting conviction:

(1) When the value of the merchandise is less than or equal to \$500, the person is guilty of a misdemeanor and, shall be fined not more than \$250.

(2) When the value of the merchandise exceeds \$500, the person is guilty of a misdemeanor and, shall be fined not less than \$100 nor more than \$500, and such fine shall not be suspended, or the person shall be confined in jail not more than 60 days, or both.

(b) *Second offense conviction.* — Upon a second shoplifting conviction:

(1) When the value of the merchandise is less than or equal to \$500, the person is guilty of a misdemeanor and, shall be fined not less than \$100 nor more than \$500, and such fine shall not be suspended, or the person shall be confined in jail not more than six months or both.

(2) When the value of the merchandise exceeds \$500, the person is guilty of a misdemeanor and, shall be fined not less than \$500 and shall be confined in jail for not less than six months nor more than one year.

(c) *Third offense conviction.* — Upon a third or subsequent shoplifting conviction, regardless of the value of the merchandise, the person is guilty of a felony and, shall be fined not less than \$500 nor more than \$5000, and shall be imprisoned in a state correctional facility for not less than one year nor more than 10 years. If the court finds that probable cause exists that a person convicted of third or subsequent offense was abusing drugs or alcohol at the time of his or her arrest, it shall order an evaluation of the defendant to determine whether he or she has a substance use disorder. Upon a finding by the Court that the person convicted of a third or subsequent offense suffers from a substance use disorder, the Court may order that the defendant undergo treatment for the substance use disorder as part of his or her sentence.

(d) *Mandatory penalty.* — In addition to the fines and imprisonment imposed by this section, in all cases of conviction for the offense of shoplifting, the court shall order the defendant to pay a penalty to the mercantile establishment involved in the amount of \$50, or double the value of the merchandise involved, whichever is higher. The mercantile establishment shall be entitled to collect such mandatory penalty as in the case of a civil judgment. This penalty shall be in addition to the mercantile establishment's rights to recover the stolen merchandise.

(e) In determining the number of prior shoplifting convictions a defendant has, the court shall count convictions in other

jurisdictions if that jurisdiction's offense has the same essential elements of this section, disregarding the value of the property shoplifted: *Provided*, That regardless of the jurisdiction, the court shall not count prior convictions that occurred more than seven years prior to the date of the third or subsequent offense.



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## CHAPTER 89

**(Com. Sub. for H. B. 5091 - By Delegates Ferrell, Espinosa, DeVault, Mallow, Shamblin, Cannon, Mazzocchi, Tully, Crouse, Adkins, and W. Clark)**

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[Passed March 7, 2024; in effect ninety days from passage.]  
[Approved by the Governor on March 26, 2024.]

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AN ACT to amend and reenact §61-10-34 of the Code of West Virginia, 1931, as amended, relating to the "West Virginia Critical Infrastructure Protection Act"; defining terms; removing the requirement that a critical infrastructure facility be enclosed; including hardware, software, digital property, nuclear reactors, and nuclear components in definition of critical infrastructure facility; clarifying that digital and physical equipment is protected; including damage inflicted by cyber-attack or digital interference as punishable conduct; increasing criminal penalties; creating second offense penalties for a person who willfully damages, destroys, vandalizes, defaces, or tampers with equipment in a critical infrastructure facility causing damage in excess of \$2,500; providing person who buys or receives certain property stolen from a critical infrastructure facility is guilty of larceny; providing exception to larceny for persons acting at the request of law enforcement or in cooperation with law enforcement; providing liability for compensatory and punitive damages in certain circumstances; providing for forfeiture of items of personal property in certain circumstances; and providing that forfeiture be governed by the applicable provisions of the West Virginia Contraband Forfeiture Act.

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

### **ARTICLE 10. CRIMES AGAINST PUBLIC POLICY.**

**§61-10-34. Critical Infrastructure Protection Act; prohibiting certain acts, including trespass and conspiracy to trespass against property designated a critical infrastructure facility; criminal penalties; and civil action.**

(a) This section may be referred to as the "West Virginia Critical Infrastructure Protection Act".

(b) For purposes of this section:

"Critical Infrastructure" means systems and assets, whether physical or virtual, so vital to the United States of America or the State of West Virginia that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, state economic security, national public health or safety, state public health or safety, or any combination of those matters, whether such systems or assets are in operation or are under any state of construction.

"Critical infrastructure facility" means one of the following:

- (1) A petroleum or alumina refinery;
- (2) An electrical power generating facility, substation, switching station, electrical control center or electric power lines, and associated equipment infrastructure;
- (3) A chemical, polymer, or rubber manufacturing facility;
- (4) A water intake structure, water treatment facility, wastewater treatment plant, or pump station;
- (5) A natural gas compressor station;
- (6) A liquid natural gas terminal or storage facility;
- (7) Wireline and wireless telecommunications infrastructure;
- (8) A port, railroad switching yard, trucking terminal, or other freight transportation facility;

(9) A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas or natural gas liquids;

(10) A transmission facility used by a federally licensed radio or television station;

(11) A steelmaking facility that uses an electric arc furnace to make steel;

(12) A facility identified and regulated by the United States Department of Homeland Security Chemical Facility Anti-Terrorism Standards (CFATS) program;

(13) A dam that is regulated by the state or federal government;

(14) A natural gas distribution utility facility including, but not limited to, pipeline interconnections, a city gate or town border station, metering station, below- or above-ground pipeline or piping and truck loading or offloading facility, a natural gas storage facility, a natural gas transmission facility, or a natural gas utility distribution facility;

(15) A crude oil or refined products storage and distribution facility including, but not limited to, valve sites, pipeline interconnections, pump station, metering station, below- or above-ground pipeline or piping, and truck loading or offloading facility;

(16) Military facilities, including national guard facilities and equipment storage areas where non-military personnel are prohibited;

(17) Department of Highways facilities and locations near or on roads or highways where the public is prohibited;

(18) Health care facilities;

(19) Any above-ground portion of an oil, gas, hazardous liquid, or chemical pipeline, tank, or other storage facility that is enclosed by a fence, other physical barrier, or is clearly marked with signs

prohibiting trespassing that are obviously designed to exclude intruders;

(20) A commercial service airport as defined by the Federal Aviation Administration;

(21) Any nuclear reactor and its associated components including, but not limited to, components related to modular or microreactors, cooling technologies, sensors, instrumentation, or storage involved in training or research opportunities; or

(22) The hardware, software, or other digital property of any critical infrastructure facility listed in this subsection.

(c)(1) Any person who willfully and knowingly trespasses or enters property containing a critical infrastructure facility without permission by the owner of the property or lawful occupant thereof is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$250 nor more than \$1,000, or confined in jail not less than 30 days nor more than one year, or both fined and confined. If the intent of the trespasser is to willfully damage, destroy, vandalize, deface, tamper with the physical or digital equipment, or impede or inhibit operations of the critical infrastructure facility, the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000, or confined in a jail for not more than one year, or both fined and confined.

(2) (A) Any person who willfully damages, destroys, vandalizes, defaces, or tampers with the physical or digital equipment in a critical infrastructure facility causing damage, including damage inflicted by cyber-attack or digital interference in excess of \$2,500 is guilty of a felony and, upon conviction thereof, shall be fined not less than \$3,000 nor more than \$10,000, or imprisoned in a state correctional facility for a term of not less than one year nor more than five years, or both fined and imprisoned.

(B) Any person convicted of a second offense under the provisions of this subdivision is guilty of a felony and, upon

conviction thereof, shall be fined not less than \$10,000 nor more than \$15,000, or imprisoned in a state correctional facility for a term of not less than two years nor more than 10 years, or both fined and imprisoned.

(3) Any person who conspires with any person to commit the offense of trespass against a critical infrastructure facility in violation of subdivision (1) of subsection (c) of this section and the trespass actually occurs is guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount of not less than \$250 nor more than \$1,000. Any person who conspires with any person to willfully damage, destroy, vandalize, deface, or tamper with equipment in a critical infrastructure facility and the damage, destruction, vandalization, defacing, or tampering causes damage, including damage inflicted by cyber-attack or digital interference in excess of \$2,500 is guilty of a felony and, shall, upon conviction thereof, be fined not less than \$3,000 nor more than \$10,000.

(d)(1) Any person who is arrested for or convicted of an offense under this section may be held civilly liable for any damages to personal or real property while trespassing, in addition to the penalties imposed by this section.

(2) Any person or entity that compensates, provides consideration to, or remunerates a person for trespassing as described in subdivision (1) of subsection (c) of this section may also be held liable for damages to personal or real property committed by the person compensated or remunerated for trespassing.

(e) A person who buys or receives from another person, aids in concealing, transfers to a person other than the owner thereof, or possesses any stolen goods or other thing of value from a critical infrastructure facility, which he or she knows or has reason to believe has been stolen from a critical infrastructure facility, is guilty of larceny, and may be prosecuted although the principal offender has not been convicted: *Provided*, That possession of stolen goods from a critical infrastructure facility while acting at the request of law enforcement or in cooperation with law enforcement does not constitute a violation of this section. Any

person convicted of an offense under this subsection, in addition the criminal penalties imposed for larceny, is liable to the critical infrastructure facility owner for compensatory damages and, in addition, for punitive damages in an amount not less than three times the amount of the compensatory damages.

(f) The provisions of §61-10-34(c)(1) of this code do not apply to any person or organization:

(1) Monitoring or attentive to compliance with public or worker safety laws, or, wage and hour requirements;

(2) Picketing at the workplace that is otherwise lawful and arises out of a bona fide labor dispute, including any controversy concerning wages, salaries, hours, working conditions, or benefits, including health and welfare, sick leave, insurance, and pension or retirement provisions, the managing or maintenance of collective bargaining agreements, and the terms to be included in those agreements; or

(3) Engaging in union organizing or recruitment activities, including attempting to reach workers verbally, in writing with pamphlets, and investigation of non-union working conditions, or both.

(g) The provisions of this section do not apply to:

(1) The right to free speech or assembly including, but not limited to, protesting and picketing; or

(2) A contractor who has a contractual relationship with a critical infrastructure facility and the contractor's employees are acting within their scope of employment performing work at a critical infrastructure facility.

(h)(1) All items of personal property which are used, have been used, or are intended for use in perpetration of theft or damage to infrastructure are subject to forfeiture.

(2) The items of personal property subject to forfeiture include all conveyances, including aircraft, vehicles, or vessels, except that:

(A) A conveyance used by any person as a common carrier in the transaction of business as a common carrier may not be forfeited under this section unless it appears that the person owning the conveyance is a consenting party or privy to a violation of this section;

(B) A conveyance may not be forfeited under the provisions of this article, unless the state proves by a preponderance of the evidence that the person owning the conveyance knew, or had reason to know, that the conveyance was being employed or was likely to be employed in a violation of this section; and

(C) A bona fide security interest or other valid lien in any conveyance may not be forfeited under the provisions of this article, unless the state proves by a preponderance of the evidence that the holder of the security interest or lien either knew, or had reason to know, that the conveyance was being used or was likely to be used in a violation of this section.

(3) All procedures relating to the seizure and disposition of property subject to forfeiture under the authority of this section are governed by the applicable provisions of the West Virginia Contraband Forfeiture Act, §60A-7-701 *et seq.* of this code.

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## CHAPTER 90

**(Com. Sub. for H. B. 5510 - By Delegates Winzenreid, Garcia, Fluharty, McGeehan, Zatezalo, Westfall, Mallow, and Kimble)**

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[Passed March 8, 2024; in effect ninety days from passage.]  
[Approved by the Governor on March 26, 2024.]

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AN ACT to amend and reenact §61-5-27 of the Code of West Virginia, 1931, as amended, relating to offenses against public officers, public employees, jurors and witnesses; amending and modifying the essential elements of the offenses of intimidation and retaliation; and removing the requirement that there be predicate behavior.

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

### **ARTICLE 5. CRIMES AGAINST PUBLIC JUSTICE.**

**§61-5-27. Intimidation of and retaliation against public officers and employees, jurors, and witnesses; fraudulent official proceedings and legal processes against public officials and employees; making public threats directed at inciting lawless action penalties.**

(a) Definitions. — As used in this section:

"Fraudulent" means not legally issued or sanctioned under the laws of this state or of the United States, including forged, false, and materially misstated;

"Legal process" means an action, appeal, document instrument, or other writing issued, filed, or recorded to pursue a claim against person or property, exercise jurisdiction, enforce a judgment, fine a person, put a lien on property, authorize a search and seizure, arrest a person, incarcerate a person, or direct a person to appear,



perform, or refrain from performing a specified act. "Legal process" includes, but is not limited to, a complaint, decree, demand, indictment, injunction, judgment, lien, motion, notice, order, petition, pleading, sentence, subpoena, summons, warrant, or writ;

"Official proceeding" means a proceeding involving a legal process or other process of a tribunal of this state or of the United States;

"Person" means an individual, group, association, corporation, or any other entity;

"Public official or employee" means an elected or appointed official or employee of a state or federal court, commission, department, agency, political subdivision, or any governmental instrumentality;

"Recorder" means a clerk or other employee in charge of recording instruments in a court, commission, or other tribunal of this state or of the United States; and

"Tribunal" means a court or other judicial or quasi-judicial entity, or an administrative, legislative, or executive body, or that of a political subdivision, created or authorized under the constitution or laws of this state or of the United States.

(b) Intimidation; harassment. — It is unlawful for a person to use intimidation, physical force, harassment, or a fraudulent legal process or official proceeding, or to threaten or to attempt to do so, with the intent to:

(1) Impede or obstruct a public official or employee from performing his or her official duties;

(2) Impede or obstruct a juror or witness from performing his or her official duties in an official proceeding;

(3) Influence, delay, or prevent the testimony of any person in an official proceeding; or

(4) Cause or induce a person to: (A) Withhold testimony, or withhold a record, document or other object from an official proceeding; (B) Alter, destroy, mutilate, or conceal a record, document, or other object impairing its integrity or availability for use in an official proceeding; (C) Evade an official proceeding summoning a person to appear as a witness or produce a record, document, or other object for an official proceeding; or (D) Be absent from an official proceeding to which such person has been summoned.

(c) Retaliation. — It is unlawful for a person to cause injury or loss to person or property, or to threaten or to attempt to do so, with the intent to:

(1) Retaliate against a public official or employee for the performance or nonperformance of an official duty;

(2) Retaliate against a juror or witness for performing his or her official duties in an official proceeding; or

(3) Retaliate against any other person for attending, testifying, or participating in an official proceeding, or for the production of any record, document, or other object produced by a person in an official proceeding.

(d) Penalty. — A person convicted of an offense under subsections (b) or (c) of this section is guilty of a felony and shall be confined in a state correctional facility not less than one nor more than 10 years, fined not more than \$2,000, or both fined and confined.

(e) Civil cause of action. — A person who violates this section is liable in a civil action to any person harmed by the violation for injury or loss to person or property incurred as a result of the commission of the offense and for reasonable attorney's fees, court costs, and other expenses incurred as a result of prosecuting a civil action commenced under this subsection, which is not the exclusive remedy of a person who suffers injury or loss to person or property as a result of a violation of this section.

(f) Civil sanctions. — In addition to the criminal and civil penalties set forth in this section, any fraudulent official proceeding or legal process brought in a tribunal of this state in violation of this section shall be dismissed by the tribunal and the person may be ordered to reimburse the aggrieved person for reasonable attorney's fees, court costs, and other expenses incurred in defending or dismissing such action.

(1) Refusal to record. — A recorder may refuse to record a clearly fraudulent lien or other legal process against a public official or employee or his or her property. The recorder does not have a duty to inspect or investigate whether a lien or other legal process is fraudulent, nor is the recorder liable for refusing to record a lien or other legal process that the recorder believes is in violation of this section; and

(2) If a fraudulent lien or other legal process against a public official or employee or his or her property is recorded then:

(A) Request to release lien. — The public official or employee may send a written request by certified mail to the person who filed the fraudulent lien or legal process requesting the person to release or dismiss the lien or legal process. If such lien or legal process is not properly released or dismissed within 21 days, then it shall be inferred that the person intended to harass the public official or employee in violation of subsection (b) of this section and shall be subject to the criminal penalties in subsection (d) of this section and any other remedies provided in this section; or

(B) Notice of fraudulent lien. — A government attorney on behalf of the public official or employee may record a notice of fraudulent lien or legal process with the recorder who accepted the lien or legal process for filing. Such notice shall invalidate the fraudulent lien or legal process and cause it to be removed from the records. No filing fee shall be charged for the filing of the notice.

(f) A person's lack of belief in the jurisdiction or authority of this state or of the United States is no defense to prosecution of a civil or criminal action under this section.

(g)(1) Nothing in this section prohibits or in any way limits the lawful acts of legitimate public officials or employees;

(2) Nothing in this section prohibits or in any way limits a person's lawful and legitimate right to freely assemble, express opinions, or designate group affiliation; or

(3) Nothing in this section prohibits or in any way limits a person's lawful and legitimate access to a tribunal of this state or prevents a person from instituting or responding to a lawful action.

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## CHAPTER 91

**(Com. Sub. for H. B. 5662 - By Delegates Kelly, Hott, and Steele)**

[Passed March 7, 2024; in effect ninety days from passage.]

[Approved by the Governor on March 26, 2024.]

AN ACT to amend and reenact §61-8D-1, §61-8D-2, §61-8D-2a, §61-8D-3, §61-8D-3a, §61-8D-4, and §61-8D-4a of the Code of West Virginia, 1931, as amended, all relating to defining terms; providing that a person in position of trust in relation to a child may be held criminally liable for murder of a child by refusal or failure to supply necessities, or by allowing another person to fail or refuse to supply necessities, or the delivery, administration or ingestion of a controlled substance, death of a child by child abuse, child abuse resulting in injury, child abuse creating risk of injury, female genital mutilation, child neglect resulting in injury, child neglect creating risk of injury, child neglect resulting in death; and limiting application of exceptions to criminal penalties in certain circumstances.

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

### **ARTICLE 8D. CHILD ABUSE.**

#### **§61-8D-1. Definitions.**

In this article, unless a different meaning is plainly required:

(1) "Abuse" means the infliction upon a minor of physical injury by other than accidental means.

(2) "Child" means any person under eighteen years of age not otherwise emancipated by law.

(3) "Controlled substance" means controlled substance as that term is defined in §60A-1-101(d) of this code.

(4) "Custodian" means a person over the age of 14 years who has or shares actual physical possession or care and custody of a child on a full-time or temporary basis, regardless of whether that person has been granted custody of the child by any contract, agreement, or legal proceeding. "Custodian" shall also include, but not be limited to, the spouse of a parent, guardian or custodian, or a person cohabiting with a parent, guardian or custodian in the relationship of husband and wife, where the spouse or other person shares actual physical possession or care and custody of a child with the parent, guardian or custodian.

(5) "Guardian" means a person who has care and custody of a child as the result of any contract, agreement or legal proceeding.

(6) "Gross neglect" means reckless or intentional conduct, behavior, or inaction by a parent, guardian or custodian, or person in a position of trust in relation to a child, that evidences a clear disregard for a minor child's health, safety, or welfare.

(7) "Neglect" means the unreasonable failure by a parent, guardian or custodian, or person in a position of trust in relation to a child, to exercise a minimum degree of care to assure the minor child's physical safety or health. For purposes of this article, the following do not constitute "neglect" by a parent, guardian or custodian, or person in a position of trust in relation to a child:

(A) Permitting a minor child to participate in athletic activities or other similar activities that if done properly are not inherently dangerous, regardless of whether that participation creates a risk of bodily injury;

(B) Exercising discretion in choosing a lawful method of educating a minor child; or

(C) Exercising discretion in making decisions regarding the nutrition and medical care provided to a minor child based upon religious conviction or reasonable personal belief.

(8) "Parent" means the biological father or mother of a child, or the adoptive mother or father of a child.

(9) "Sexual contact" means sexual contact as that term is defined in §61-8B-1 of this code.

(10) "Sexual exploitation" means an act whereby:

(A) A parent, custodian, guardian or other person in a position of trust to a child, whether for financial gain or not, persuades, induces, entices or coerces the child to engage in sexually explicit conduct as that term is defined in §61-8C-1 of this code; or

(B) A parent, guardian, custodian or other person in a position of trust in relation to a child persuades, induces, entices, or coerces the child to display his or her sex organs for the sexual gratification of the parent, guardian, custodian, person in a position of trust or a third person, or to display his or her sex organs under circumstances in which the parent, guardian, custodian or other person in a position of trust knows the display is likely to be observed by others who would be affronted or alarmed.

(11) "Sexual intercourse" means sexual intercourse as that term is defined in §61-8B-1 of this code.

(12) "Sexual intrusion" means sexual intrusion as that term is defined in §61-8B-1 of this code.

(13) A "person in a position of trust in relation to a child" refers to any person who, under law or agreement, is acting in the place of a parent and charged with any of a parent's rights, duties, or responsibilities concerning a child or someone responsible for the general supervision of a child's welfare, or any person who by virtue of his or her occupation or position is charged with any duty or responsibility for the health, education, welfare, or supervision of the child.

**§61-8D-2. Murder of a child by a parent, guardian or custodian or other person, or person in a position of trust in relation to a child, by refusal or failure to supply necessities, or by delivery, administration or ingestion of a controlled substance; penalties.**

(a) If any parent, guardian or custodian, or person in a position of trust in relation to a child, shall maliciously and intentionally cause the death of a child under his or her care, custody or control by his or her failure or refusal to supply the child with necessary food, clothing, shelter, or medical care, then the parent, guardian or custodian, or person in a position of trust in relation to a child shall be is guilty of murder in the first degree.

(b) If any parent, guardian or custodian, or person in a position of trust in relation to a child, shall cause the death of a child under his or her care, custody, or control by knowingly allowing any other person to maliciously and intentionally fail or refuse to supply the child with necessary food, clothing, shelter, or medical care, then the other person and the parent, guardian or custodian, or person in a position of trust in relation to a child are each guilty of murder in the first degree.

(c) The penalty for offenses defined by this section shall be that which is prescribed for murder in the first degree under the provisions of §61-2-2 of this code.

(d) The provisions of this section shall not apply to any parent, guardian or custodian, or person in a position of trust in relation to a child who fails or refuses, or allows another person to fail or refuse, to supply a child under the care, custody, or control of such parent, guardian or custodian, or person in a position of trust in relation to a child with necessary medical care, when such medical care conflicts with the tenets and practices of a recognized religious denomination or order of which the parent, guardian or custodian, or person in a position of trust in relation to a child is an adherent or member: *Provided*, That the provisions of this subsection do not apply to a person in a position of trust in relation to a child who, by virtue of his or her occupation or position, is charged with any duty or responsibility for the health, education, welfare, or supervision of a child.

**§61-8D-2a. Death of a child by a parent, guardian or custodian or other person or person in a position of trust in relation to a child, by child abuse; criminal penalties.**



(a) If any parent, guardian or custodian, or person in a position of trust in relation to a child maliciously and intentionally inflicts upon a child under his or her care, custody, or control substantial physical pain, illness, or any impairment of physical condition by other than accidental means, thereby causing the death of the child, then the parent, guardian or custodian, or person in a position of trust in relation to a child is guilty of a felony.

(b) If any parent, guardian or custodian, or person in a position of trust in relation to a child knowingly allows any other person to maliciously and intentionally inflict upon a child under the care, custody or control of such parent, guardian or custodian, or person in a position of trust in relation to a child substantial physical pain, illness or any impairment of physical condition by other than accidental means, which thereby causes the death of such child, then such other person and such parent, guardian or custodian, or person in a position of trust in relation to a child are each guilty of a felony.

(c) Any person convicted of a felony described in subsection (a) or (b) of this section shall be imprisoned in a state correctional facility for a period of 15 years to life. A person imprisoned pursuant to the provisions of this section is not eligible for parole prior to having served a minimum of 15 years of his or her sentence.

(d) The provisions of this section are not applicable to any parent, guardian or custodian, who, without malice, fails or refuses, or allows another person to, without malice, fail or refuse, to supply a child under the care, custody or control of the parent, guardian or custodian with necessary medical care, when such medical care conflicts with the tenets and practices of a recognized religious denomination or order of which the parent, guardian or custodian is an adherent or member. The provisions of this section are not applicable to any health care provider who fails or refuses, or allows another person to fail or refuse, to supply a child with necessary medical care when the medical care conflicts with the tenets and practices of a recognized religious denomination or order of which the parent, guardian or custodian of the child is an

adherent or member, or where such failure or refusal is pursuant to a properly executed do not resuscitate form.

**\*§61-8D-3. Child abuse resulting in injury; child abuse creating risk of injury; criminal penalties.**

(a) If any parent, guardian or custodian, or person in a position of trust in relation to a child shall abuse a child and by the abuse cause the child bodily injury as the term is defined in §61-8B-1 of this code, then such parent, guardian or custodian, or person in a position of trust in relation to a child is guilty of a felony and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 and imprisoned in a state correctional facility for not less than one nor more than five years, or in the discretion of the court, be confined in jail for not more than one year.

(b) If any parent, guardian or custodian, or person in a position of trust in relation to a child shall abuse a child and by the abuse cause the child serious bodily injury as that term is defined in §61-8B-1 of this code, then such parent, guardian or custodian shall be guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 and committed to the custody of the Division of Corrections not less than two nor more than 10 years.

(c) Any parent, guardian or custodian, or person in a position of trust in relation to a child who abuses a child and by the abuse creates a substantial risk of death or serious bodily injury, as serious bodily injury is defined in §61-8B-1 of this code, to the child is guilty of a felony and, upon conviction thereof, shall be fined not more than \$3,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both.

(d)(1) If a parent, guardian or custodian, or person in a position of trust in relation to a child who has not previously been convicted under this section, §61-8D-4 of this code, or a law of another state or the federal government with the same essential elements abuses a child and by the abuse creates a substantial risk of bodily injury, as bodily injury is defined in §61-8B-1, to the child is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less

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**\*NOTE:** This section was also amended by H. B. 4274 (Chapter 149), which passed prior to this Act.

than \$100 nor more than \$1,000 or confined in jail not more than six months, or both.

(2) For a second offense under this subsection or for a person with one prior conviction under this section, §61-8D-4 of this code, or a law of another state or the federal government with the same essential elements, the parent, guardian or custodian, or person in a position of trust in relation to a child is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,500 and confined in jail not less than 30 days nor more than one year, or both.

(3) For a third or subsequent offense under this subsection or for a person with two or more prior convictions under this section, §61-8D-4 of this code, or a law of another state or the federal government with the same essential elements, the parent, guardian or custodian, or person in a position of trust in relation to a child is guilty of a felony and, upon conviction thereof, shall be fined not more than \$3,000 and imprisoned in a state correctional facility not less than one year nor more than three years, or both.

(e) Any person convicted of a misdemeanor offense under this section:

(1) May be required to complete parenting classes, substance abuse counseling, anger management counseling, or other appropriate services, or any combination thereof, as determined by Department of Human Services through its services assessment evaluation, which shall be submitted to the court of conviction upon written request;

(2) Shall not be required to register pursuant to §15-13-1, *et seq.* of this code; and

(3) Shall not, solely by virtue of the conviction, have his or her custody, visitation, or parental rights automatically restricted.

(f) Nothing in this section shall preclude a parent, guardian or custodian from providing reasonable discipline to a child.

**§61-8D-3a. Female genital mutilation; penalties; definitions.**

(a) Except as otherwise provided in subsection (b) of this section, any person who circumcises, excises or infibulates, in whole or in part, the labia majora, labia minora, or clitoris of a female under the age of 18, or any parent, guardian or custodian, or person in a position of trust in relation to a child, of a female under the age of 18 who allows the circumcision, excision or infibulation, in whole or in part, of the female's labia majora, labia minora, or clitoris, shall be guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than two nor more than 10 years and fined not less than \$1,000 nor more than \$5,000.

(b) A surgical procedure is not a violation of this section if the procedure:

(1) Is necessary to preserve the health of the child on whom it is performed and is performed by a licensed medical professional authorized to practice medicine in this state; or

(2) The procedure is performed on a child who is in labor or has just given birth and is performed for legitimate medical purposes connected with that labor or birth by a licensed medical professional authorized to practice medicine in this state.

(c) A person's belief that the conduct described in subsection (a) of this section: (1) Is required as a matter of custom, ritual or standard practice; or (2) was consented to by the female on which the circumcision, excision, or infibulation was performed shall not constitute a defense to criminal prosecution under subsection (a) of this section.

**\*§61-8D-4. Child neglect resulting in injury; child neglect creating risk of injury; criminal penalties.**

(a) If a parent, guardian or custodian, or person in a position of trust in relation to a child neglects a child and by the neglect causes the child bodily injury, as bodily injury is defined in §61-8B-1 of this code, then the parent, guardian or custodian, or person in a position of trust in relation to a child is guilty of a felony and, upon conviction thereof, shall be fined not less than \$100 nor more than

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**\*NOTE:** This section was also amended by H. B. 4274 (Chapter 149), which passed prior to this Act.

\$1,000 or imprisoned in a state correctional facility for not less than one nor more than three years, or in the discretion of the court, be confined in jail for not more than one year, or both.

(b) If a parent, guardian or custodian, or person in a position of trust in relation to a child neglects a child and by such neglect causes the child serious bodily injury, as serious bodily injury is defined in §61-8B-1 of this code, then the parent, guardian or custodian, or person in a position of trust in relation to a child is guilty of a felony and, upon conviction thereof, shall be fined not less than \$300 nor more than \$3,000 or imprisoned in a state correctional facility for not less than one nor more than 10 years, or both.

(c) If a parent, guardian or custodian, or person in a position of trust in relation to a child grossly neglects a child and by that gross neglect creates a substantial risk of death or serious bodily injury, as serious bodily injury is defined in §61-8B-1 of this code, of the child then the parent, guardian or custodian, or person in a position of trust in relation to a child is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$3,000 dollars or imprisoned in a state correctional facility for not less than one nor more than five years, or both.

(d)(1) If a parent, guardian or custodian, or person in a position of trust in relation to a child who has not been previously convicted under this section, §61-8D-3 of this code, or a law of another state or the federal government with the same essential elements neglects a child and by that neglect creates a substantial risk of bodily injury, as defined in §61-8B-1 of this code, to the child, then the parent, guardian or custodian, or person in a position of trust in relation to a child is guilty of a misdemeanor and, upon conviction thereof, for a first offense, shall be fined not less than \$100 nor more than \$1,000 or confined in jail not more than six months, or both fined and confined.

(2) For a second offense under this subsection or for a person with one prior conviction under §61-8D-3 of this code or a law of another state or the federal government with the same essential elements, the parent, guardian or custodian, or person in a position

of trust in relation to a child is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 and confined in jail not less than 30 days nor more than one year, or both.

(3) For a third or subsequent offense under this subsection or for a person with two or more prior convictions under this section, §61-8D-3 of this code, or a law of another state or the federal government with the same essential elements, the parent, guardian or custodian, or person in a position of trust in relation to a child is guilty of a felony and, upon conviction thereof, shall be fined not more than \$2,000 and imprisoned in a state correctional facility not less than one year nor more than three years, or both fined and imprisoned.

(e) The provisions of this section shall not apply if the neglect by the parent, guardian or custodian or person in a position of trust in relation to a child is due primarily to a lack of financial means on the part of the parent, guardian or custodian or person in a position of trust in relation to a child.

(f) Any person convicted of a misdemeanor offense under this section:

(1) May be required to complete parenting classes, substance abuse counseling, anger management counseling, or other appropriate services, or any combination thereof, as determined by Department of Human Services through its services assessment evaluation, which shall be submitted to the court of conviction upon written request;

(2) Shall not be required to register pursuant to the requirements of §15-13-1 of this code; and

(3) Shall not, solely by virtue of the conviction, have his or her custody, visitation or parental rights automatically restricted.

#### **§61-8D-4a. Child neglect resulting in death; criminal penalties.**

(a) If any parent, guardian or custodian, or person in a position of trust in relation to a child shall neglect a child under his or her

care, custody or control and by such neglect cause the death of said child, then such parent, guardian or custodian, or person in a position of trust in relation to a child shall be guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 or committed to the custody of the Division of Corrections for not less than three nor more than 15 years, or both fined and imprisoned.

(b) No child who in lieu of medical treatment was under treatment solely by spiritual means through prayer in accordance with a recognized method of religious healing with a reasonable proven record of success shall, for that reason alone, be considered to have been neglected within the provisions of this section. A method of religious healing shall be presumed to be a recognized method of religious healing if fees and expenses incurred in connection with the treatment are permitted to be deducted from taxable income as "medical expenses" pursuant to regulations or rules promulgated by the United States Internal Revenue Service: *Provided*, That the provisions of this subsection do not apply to a person in a position of trust in relation to a child who, by virtue of his or her occupation or position, is charged with any duty or responsibility for the health, education, welfare, or supervision of a child.

(c) A child whose parent, guardian or legal custodian, or person in a position of trust in relation to that child has inhibited or interfered with the provision of medical treatment in accordance with a court order may be considered to have been neglected for the purposes of this section.

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## CHAPTER 92

**(Com. Sub. for S. B. 318 - By Senators Trump, Weld, Woelfel, Deeds, Plymale, and Takubo)**

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[Passed February 9, 2024; in effect 90 days from passage (May 9, 2024)]  
[Approved by the Governor on February 20, 2024.]

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AN ACT to amend and reenact §48-22-502 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §49-4-117, all relating generally to adoption proceedings; requiring certain information to be included in the adoption petition; and requiring Department of Human Services to provide certificate in certain circumstances where parental rights have been terminated.

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

### **CHAPTER 48. DOMESTIC RELATIONS.**

#### **ARTICLE 22. ADOPTION.**

##### **§48-22-502. Petition and appendix.**

(a) The petition shall be verified and set forth:

(1) The name, age, and place of residence of the petitioner or petitioners, and of the child, and the name by which the child is known;

(2) Whether such child is possessed of any property and a full description of the property, if any;

(3) Whether the petitioner or petitioners know the identity of the persons entitled to parental rights or, that the persons are unknown to the petitioner or petitioners;



(4) Whether and on what basis the parental rights of any birth parents should be terminated during the pendency of the adoption petition;

(5) If the parental rights of one or more of the child's birth parents have been terminated by a final order or orders of a court of competent jurisdiction, that the final order or orders terminating the parental rights of the child's birth parents have either: (1) Been affirmed on appeal and the time for reconsideration of the decision on appeal has expired; or (2) not been appealed and the time for filing of an appeal of the order or orders terminating the parental rights of the child's birth parents has expired; and

(6) A copy of the Department of Human Services' certificate issued under §49-4-117 of this code.

(b) In the case of an unknown father, an affidavit signed by the birth mother setting forth the following information must be attached to the petition:

(1) Whether the birth mother was married at the probable time of conception of the child, or at a later time, and if so, the identity and last known address of such man;

(2) Whether the birth mother was cohabiting with a man at the probable time of conception of the child, and if so, the identity of such man, his last known address and why the woman contends that such man is not the biological father of the child;

(3) Whether the birth mother has received payments or promise of support from any man with respect to the child or her pregnancy, and if so, the identity of such man, his last known address and why the birth mother contends that such man is not the biological father of the child;

(4) Whether the birth mother has named any man as the father on the birth certificate of the child or in connection with applying for or receiving public assistance, and if so, the identity of such man, his last known address and why the birth mother contends such man is not the biological father of the child;

(5) Whether the birth mother identified any man as the father to any hospital personnel, and if so, the identity of such man, his last known address, the name and address of the hospital and why the birth mother now contends such man is not the biological father of the child;

(6) Whether the birth mother has informed any man that he may be the biological father of the child, and if so, the identity of such man, his last known address and why the birth mother now contends such man is not the biological father of the child;

(7) Whether any man has formally or informally acknowledged or claimed paternity of the child in any jurisdiction at the time of the inquiry, and if so, the identity of such man, his last known address and why the birth mother contends such man is not the biological father of the child;

(8) That the birth mother has been advised that the failure to identify or the misidentification of the birth father can result in delays and disruptions in the processing of the adoption petition;

(9) That the birth mother has been informed that her statement concerning the identity of the father will be used only for the limited purposes of adoption and that once the adoption is complete, such identity will be sealed; and

(10) That the birth mother has been advised of the remedies available to her for protection against domestic violence pursuant to the provisions of §48-27-101 *et seq.* of this code.

(c) In the event the birth mother is deceased or her identity or whereabouts are unknown, no such affidavit shall be required.

(d) The affidavit of the birth mother in the case of an unknown father shall be executed before any person authorized to witness a consent or relinquishment pursuant to the provisions of §48-22-302 of this code. Any affidavit filed with the petition pursuant to the provisions of this section shall be sealed in the court file and may not be opened except by court order upon a showing of good cause.

(e) If the person petitioning for adoption is less than 15 years older than the child sought to be adopted, such fact shall be set forth specifically in the petition. In such case, the court shall grant the adoption only upon a specific finding that, notwithstanding the differences in age of the petitioner and the child, such adoption is in the best interest of the child: *Provided*, That in the case of a stepparent adoption, such specific finding shall not be required and an adoption shall not be denied on the sole basis of proximity in age.

(f) The petition shall set forth any facts concerning the circumstances of the birth of the child known to the petitioner or petitioners. An effort shall be made to obtain medical and social information, which information, along with all nonidentifying information about the birth, shall accompany the petition and be made a part of the nonidentifying information to be sealed in the court file.

(g) Either the petition, the various consents or relinquishments attached thereto or filed in the cause, the affidavit of the birth mother as set forth herein or in an appendix signed by counsel or other credible persons shall fully disclose all that is known about the parentage of the child.

## **CHAPTER 49. CHILD WELFARE.**

### **ARTICLE 4. COURT ACTIONS.**

#### **§49-4-117. Information provided in certain adoptions.**

In any case where parental rights have been terminated under chapter 49 of this code, the Department of Human Services shall provide a certificate containing the information required by §48-22-502(a)(5) of this code to any person, or the attorney of any person, petitioning to adopt the child or children.

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## CHAPTER 93

**(Com. Sub. for Com. Sub. for S. B. 325 - By Senators Takubo, Plymale, Woodrum, Woelfel, Weld, Hamilton, and Deeds)**

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[Passed March 8, 2024; in effect 90 days from passage (June 6, 2024)]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-8-6a, relating to the distribution of drugs to safety net providers and contract pharmacies; defining terms; penalties; promulgation of rules; and preemption.

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

### **ARTICLE 8. WHOLESALE DRUG DISTRIBUTION LICENSING ACT OF 1991.**

#### **§60A-8-6a. Distribution of safety net drugs to contract pharmacies; penalties; and preemption.**

(a) *Definitions.* — As used in this section:

(1) "340B drug" means a drug that:

(A) Is a covered outpatient drug within the meaning of 42 U.S.C. §256b;

(B) Has been subject to any offer for reduced prices by a manufacturer under 42 U.S.C. §256b(a)(1); and

(C) Is purchased by a covered entity within the meaning of 42 U.S.C. §256b.

(2) "340B entity" has the same meaning as that term is defined in §33-51-3 of this code.

(3) "Biological product" has the same meaning as that term is defined in 42 U.S.C. §262.

(4) "Board of Pharmacy" means the West Virginia Board of Pharmacy, which is the agency of this state authorized to issue and condition licensure and permitting of wholesale drug distributors, third-party logistics providers, and manufacturers.

(5) "Commissioner" means the West Virginia Insurance Commissioner, his or her deputies, or the West Virginia Offices of the Insurance Commissioner.

(6) "Manufacturer" has the same meaning as that term is defined in §60A-8-5 of this code, except that such definition shall include manufacturers of biological products.

(7) "Package" has the same meaning as that term is defined in 21 U.S.C. §360eee(11)(A).

(8) "Pharmacy" has the same meaning as that term is defined in §30-5-4 of this code.

*(b) Distribution of drugs to safety net providers and contract pharmacies. —*

(1) A manufacturer, agent, or affiliate of such manufacturer shall not, either directly or indirectly, deny, restrict, or prohibit the acquisition of a 340B drug by, or delivery of a 340B drug to, a location authorized by a 340B entity to receive such 340B drug, unless the receipt of the 340B drug is prohibited by the United States Department of Health and Human Services.

(2) A manufacturer, agent, or affiliate of such manufacturer shall not, either directly or indirectly, require a 340B entity to submit any claims or utilization data as a condition for allowing the acquisition of a 340B drug by, or delivery of a 340B drug to, a 340B entity unless the claims or utilization data sharing is required by the United States Department of Health and Human Services.

*(c) Penalties and investigations. —*

(1) The commission of any act prohibited by subsection (b) of this section constitutes:

(A) A violation of §46A-6-104 of this code and shall subject the violator to a civil penalty of \$50,000 per each violation, as well as any and all actions, including investigative demands, remedies, and penalties provided for in §46A-7-101 *et seq.* of this code, except that there shall be no right to bring a private cause of action; and

(B) A violation of §33-11-1 *et seq.* of this code and shall subject the violator to any and all actions, including cease and desist orders, civil penalties, and restitution provided for in §33-11-6 of this code, except that there shall be no right to bring a private cause of action.

(2) Each package of 340B drugs determined to be subject to a prohibited act under subsection (b) of this section constitutes a separate violation under this section.

(3) Upon receipt by the Board of Pharmacy of a complaint that a manufacturer has violated subsection (b) of this section, the Board of Pharmacy:

(A) May investigate the complaint, including by investigating the manufacturer or any agent, affiliate, or contractor thereof, including any wholesaler or third-party logistics provider that may possess evidence supporting such complaint; and

(B) Shall consider appropriate penalties, including imposing discipline, or suspending, or revoking the license or permit of any manufacturer; and

(C) Shall share the results of the investigation with the Attorney General and commissioner if an investigation is conducted.

(3) The Board of Pharmacy and commissioner may promulgate rules to implement the provisions of subsection (b) of this section.

(d) *Preemption.* —

(1) Nothing in this section is to be construed or applied to be less restrictive than any federal law as to any person or other entity regulated by this section. Nothing in this section is to be construed or applied to be in conflict with any of the following:

(A) Applicable federal law and related regulations.

(B) Other laws of this state, if the state law is compatible with applicable federal law.

(2) Limited distribution of a drug required under 21 U.S.C. §355-1 is not to be construed as a violation of this section.

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## CHAPTER 94

### (H. B. 4252 - By Delegate Steele)

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[Passed January 31, 2024; in effect ninety days from passage.]  
[Approved by the Governor on February 7, 2024.]

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AN ACT to amend the Code of West Virginia, 1931, as amended by adding thereto a new article, designated as §48-28B-1, §48-28B-2, §48-28B-3, §48-28B-4, and §48-28B-5, all relating to establishing a process to recognize and enforce Canadian domestic violence protective orders, short title, definitions, enforcement of Canadian domestic violence protective orders by law enforcement, enforcement of Canadian domestic violence protective orders by a court, and registration of a Canadian domestic violence protective order.

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

### **ARTICLE 28B. UNIFORM RECOGNITION AND ENFORCEMENT OF CANADIAN DOMESTIC VIOLENCE PROTECTIVE ORDERS ACT**

#### **§48-28B-1. Short Title**

This article may be cited as the Uniform Recognition and Enforcement of Canadian Domestic-Violence Protective Orders Act.

#### **§48-28B-2. Definitions.**

"Canadian domestic violence protective order" means a judgment or part of a judgment or order issued in a civil proceeding by a court of Canada under law of the issuing jurisdiction which relates to domestic violence and prohibits a respondent from:



(1) Being in physical proximity to a protected individual or following a protected individual;

(2) Directly or indirectly contacting or communicating with a protected individual or other individual described in the order;

(3) Being within a certain distance of a specified place or location associated with a protected individual; or

(4) Molesting, annoying, harassing, or engaging in threatening conduct directed at a protected individual.

"Domestic violence protective order" means an injunction or other order issued by a court which relates to domestic or family violence laws to prevent an individual from engaging in violent or threatening acts against, harassment of, direct or indirect contact or communication with, or being in physical proximity to another individual.

"Issuing court" means the court that issues a Canadian domestic violence protective order.

"Law-enforcement officer" means an individual authorized by law of this state to enforce a domestic protective order.

"Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

"Protected individual" means an individual protected by a Canadian domestic- violence protective order.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Respondent" means an individual against whom a Canadian domestic-violence protective order is issued.

"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the

United States. The term includes a federally recognized Indian tribe.

"Court" means a court, agency, or other entity authorized by law of this state to establish, enforce, or modify a domestic protective order.

**§48-28B-3. Enforcement of Canadian Domestic Violence Protective Order by Law Enforcement Officer.**

(a) If a law-enforcement officer determines under subsection (b) or (c) of this section that there is probable cause to believe a valid Canadian domestic violence protective order exists and the order has been violated, the officer shall enforce the terms of the Canadian domestic violence protective order as if the terms were in an order of a court. Presentation to a law-enforcement officer of a certified copy of a Canadian domestic violence protective order is not required for enforcement.

(b) Presentation to a law-enforcement officer of a record of a Canadian domestic violence protective order that identifies both a protected individual and a respondent and on its face is in effect constitutes probable cause to believe that a valid order exists.

(c) If a record of a Canadian domestic violence protective order is not presented as provided in subsection (b) of this section, a law-enforcement officer may consider other information in determining whether there is probable cause to believe that a valid Canadian domestic-violence protective order exists.

(d) If a law enforcement officer determines that an otherwise valid Canadian domestic violence protective order cannot be enforced because the respondent has not been notified of or served with the order, the officer shall notify the protected individual that the officer will make reasonable efforts to contact the respondent, consistent with the safety of the protected individual. After notice to the protected individual and consistent with the safety of the individual, the officer shall make a reasonable effort to inform the respondent of the order, notify the respondent of the terms of the order, provide a record of the order, if available, to the respondent,

and allow the respondent a reasonable opportunity to comply with the order before the officer enforces the order.

(e) If a law enforcement officer determines that an individual is a protected individual, the officer shall inform the individual of available local victim services.

#### **§48-28B-4. Enforcement of Canadian Domestic Violence Protective Order by Court**

(a) A court may issue an order enforcing or refusing to enforce a Canadian domestic violence protective order on application of a:

(1) Person authorized by law of this state, other than this act, to seek enforcement of a domestic violence protective order; or

(2) Respondent.

(b) In a proceeding under subsection (a) of this section, the court shall follow the procedures of this state for enforcement of a domestic violence protective order as contained in the West Virginia Rules of Practice and Procedure for Domestic Violence. An order entered under this section is limited to the enforcement of the terms of the Canadian domestic violence protective order as defined in §48-28B-2 of this code.

(c) A Canadian domestic violence protective order is enforceable under this section if:

(1) The order identifies a protected individual and a respondent;

(2) The order is valid and in effect;

(3) The issuing court had jurisdiction over the parties and the subject matter under law applicable in the issuing court;

(4) The order was issued on a basis for which a domestic violence protective order would be issued in this state for conduct that would constitute domestic violence under this code; and

(5) The order was issued after:

(A) The respondent was given reasonable notice and had an opportunity to be heard before the court issued the order; or

(B) In the case of an ex parte order, the respondent was given reasonable notice and had or will have an opportunity to be heard within a reasonable time after the order was issued, in a manner consistent with the right of the respondent to due process.

(d) A Canadian domestic violence protective order valid on its face is prima facie evidence of its enforceability under this article.

(e) A claim that a Canadian domestic violence protective order does not comply with subsection (c) of this section is an affirmative defense in a proceeding seeking enforcement of the order. If the court determines that the order is not enforceable, the court shall issue an order that the Canadian domestic violence protective order is not enforceable under this section, and §48-28B-3 of this code, and may not be registered pursuant to the requirements of §48-28B-5 of this code.

(f) This section applies to enforcement of a provision of a Canadian domestic violence protective order against a party to the order in which each party is a protected individual and respondent only if:

(1) The party seeking enforcement of the order filed a pleading requesting the order from the issuing court; and

(2) The court made specific findings that entitled the party to the enforcement sought.

#### **§48-28B-5. Registration of a Canadian Domestic Violence Protective Order.**

(a) Any individual may register a Canadian domestic violence protective order in this State by presenting a certified copy of the order to the West Virginia Supreme Court of Appeals for registration in accordance with §48-27-802 of this code.

(b) An individual registering a Canadian domestic violence protective order shall file an affidavit by the protected individual

stating that, to the best of the protected individual's knowledge, the order is currently in effect.

(c) Upon receipt of a Canadian domestic violence protective order for registration, the West Virginia Supreme Court of Appeals shall:

(1) Register the order in accordance with §48-27-802 of this code; and

(2) Furnish to the individual registering the order a copy of the proof of registration of the order.

(d) A registered Canadian domestic violence protective order that is shown to be inaccurate or not currently in effect shall be corrected or removed from the registry.

(e) A Canadian domestic violence protective order registered under this article may be entered in any existing state or federal registry of protection orders in accordance with applicable law.

(f) A fee may not be charged for the registration of a Canadian domestic violence protective order.

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## CHAPTER 95

**(Com. Sub. for H. B. 4999 - By Delegates Kirby, Steele,  
Brooks, and C. Pritt)**

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[Passed March 8, 2024; in effect ninety days from passage.]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §57-3-3 of the Code of West Virginia, 1931, as amended, relating to expanding the exception to spousal testimonial privilege to include cases of offenses committed against the grandchildren of either spouse, or minor, as defined in §2-2-10 of this code, or any person deemed incompetent by mental disease, defect, or other disability.

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

### **ARTICLE 3. COMPETENCY OF WITNESSES.**

#### **§57-3-3. Testimony of husband and wife in criminal cases.**

In criminal cases husband and wife shall be allowed, and, subject to the rules of evidence governing other witnesses, may be compelled to testify in behalf of each other, but neither shall be compelled, nor, without the consent of the other, allowed to be called as a witness against the other except in the case of a prosecution for an offense committed by one against the other, or against the child, grandchild, father, mother, sister or brother of either of them, or minor, as defined in §2-2-10 of this code, or any person deemed incompetent by mental disease, defect, or other disability. The failure of either husband or wife to testify, however, shall create no presumption against the accused, nor be the subject of any comment before the court or jury by anyone.

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## CHAPTER 96

**(Com. Sub. for S. B. 354 - By Senators Jeffries, Maynard,  
Swope, Phillips, Plymale, and Woodrum)**

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[Passed February 14, 2024; in effect 90 days from passage]  
[Approved by the Governor on February 23, 2024.]

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-11-1, §5B-11-2, §5B-11-3, and §5B-11-4, all relating to creating the West Virginia Advanced Energy and Economic Corridor Authority; providing for legislative findings; appointing authority members; providing for terms of membership; providing for certain membership and meeting requirements; providing that members are not compensated; providing for certain powers and duties; and requiring annual reporting to the Joint Committee on Government and Finance.

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

### **ARTICLE 11. WEST VIRGINIA ADVANCED ENERGY AND ECONOMIC CORRIDOR AUTHORITY.**

#### **§5B-11-1. Legislative findings.**

The Legislature finds that the Advanced Energy and Economic Corridor, once known as Tug-Ohio-Levisa-Sandy Improvement Association (TOLSIA) and the King Coal Highway, which runs through the counties of McDowell, Mercer, Mingo, Wayne, and Wyoming has undergone significant challenges owing to widespread changes in the national and global economies; and every effort should be made to assist the transformation of these regional economies by providing guidance to local governments, businesses, and industries to maximize economic development and diversification of those economies. As part of the National

Highway System's I-73/74 corridor from northern Michigan to eastern South Carolina, the Advanced Energy and Economic Corridor, will not only foster greater transportation efficiencies, but will also provide vital connectivity to burgeoning markets, resulting in both job creation and economic expansion in southern West Virginia.

The economic development agencies along this corridor are aligning efforts to embrace the expansion of the energy and economic development policies adopted by the West Virginia Legislature as a tool for economic development and are focused on efforts to transform and revitalize the region by fostering partnerships and initiatives which are complementary and supportive of existing successful industries in West Virginia.

The Legislature, by enactment of this article, intends to facilitate implementation of critical and time-sensitive opportunities for economic development along the Advanced Energy and Economic Corridor by establishing an authority, known as the West Virginia Advanced Energy and Economic Corridor Authority (authority), to facilitate assistance to these local entities comprised of the economic development agencies of McDowell, Mercer, Mingo, and Wayne counties.

**§5B-11-2. Advanced Energy and Economic Corridor Authority created; membership; terms; meetings; quorum; compensation and expenses; assistance from Department of Economic Development.**

(a) The Advanced Energy and Economic Corridor Authority (authority) is hereby created as an independent body corporate. It shall consist of the following 15 members who are involved in economic, commercial, or industrial development in the geographic region of the authority:

(1) A representative of the economic development agency of McDowell County;

(2) A representative of the economic development agency of Mercer County;



(3) A representative of the economic development agency of Mingo County;

(4) A representative of the economic development agency of Wayne County;

(5) A representative of the economic development agency of Wyoming County;

(6) A representative of the Region 1 Planning and Development Council;

(7) A representative of the Region 2 Planning and Development Council; and

(8) The following seven members appointed by the Governor, or his or her designee:

(A) A representative from businesses and industries located in the state;

(B) An economic development representative from a utility company that provides service to the corridor region;

(C) Four private sector representatives from the technology, energy, advanced manufacturing, and aviation, aerospace, or advanced air mobility sectors in the corridor region; and

(D) Two at-large members from regions and counties along the corridor who have knowledge and experience in local issues, economic development, and other areas of expertise.

(b) Each member shall serve a term of five years. Members may be reappointed to additional terms and, upon expiration of their respective terms, shall continue to serve until their successor has been appointed. The chair, vice-chair, and officers shall be selected annually by majority vote of the members. The chair shall schedule meetings and set the agenda for each meeting.

(c) A majority of members, in person or by real-time electronic communication, constitutes a quorum to conduct business at a meeting.

(d) If a member of the authority must recuse himself or herself because of a perceived or actual conflict of interest, a majority of the remaining members of the authority without a conflict shall be sufficient for the conduct of authority business.

(e) Members are not entitled to compensation for services performed as members.

### **§5B-11-3. Powers and duties of the authority.**

(a) The authority shall have, but not be limited to, the following powers and duties:

(1) Set specific tactical goals and demonstrable objectives via input from member counties and communities;

(2) Maintain an inclusive, rather than constraining, geographic focus on economic development;

(3) Seek out private-public partnerships to achieve its vision;

(4) Foster partnerships with groups in other states that follow the I-73/74 corridor to help build broad support for the economic development and infrastructure projects undertaken;

(5) Propose legislation for bonding and tax credits to facilitate economic development along the corridor;

(6) Seek governmental engagement for guidance on local, state, regional or national initiatives to achieve economic development objectives;

(7) Utilize cutting-edge technologies and innovation platforms where their applications will be most beneficial;

(8) Propose legislation to allow regulatory flexibility along corridor expanded boundaries;

(9) Develop a memorandum of understanding with the Appalachian Regional Commission in areas of economic development, transportation, tourism, infrastructure, technology,

and other areas beneficial to the member counties and communities, and the state; and

(10) Develop economic and tourism asset portfolios for inclusion of the authority's vision; and

(11) Apply for tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.

(b) The authority may also exercise all powers necessary or appropriate to carry out the purposes of this article including, but not limited to, the following:

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

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

(3) Mortgage or otherwise grant security interests on its property;

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

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

(6) Contract for the provision of legal services by private counsel and, notwithstanding any other provision of the code to the contrary, the counsel may, in addition to the provisions of other legal services, represent the authority in court, negotiate contracts and other agreements on behalf of the authority, render advice to the authority on any matter relating to the authority, prepare contracts and other agreements, and provide such other legal services as may be requested by the authority;

(7) Appoint officers, agents, and employees and to contract for and engage the services of consultants;

(8) Make contracts of every kind and nature and to execute all instruments necessary or convenient for carrying on its business, including contracts with any other governmental agency of this state or of the federal government or with any person, individual, partnership, or corporation to effect any or all of the purposes of this article;

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

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

(c) No liability or obligation is incurred by the authority beyond the extent to which money is awarded for grant acquisition facilitation.

#### **§5B-11-4. Report to the Legislature.**

On or before December 1, 2024, and annually thereafter, the authority shall prepare and submit to the Joint Committee on Government and Finance a written report, which may be transmitted electronically, detailing its undertakings for the past year, including, but not limited to, all projects and any private-public partnerships entered into, as well as any recommended legislation or policy actions needed to facilitate greater economic development along the Advanced Energy and Economic Corridor.

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## CHAPTER 97

### **(S. B. 461 - By Senators Swope, Weld, Oliverio, Plymale, and Queen)**

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[Passed March 9, 2024; in effect 90 days from passage (June 7, 2024)]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §7-22-9 of the Code of West Virginia, 1931, as amended, relating to county economic opportunity development districts; extending when the Fort Henry Economic Opportunity Development District may be abolished or terminated; and increasing the land area within the Ridges Economic Opportunity Development District subject to the special district excise tax.

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

### **ARTICLE 22. COUNTY ECONOMIC OPPORTUNITY DEVELOPMENT DISTRICTS.**

#### **§7-22-9. Authorization to levy special district excise tax.**

(a) General. — County commissions have no inherent authority to levy taxes and have only that authority expressly granted to them by the Legislature. The Legislature is specifically extended, and intends by this article, to exercise certain relevant powers expressed in section six-a, article X of the Constitution of this state as follows: (1) The Legislature may appropriate state funds for use in matching or maximizing grants-in-aid for public purposes from the United States or any department, bureau, commission or agency thereof, or any other source, to any county, municipality or other political subdivision of the state, under such circumstances and subject to such terms, conditions and restrictions as the Legislature may prescribe by law; and (2) the Legislature may impose a state tax or taxes, or dedicate a state tax or taxes, or any portion thereof

for the benefit of, and use by, counties, municipalities, or other political subdivisions of the state for public purposes, the proceeds of any such imposed or dedicated tax or taxes or portion thereof to be distributed to such counties, municipalities or other political subdivisions of the state under such circumstances and subject to such terms, conditions and restrictions as the Legislature may prescribe.

Because a special district excise tax would have the effect of diverting, for a specified period of years, tax dollars which to the extent, if any, are not essentially incremental to tax dollars currently paid into the General Revenue Fund of the state, the Legislature finds that in order to substantially ensure that such special district excise taxes will not adversely impact the current level of the General Revenue Fund of the state, it is necessary for the Legislature to separately consider and act upon each and every economic development district which is proposed, including the unique characteristics of location, current condition and activity of and within the area included in such proposed economic opportunity development district and that for such reasons a statute more general in ultimate application is not feasible for accomplishment of the intention and purpose of the Legislature in enacting this article. Therefore, no economic opportunity development district excise tax may be levied by a county commission until after the Legislature expressly authorizes the county commission to levy a special district excise tax on sales of tangible personal property and services made within district boundaries approved by the Legislature.

(b) Authorizations. — The Legislature authorizes the following county commissions to levy special district excise taxes on sales of tangible personal property and services made from business locations in the following economic opportunity development districts:

(1) The Ohio County Commission may levy a special district excise tax for the benefit of the Fort Henry Economic Opportunity Development District which comprises 500 contiguous acres of land. Notwithstanding the time limitations provisions of subdivision (2), subsection (a), section fifteen of this article, the

Fort Henry Economic Opportunity Development District shall not be abolished under subdivision (2), subsection (a), section fifteen of this article until the year 2054, unless sooner abolished and terminated in accordance with the provisions of subdivision (1), subsection (a), section fifteen of this article or any other provision of this code, or sooner abolished for any other reason: *Provided*, That on December 31, 2054, the provisions of subdivision (2), subsection (a), section fifteen of this article shall apply to abolish the Fort Henry Economic Opportunity Development District, if the district has not been abolished prior to that date.

(2) The Harrison County Commission may levy a special district excise tax for the benefit of the Charles Pointe Economic Opportunity Development District which comprises 437 acres of land.

(3) The Monongalia County Commission may levy a special district excise tax for the benefit of the University Town Centre Economic Opportunity Development District which comprises approximately 1,450 contiguous acres of land. Notwithstanding the time limitations provisions of §7-22-15(a)(2) of this code, the University Town Centre Economic Opportunity Development District shall not be abolished pursuant to §7-22-15(a)(2) of this code until the year 2053, unless sooner abolished and terminated in accordance with the provisions of subdivision §7-22-15(a)(1) of this code or any other provision of this code, or sooner abolished for any other reason: *Provided*, That on December 31, 2053, the provisions of §7-22-15(a)(2) of this code shall apply to abolish the University Town Centre Economic Opportunity Development District, if the district has not been abolished prior to that date.

(4) The Jefferson County Commission may levy a special district excise tax for the benefit of the Hill Top House Hotel Economic Opportunity District which comprises approximately 11 contiguous acres of land: *Provided*, That notwithstanding any other provision of this article to the contrary:

(A) The Jefferson County Commission may create the district and levy the special district excise tax by order entered of record

as provided in §7-22-10 of this code without the approval of the executive director of the development office; and

(B) The Jefferson County Commission may determine the base district tax, the base tax revenue amount, the gross annual district tax revenue amount, and the estimated net annual district tax revenue amount in lieu of that determination by the development office as provided in §7-22-7 of this code. For purposes of determining the base tax revenue amount, the Jefferson County Commission shall promptly request a certification from the Tax Commissioner of the base tax revenue amount and the Tax Commissioner shall provide the certification to the Jefferson County Commission within thirty days.

(5) The Mercer County Commission may levy a special district excise tax for the benefit of The Ridges Economic Opportunity Development District which comprises approximately 420 contiguous acres of land, subject to holding a public hearing as provided in §7-22-14(c) of this code, submitting the application required by §7-22-14(d) of this code, and obtaining the approval of the West Virginia Development Office as provided in §7-22-14(e) of this code.



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## CHAPTER 98

**(Com. Sub. for S. B. 824 - By Senators Maynard and Caputo)**

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[Passed March 8, 2024; in effect 90 days from passage (June 6, 2024)]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §5B-2-17 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Motorsport Committee; expanding the membership from five to 17 members including the chairperson; and designating the motorsport that shall be represented by the increased membership.

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

### **ARTICLE 2. DEPARTMENT OF ECONOMIC DEVELOPMENT.**

#### **§5B-2-17. West Virginia Motorsport Committee.**

(a) The West Virginia Motorsport Committee is hereby created.

(b) The committee consists of 17 members, including its chairperson, appointed by the Governor to serve at his or her will and pleasure. The committee members shall represent:

- (1) Asphalt oval racing;
- (2) Dirt drag racing;
- (3) Dirt oval racing;
- (4) Drag racing;
- (5) Drift racing;
- (6) Hill climb racing;

- (7) Karting racing;
- (8) Motor cross racing;
- (9) Motorcycle road course racing;
- (10) Mud racing;
- (11) Off-road racing;
- (12) Rallying racing;
- (13) Rallycross racing;
- (14) Road course racing;
- (15) Time Trials racing; and
- (16) Truck/Tractor pulls.

(c) The Secretary of the Department of Tourism and the Secretary of the Department of Economic Development shall also serve on the committee, *ex officio*.

(d) The committee shall:

(1) Work with the existing facilities within the state to enhance existing racing;

(2) Develop a strategy that creates further opportunities, such as encouraging racing training schools, conducting special events, and encouraging special events and the construction of larger in-state racing facilities; and

(3) Seek opportunities to promote economic growth and manufacturing jobs related to motorsports.

(e) The committee shall hold regular meetings, at least quarterly, and conduct public hearings as it considers necessary.

(f) The committee shall report on the status of its duties, goals, accomplishments, and recommendations to the Legislature on at least an annual basis.

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## CHAPTER 99

**(H. B. 4822 - By Delegates Maynor, W. Clark, Willis, Hite,  
Riley, Ward, Hornby, Hardy, Criss, Householder, and  
Rohrbach)**

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[Passed March 7, 2024; in effect ninety days from passage.]  
[Approved by the Governor on March 26, 2024.]

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AN ACT to amend and reenact §5B-2-19 of the Code of West Virginia, 1931, as amended, relating to modifying the monetary amount of grants issued under the Certified Sites and Development Readiness Program under the Department of Economic Development.

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

### **ARTICLE 2. DEPARTMENT OF ECONOMIC DEVELOPMENT.**

#### **§5B-2-19. Certified Sites and Development Readiness Program.**

(a)(1) The Certified Sites and Development Readiness Program is hereby created and is to be administered as a program within the Department of Economic Development with appropriate rules as necessary. The program shall establish evaluation criteria and site certification levels based upon developmental readiness of an applicant's site. In developing the program, the department shall consider utilizing all available resources and technical support, both public and private.

(2) The department shall establish an application process and forms through which an applicant may begin to participate in the program and identify and describe potential sites for economic development and investment. The application process and forms should include site specific information such as property

ownership and control, descriptions and mapping, historical and current uses, access to various forms of transportation, availability of various utility services, environmental studies, conceptual plans, marketing materials, and all other information requested by the department.

(3) Applicants may include only state, county, municipal, or regional governmental entities such as, without limitation, economic development authorities, economic development corporations, economic development alliances, or economic development partnerships.

(4) The department shall select applicant's sites to participate in the program from the application materials. The department will select sites to participate in the program, evaluate the selected sites, and certify each site based upon its readiness to be developed from the established criteria. After evaluation, the department shall provide a report to the applicant detailing the results of the site evaluation, identifying site deficiencies and strengths, and suggesting a prioritized list of site improvements which may be made to improve the site's readiness to develop. The department may thereafter reevaluate and recertify a site as improvements are made to a site and deficiencies cured.

(5) The department may provide to applicants funding assistance up to a 50 percent match through a matching grant program which may be spent only for directly improving the developmental readiness of sites which have been selected to participate in the program. The department shall establish criteria and an application process for awarding matching grants to improve an applicant's site readiness: *Provided*, That no single site may receive any amount greater than a maximum amount established by the department through this grant matching program. Applications for this grant matching program must include details which specifically identify what deficiency or deficiencies will be cured and through what means and all other information required by the department. Grant matching funds must be spent, contracted to be spent, or returned to the department within 12 months of the date of receipt of the grant matching funds. Grant matching funds shall be paid back to the department when a

participating site is sold or leased for development. The department shall take prudent steps to receive a security interest in a participating site in the amount of the grant matching funds award including, but not limited to, placing of record in the county where the participating site is located, an appropriate lien against the title. All funds repaid under this section shall remain within the program for use on participating sites. The department shall monitor, and request appropriate evidence documenting the cured deficiencies and thereafter reevaluate and recertify a participating site as part of this grant matching program.

(6) The department may provide funding assistance to applicants through a micro grant program which may be spent only for directly improving the developmental readiness of sites which have been selected to participate in the program. The department shall establish criteria and an application process for awarding the micro grants to improve an applicant's site readiness: *Provided*, That no single site may receive any amount greater than \$75,000 through this micro grant program. Applications for this micro grant program must include details which specifically identify what deficiency or deficiencies will be cured and through what means and all other information required by the department. Micro grant funds must be spent, contracted to be spent, or returned to the department within 12 months of the date of receipt of the micro grant funds. All funds returned under this section shall remain within the program for use on participating sites. The department shall monitor and request appropriate evidence documenting the cured deficiency and thereafter reevaluate and recertify a participating site as part of this micro grant program.

(b) (1) The Certified Sites and Development Readiness Fund is hereby created. The fund shall be administered by the Department of Economic Development and shall consist of all moneys made available for the purposes from:

(A) Appropriations provided by the Legislature;

(B) Any moneys available from external sources; and

(C) All interest and other income earned from investment of moneys in the fund.

(2) The Department of Economic Development shall use moneys in the fund to support The Certified Sites and Development Readiness Program.

(3) Any balance, including accrued interest and any other returns, in the fund at the end of each fiscal year may not expire to the General Revenue Fund but shall remain in the fund and be expended for the purposes provided by this section.

(4) Fund balances may be invested under §12-6C-6 of this code. Earnings on the investments shall be used solely for the purposes defined in this section.

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## CHAPTER 100

### (H. B. 5170 - By Delegates Howell and Young)

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[Passed March 6, 2024; in effect ninety days from passage.]

[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §5B-2-14 of the Code of West Virginia, 1931, as amended, to increase local economic development matching grants.

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

#### **ARTICLE 2. DEPARTMENT OF ECONOMIC DEVELOPMENT.**

##### **§5B-2-14. Certified development community program.**

The certified development community program is continued and is transferred to, incorporated in and administered as a program of the Department of Economic Development. The program shall provide funding assistance to the participating economic development corporations or authorities through a matching grant program. The department shall establish criteria for awarding matching grants to the corporations or authorities within the limits of funds appropriated by the Legislature for the program. The matching grants to eligible corporations or authorities are in the amount of \$50,000 for each fiscal year, if sufficient funds are appropriated by the Legislature. The department shall recognize existing county, regional or multicounty corporations or authorities where appropriate.

In developing its plan, the department shall consider resources and technical support available through other agencies, both public and private, including, but not limited to, the state college and university systems; the West Virginia Housing Development Fund; the West Virginia Economic Development Authority; the West

Virginia Parkways, Economic Development and Tourism Authority; the West Virginia Round Table; the West Virginia Chamber of Commerce; Regional Planning and Development Councils; Regional Partnership for Progress Councils; and state appropriations.



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## CHAPTER 101

**(S. B. 146 - By Senators Rucker, Oliverio, Phillips, Roberts,  
Swope, and Hamilton)**

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[Passed March 9, 2024; in effect 90 days from passage (June 7, 2024)]

[Approved by the Governor on March 27, 2024.]

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-19e<sup>†</sup>, relating to requiring the State Superintendent of Schools to create a taskforce to consider options for direct funding of adult education learning centers; declaring legislative findings; providing for membership and meetings of the taskforce; establishing deadlines for the taskforce to be created, to begin its meetings, and for submitting a report of recommendations to the Legislative Oversight Commission on Education Accountability; and establishing sunset date.

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

### **ARTICLE 5. COUNTY BOARD OF EDUCATION.**

#### **§18-5-19e.<sup>†</sup> Adult education taskforce.**

(a) The Legislature finds that:

(1) While adult learning centers are part of the West Virginia Department of Education, that department is not obligated to fund these adult learning centers;

(2) Funding for adult learning centers derives its income from many areas without any regularity;

(3) A taskforce to study and consider funding options, the existing funding sources, and the best approach to provide direct

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<sup>†</sup>**NOTE:** Com. Sub. for H. B. 4986 (Chapter 115), which passed prior to this Act, also created a new Section 19e. Therefore, this has been redesignated as Section 19f for the code.

funding for the adult learning centers would stabilize the regularity of funding these centers.

(b) The State Superintendent of Schools shall establish in the West Virginia Department of Education a taskforce to consider options for direct funding of adult education learning centers.

(c) The taskforce shall include at a minimum the State Superintendent of Schools, or his or her designee, the head of the adult education learning centers, and geographically diverse representatives from the community, including, but not limited to, representation from business and the community college system, appointed by the State Superintendent of Schools, in consultation with the Chancellor for Community and Technical College Education.

(d) The State Superintendent of Schools shall determine the number of members of the taskforce and eligibility to serve.

(e) The meetings of the taskforce shall be open to the public and follow the Open Governmental Meetings Act.

(f) The taskforce shall be created and begin its meetings on or before July 1, 2024, and submit a report of recommendations to the Legislative Oversight Commission on Education Accountability by December 1, 2024.

(g) The provisions of the section shall sunset on December 31, 2025.

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## CHAPTER 102

**(S. B. 172 - By Senators Grady, Rucker, Woodrum, Deeds,  
Swope, and Jeffries)**

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[Passed February 26, 2024; in effect 90 days from passage (May 26, 2024)]  
[Approved by the Governor on March 7, 2024.]

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AN ACT to amend and reenact §18-5A-2 of the Code of West Virginia, 1931, as amended, relating to local school improvement councils; revising council membership requirements; requiring minutes be taken at every council meeting; revising requirements pertaining to annual council meeting regarding the school's academic performance; requiring training on the role and governance of the councils and the production of a document on parent and community leader roles in the councils; and allowing public charter schools to abide by all or some of the local school improvement council requirements.

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

### **ARTICLE 5A. LOCAL SCHOOL INVOLVEMENT.**

#### **§18-5A-2. Local school improvement councils; election and appointment of members and officers; meetings; required meetings with county board; assistance from state board.**

(a) A local school improvement council shall be established at every school, consisting of the following:

- (1) The principal, who serves as an ex officio member of the council and is entitled to vote;
- (2) Three teachers elected by the faculty senate of the school;

(3) Two service persons elected by the service personnel employed at the school, one of whom may be a bus operator who transports students enrolled at the school;

(4) Three parent(s), guardian(s) or custodian(s) of students enrolled at the school elected by the parent(s), guardian(s) or custodian(s) of students enrolled at the school in such manner as may be determined by the principal, one of which may be a representative of the parent-teacher organization. Under no circumstances may a parent member of the council be then employed at that school in any capacity;

(5) Three at-large members appointed by the principal, at least one of whom resides in the school's attendance area, and at least one of whom represents business or industry, neither of whom are eligible for any local school improvement council membership under any of the other elected classes of members;

(6) In the case of vocational-technical schools, comprehensive middle schools and comprehensive high schools, the vocational director or principal, as applicable, shall appoint up to four additional members from any one or more of the following categories: Employer; employer sponsored training program; apprenticeship program; and post-secondary education; and

(7) In the case of a school with students in grade seven or higher, the student body president or other student in grade seven or higher elected by the student body in those grades.

(b) The principal shall arrange for the election of members to the local school improvement council to be held prior to September 15, of each school year to elect a council and shall give notice of the elections at least one week prior to the elections being held. To the extent practicable, all elections to select council members shall be held within the same week.

(c) Parent(s), guardian(s) or custodian(s), teachers and service personnel elected to the council shall serve a two-year term and elections shall be arranged in such a manner that no more than two teachers, no more than two parent(s), guardian(s) or custodian(s)

and no more than one service person are elected in a given year. All other non-ex officio members shall serve one-year terms.

(d) Council members may only be replaced upon death, resignation, failure to appear at three consecutive meetings of the council for which notice was given, or a change in personal circumstances so that the person is no longer representative of the class of members from which appointed. In the case of a vacancy in an elected position, the chair of the council shall appoint another qualified person to serve the unexpired term of the person being replaced or, in the case of an appointed member of the council, the principal shall appoint a replacement as soon as practicable.

(e) As soon as practicable after the election of council members, and no later than October 1, of each school year, the principal shall convene an organizational meeting of the school improvement council. The principal shall notify each member by written or electronic means at least five employment days in advance of the organizational meeting. At this meeting, the principal shall provide each member with the following:

(1) A copy of the current applicable sections of this code;

(2) Any state board rule or regulation promulgated pursuant to the operation of these councils; and

(3) Any information as may be developed by the Department of Education on the operation and powers of local school improvement councils and their important role in improving student and school performance and progress.

(f) The council shall elect from its membership a chair and two members to assist the chair in setting the agenda for each council meeting. The chair shall serve a term of one year. If the chair's position becomes vacant for any reason, the principal shall call a meeting of the council to elect another qualified person to serve the unexpired term. Once elected, the chair is responsible for notifying each member of the school improvement council in writing five employment days in advance of any council meeting.

(g) School improvement councils shall meet at least once every nine weeks or equivalent grading period at the call of the chair or by the petition of three fourths of its members. The principal shall notify each member by written or electronic means at least five employment days in advance of the organizational meeting. The school improvement council shall ensure that minutes are taken at every meeting and made available to the public on the school's website and upon request.

(h) The school improvement council annually shall conduct at least one meeting to engage parents, students, school employees, business partners, trade partners, and other interested parties in a positive and interactive dialogue regarding the school's academic performance and standing as determined by measures adopted by the state board. The dialogue shall include an opportunity for the parents, students, school employees, business partners and other interested parties to make specific suggestions on how to address issues which are seen to affect the school's academic performance which may include, but are not limited to, parent and community involvement, the learning environment, student engagement, attendance, supports for at-risk students, curricular offerings, resources, and the capacity for school improvement. The council shall announce any such meeting 10 employment days in advance. The school improvement council shall ensure that a report of concerns, suggestions, and points raised is produced and made available on the school's website and forwarded to both the county board and the Office of Accountability within the Department of Education or a successor office. The county board shall also post the report on its website.

(i) The local school improvement council of each school deemed to be low performing under the accountability system established by the state board shall meet at least annually with the county board. At any such meeting, the principal and local school improvement council chair, or another member designated by the chair, shall be prepared to address the dialogue at its meeting or meetings to give the parents, students, school employees, business partners and other interested parties an opportunity to make specific suggestions on how to address issues which are seen to

affect the school's academic performance and any other matters as may be requested by the county board as specified in the meeting agenda provided to the council and may further provide any other information, comments or suggestions the local school improvement council wishes to bring to the county board's attention. Anything presented under this subsection shall be submitted to the county board in writing.

(j) Local school improvement councils shall be considered for the receipt of school of excellence awards and competitive grant awards and may receive and expend such grants for the purposes provided. Local school improvement councils may propose alternatives to the operation of the school in accordance with §18-5A-3 of this code and may include in the proposal a request for a waiver of rules and policies of the county board and state board, state superintendent interpretations, and state statutes if necessary to implement the proposal.

(k) In any and all matters which may fall within the scope of both the school improvement councils and the school curriculum teams authorized in §18-5A-5 of this code, the school curriculum teams have jurisdiction.

(l) In order to promote innovations and improvements in the environment for teaching and learning at the school, a school improvement council shall receive cooperation from the school in implementing policies and programs it may adopt to:

(1) Encourage the involvement of parent(s), guardian(s) or custodian(s) in their child's educational process and in the school;

(2) Encourage businesses to provide time for their employees who are parent(s), guardian(s) or custodian(s) to meet with teachers concerning their child's education;

(3) Encourage advice and suggestions from the business community;

(4) Encourage school volunteer programs and mentorship programs;

(5) Foster utilization of the school facilities and grounds for public community activities;

(6) Encourage students to adopt safe and healthy lifestyles; and

(7) Communicate to students the common skills and attributes sought by employers in prospective employees.

(m) Councils may adopt their own guidelines established under this section. In addition, the councils may adopt all or any part of the guidelines proposed by other local school improvement councils, as developed under this section, which are not inconsistent with the laws of this state, the policies of the West Virginia Board of Education or the policies of the county board.

(n) The State Board of Education shall provide assistance to a local school improvement council upon receipt of a reasonable request for that assistance. The state board also may solicit proposals from other parties or entities to provide orientation training for local school improvement council members and may enter into contracts or agreements for that purpose. Any training for members shall meet the guidelines established by the state board.

(o) The state board shall ensure that training in the role and governance of local school improvement councils is provided to principals, county boards, and others the state board determines appropriate, upon employment and every three years thereafter. The state board shall also ensure that a document is produced explaining to parents and community leaders their role in local school improvement councils. This document shall be made available on the West Virginia Department of Education's website and may be distributed to all parents.

(p) Any public charter school established pursuant to §18-5G-1 *et seq.* of this code may, at its discretion, abide by all or some of the local school improvement council requirements of this section and may modify any of the requirements it elects to follow to adapt them to be consistent with the operations of the school.



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## CHAPTER 103

**(Com. Sub. for S. B. 280 - By Senators Grady, Stuart, Taylor,  
Roberts, Phillips, Deeds, Tarr, and Azinger)**

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[Passed March 9, 2024; in effect 90 days from passage (June 7, 2024)]  
[Approved by the Governor on March 22, 2024.]

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-41a, relating to allowing a public school classroom teacher to respond to student inquiries or answer student questions about scientific theories of how the universe and/or life came to exist.

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

### **ARTICLE 5. COUNTY BOARD OF EDUCATION.**

#### **§18-5-41a. Allowing discussion of certain scientific theories.**

No public school board, school superintendent, or school principal may prohibit a public school classroom teacher from responding to student inquiries or answering questions from students about scientific theories of how the universe and/or life came to exist.

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## CHAPTER 104

**(Com. Sub. for S. B. 466 - By Senators Clements, Barrett, Deeds, Grady, Hamilton, Hunt, Oliverio, Phillips, Stuart, Chapman, Roberts, and Taylor)**

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[Passed March 8, 2024; in effect 90 days from passage (June 6, 2024)]  
[Approved by the Governor on March 20, 2024.]

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-44, relating to requiring the West Virginia Board of Education to develop a Safety While Accessing Technology education program; specifying topics of instruction to be included in the program; allowing the state board to develop and provide age-appropriate instructional materials and resources to assist county boards in establishing and implementing the program; requiring each county board to adopt policies requiring all elementary and secondary schools in the district to provide the education program to students in grades three through 12 at least once each school year; requiring policies to include process for parent, guardian, or custodian to review program instructional materials; requiring policies to include option for parent, guardian, or custodian to opt his or her child out of program participation; making implementation of program effective for the 2025-2026 school year; and requiring program to be based on certain concepts.

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

### **ARTICLE 2. STATE BOARD OF EDUCATION.**

#### **§18-2-44. Safety While Accessing Technology education program; annual instruction required.**

(a) The state board shall, in collaboration with law-enforcement agencies, criminal justice agencies, and other

nongovernmental organizations with experience in child online safety issues and human trafficking prevention, develop a Safety While Accessing Technology (SWAT) education program for elementary and secondary school students in the State of West Virginia. The SWAT education program shall include instruction on the following topics:

(1) Safe and responsible use of social networking websites, including internet chat rooms, email, instant messaging, and other modes of electronic communication;

(2) The risks of transmitting personal information on the internet and the importance of privacy protection;

(3) Copyright laws on written materials, photographs, music, and videos posted or shared online;

(4) The importance of establishing open communication with responsible adults about any online communications or activities;

(5) How to recognize, avoid, and report suspicious, potentially dangerous, or illegal online communications or activities, including: (A) Potential solicitation by sexual predators; (B) unsolicited or deceptive communications; and (C) harassment and cyberbullying;

(6) Resources and assistance programs available for any child or parent who may have encountered online solicitation by sexual predators or other illegal online communications or activities, including the National Center for Missing and Exploited Children's Cyber Tipline; and

(7) The risks associated with sharing sexually suggestive or sexually explicit materials including at a minimum:

(A) The legal consequences and penalties for sharing sexually suggestive or sexually explicit materials;

(B) The non-legal consequences of sharing sexually suggestive or sexually explicit materials, including but not limited to, the effect on relationships, mental health, loss of educational and

employment opportunities, and being barred or removed from school programs and extracurricular activities;

(C) The potential, based on the unique characteristics of the internet, of long-term and unforeseen consequences for sharing sexually suggestive or sexually explicit materials;

(D) The potential of long-term and unforeseen consequences for sharing sexually suggestive or sexually explicit materials during past relationships; and

(E) The potential connection between bullying, cyber-bullying, sextortion, and human trafficking and juveniles sharing sexually suggestive or sexually explicit materials.

(b) The state board may develop and provide age-appropriate instructional materials and resources to assist county boards in establishing and implementing the SWAT education program. In developing any such instructional materials and resources, the board may collaborate with law-enforcement agencies, criminal justice agencies, and other nongovernmental organizations with expertise in child online safety issues and human trafficking prevention.

(c) Each county school board shall adopt policies requiring all elementary and secondary schools in the district to provide the SWAT education program to students in grades three through 12 at least once each school year. The policies shall include:

(1) A process for allowing a parent, guardian, or custodian of any child enrolled in any elementary or secondary school in the district to review the instructional materials used in the SWAT education program; and

(2) An option to permit the parent, guardian, or custodian of any child enrolled in any elementary or secondary school in the district to opt his or her child out of participating in the SWAT education program.

(d) The board shall make the SWAT education program created pursuant to this act, and any accompanying instructional materials

and resources, available to county school boards before the start of the 2025-2026 school year. Each county school board shall implement the SWAT education program beginning with the 2025-2026 school year.

(e) The SWAT education program shall be based on the peer-to-peer observational learning and modeling concepts prescribed in Social Foundations of Thought and Action: A Social Cognitive Theory by Albert Bandura, PhD.

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## CHAPTER 105

**(Com. Sub. for Com. Sub. for S. B. 568 - By Senators Taylor, Azinger, Boley, Deeds, Grady, Hamilton, Hunt, Jeffries, Maynard, Oliverio, Phillips, Roberts, Smith, Stuart, Swope, and Nelson)**

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[Passed March 9, 2024; in effect 90 days from passage (June 7, 2024)]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §18-8-2 and §18-8-4 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new article, designated §18-34<sup>†</sup>-1, §18-34<sup>†</sup>-2, and §18-34<sup>†</sup>-3; and to amend and reenact §49-4-702 of said code, all relating to student absences; amending criminal penalties imposed for failing to attend school without good cause; defining terms; requiring the State Board to implement a System of Support Plan to encourage and promote compulsory school attendance with implementation to be ensured by the county attendance director; requiring the school to make periodic meaningful contact with parents, guardians, or custodians of children who fail to attend school; removing requirement for attendance director and assistant directors to prepare a report for submission by the county superintendent to the State Superintendent of Schools on school attendance; providing legislative intent for Jaycie's Law; providing that a student's absence due to a student's pregnancy or parenting needs is a lawful absence; requiring the State Board of Education to develop a written attendance policy for pregnant and parenting students that sets forth minimum requirements therefor; establishing article effective date; and making referral for the development of a diversion program in truancy offense matters discretionary.

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

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<sup>†</sup>**NOTE:** Com. Sub. for H. B. 5540 (Chapter 118), which passed prior to this Act, also created a new Article 34. Therefore, this has been redesignated as Article 35 for the code.

## CHAPTER 18. EDUCATION.

### ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

#### **§18-8-2. Offenses; penalties; cost of prosecution; jurisdiction.**

(a) Any parent, guardian, or custodian who fails to cause a child or children under 18 years of age in that person's legal or actual charge to attend school in violation of this article or without just cause, is guilty of a misdemeanor and, shall, upon conviction of a first offense, be fined not less than \$50 nor more than \$100 together with the costs of prosecution. The magistrate or circuit court judge, upon conviction and pronouncing sentence, may delay the sentence for a period of 60 school days provided the child is in attendance every day during said 60-day period. Following the 60-day period, if the child was present at school for every school day, the delayed sentence may be suspended and dismissed. Upon conviction of a second offense, a fine may be imposed of not less than \$50 nor more than \$100 together with the costs of prosecution or confined in jail not less than five nor more than 20 days. Every day a child is out of school contrary to this article constitutes a separate offense. Magistrates shall have concurrent jurisdiction with circuit courts for the trial of offenses arising under this section.

(b) Any person 18 years of age or older who is enrolled in school who, after receiving due notice, fails to attend school in violation of this article or without just cause, is guilty of a misdemeanor and, shall, upon conviction of a first offense, be fined not less than \$50 nor more than \$100 together with the costs of prosecution and required to attend school and remain throughout the school day. The magistrate or circuit court judge, upon conviction and pronouncing sentence, may delay the imposition of a fine for a period of 60 school days provided the person is in attendance every day during said 60-day period. Following the 60-day period, if the student was present at school every day, the delayed sentence may be suspended and dismissed. Upon conviction of a second offense, a fine may be imposed of not less than \$50 nor more than \$100 together with the costs of prosecution and the person may be required to go to school and remain throughout the school day until such time as the person graduates

or withdraws from school or confined in jail not less than five nor more than 20 days. Every day a student is out of school contrary to this article constitutes a separate offense. Magistrates shall have concurrent jurisdiction with circuit courts for the trial of offenses arising under this section.

(c) Upon conviction of a third offense, any person 18 years of age or older who is enrolled in school shall be withdrawn from school during the remainder of that school year. Enrollment of that person in school during the next school year or years thereafter is conditional upon all absences being excused as defined in law, state board policy and county board of education policy. More than one unexcused absence of such a student shall be grounds for the director of attendance to authorize the school to withdraw the person for the remainder of the school year. Magistrates shall have concurrent jurisdiction with circuit courts for the trial of offenses arising under this section.

(d) Jurisdiction to enforce compulsory school attendance laws lies in the county in which a student resides and in the county where the school at which the student is enrolled is located. When the county of residence and enrollment are different, an action to enforce compulsory school attendance may be brought in either county and the magistrates and circuit courts of either county have concurrent jurisdiction for the trial of offenses arising under this section.

#### **§18-8-4. Duties of attendance director and assistant directors; complaints, warrants and hearings.**

(a) For the purposes of this article, the following definitions apply:

(1) “Excused absence” means:

(A) A medical or dental appointment with written excuse from physician or dentist;

(B) Personal illness or injury of the student accompanied by a timely written excuse from the student’s parent, guardian, or custodian: *Provided:* That the total absences under this section



combined with absences permitted under subdivision (C) of this subsection do not exceed more than 10 per school year unless supported by a physician's note: *Provided however:* That a medically documented chronic health condition or disability that adversely impacts in-person attendance approved by a county school board or the principal is not subject to this limitation, and that absences of students with disabilities shall be in accordance with the Individuals with Disabilities Education Improvement Act of 2004 and the federal and state regulations adopted in compliance therewith;

(C) Personal illness or injury of the student's parent, guardian, custodian, or family member: *Provided,* That the excuse must provide a reasonable explanation for why the student's absence was necessary and caused by the illness or injury in the family, and the total absences under this section in combination with section (1)(B) may not exceed more than ten excuses per school year;

(D) Death in the family;

(E) School-approved or county-approved curricular or extra-curricular activities;

(F) A judicial obligation or court appearance involving the student; and

(G) A military requirement for students enlisted or enlisting in the military.

(2) "Meaningful contact" means two-way communication by the school administrator or other school designee and the student's parent, guardian, or custodian to discuss the student's attendance record in an effort to prevent subsequent truancy or other legal proceedings relating to compulsory school attendance, and to minimize additional absences. Methods of meaningful contact include, but are not limited to, phone calls, video conferencing, home visits, and the use of digital platforms.

(3) "System of Support Plan" ("SOS Plan") refers to a plan to be developed by the State Board of Education designed to encourage students to attend school. It shall, at a minimum, require

county attendance directors, principals, or other school designees to make periodic contact with the parent, guardian, or custodian of a student subject to compulsory school attendance to ascertain the reason or reasons for the student's absence or absences and what measures the school may employ to assist the student in attending school and not incurring additional absences. It shall also impart upon the student's parents, guardians, and custodians the importance of the student's attendance and the seriousness of failing to do so.

(4) "Unexcused absence" means any absence not specifically included in the definition of "excused absence".

(b) The county attendance director and his or her assistants shall diligently promote regular school attendance. The director and assistants shall:

(1) Ascertain the reasons for unexcused absences from school of students of compulsory school age; and students who remain enrolled beyond the compulsory school age

(2) Ensure the implementation of the SOS Plan as developed by the State Board, including encouraging the attendance of students and imparting upon the parents, guardians, and custodians the important of attendance and the seriousness of failing to do so.

(c) All documentation relating to absences shall be provided to the school no later than three instructional days after the first day the student returns to school. In the event documentation is not provided to the school within three instructional days after the first day the student returns to school, the absences are unexcused.

(d) In the case of three total unexcused absences of a student during a school year, the attendance director, his or her assistant, or the principal shall make meaningful contact with the parent, guardian, or custodian of the student to ascertain the reasons for the unexcused absences and what measures the school may employ to assist the student in attending and not incurring any additional unexcused absences.

(e) In the case of five total unexcused absences, the attendance director, his or her assistant or the principal shall again make meaningful contact with the parent, guardian, or custodian of the student to ascertain the reasons for the unexcused absences and what measures the school may employ to assist the student in attending school and not incurring any additional unexcused absences.

(f) In the case of 10 total unexcused absences of a student during a school year, the attendance director or assistant may make a complaint against the parent, guardian, or custodian before a magistrate of the county. If it appears from the complaint that there is probable cause to believe that an offense has been committed and that the accused has committed it, a summons or a warrant for the arrest of the accused shall issue to any officer authorized by law to serve the summons or to arrest persons charged with offenses against the state. More than one parent, guardian, or custodian may be charged in a complaint. Initial service of a summons or warrant issued pursuant to the provisions of this section shall be attempted within 10 calendar days of receipt of the summons or warrant and subsequent attempts at service shall continue until the summons or warrant is executed or until the end of the school term during which the complaint is made, whichever is later.

(g) The magistrate court clerk, or the clerk of the circuit court performing the duties of the magistrate court as authorized in §50-1-8 of this code, shall assign the case to a magistrate within 10 days of execution of the summons or warrant. The hearing shall be held within 20 days of the assignment to the magistrate, subject to lawful continuance. The magistrate shall provide to the accused at least 10 days' advance notice of the date, time and place of the hearing.

(h) When any doubt exists as to the age of a student absent from school, the attendance director and his or her assistants may require a properly attested birth certificate or an affidavit from the parent, guardian, or custodian of the student stating the age of the student. In the performance of his or her duties, the county attendance director and his or her assistants have authority to take without warrant any student absent from school in violation of the

provisions of this article and to place the student in the school in which he or she is or should be enrolled.

(i) The county attendance director and his or her assistants shall devote as much time as is required to the duties of attendance director in accordance with this section during the instructional term and at any other times as the duties of an attendance director are required. All attendance directors and assistants hired for more than 200 days may be assigned other duties determined by the superintendent during the period in excess of 200 days. The county attendance director is responsible under direction of the county superintendent for efficiently administering school attendance in the county.

(j) In addition to those duties directly relating to the administration of attendance, the county attendance director and his or her assistant directors also shall perform the following duties:

(1) Assist in directing the taking of the school census to see that it is taken at the time and in the manner provided by law;

(2) Confer with principals and teachers on the comparison of the school census and enrollment for the detection of possible nonenrollees;

(3) Cooperate with existing state and federal agencies charged with enforcing child labor laws;

(4) Promote attendance in the county by compiling data for schools and by furnishing suggestions and recommendations for publication through school bulletins and the press, or in any manner directed by the county superintendent;

(5) Participate in school teachers' conferences with parents and students;

(6) Assist in any other ways directed by the county superintendent for improving school attendance;

(7) Make home visits of students who have excessive unexcused absences, as provided in subsection (a) of this section,

or if requested by the chief administrator, principal, or assistant principal; and

(8) Serve as the liaison for homeless children and youth.

## †ARTICLE 34<sup>†</sup>. JAYCIE'S LAW.

### §18-34<sup>†</sup>-1. Legislative intent.

The West Virginia Legislature finds that parents of children throughout any age in middle or high school should be given the utmost support, because they face a unique set of challenges and circumstances on their road to graduation. School systems in West Virginia shall implement programs to provide educational support to those students with children at any age through graduation. The goal of this act is to assist these students to stay in school while providing enough time for proper medical recovery after the birth of the child.

### §18-34<sup>†</sup>-2. Policy enacted.

(a) A student's absence due to a student's pregnancy or parenting needs is an excused absence as provided under this section and for purposed of §18-8-4(a)(1) of this code.

(b) The State Board of Education shall develop a written attendance policy for pregnant and parenting students that, at a minimum, meets the requirements of this article. The policy developed under this section shall:

(1) Excuse all absences due to pregnancy or parenting-related conditions, including absences for:

(A) Labor;

(B) Delivery;

(C) Recovery; and

(D) Prenatal and postnatal medical appointments;

(2) Provide at least 8 weeks of excused absences for a mother for the birth of the student's child, including both natural/vaginal delivery and c-section delivery;

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†NOTE: Com. Sub. for H. B. 5540 (Chapter 118), which passed prior to this Act, also created a new Article 34. Therefore, this has been redesignated as Article 35 for the code.

(3) Provide excused absences for antenatal care by recommendation of the medical provider;

(4) Provide two weeks excused absence for the father of the child;

(A) A doctor's or medical excuse shall be provided up to the initial 8 weeks' absence and a separate excuse for each period of absence after the initial 8 weeks.

(B) County boards shall make reasonable efforts to encourage the parent to remain on track for graduation by providing academic support options including, but not limited to, work provided virtually and a homebound instructor for weekly visits to ensure accountability.

(5) Provide an excused absence for parenting students whose children are sick: *Provided*, That they shall provide a doctor's excuse for that child.

(6) The schools shall refer the pregnant and parenting student to a "pregnancy help organization" by providing a list of pregnancy or postpartum assistance organizations within the county and surrounding counties as defined under §16-66-1 of this code.

### **§18-34<sup>†</sup>-3. Effective date.**

This article shall become effective on July 1, 2024.

## **CHAPTER 49. CHILD WELFARE.**

### **ARTICLE 4. COURT ACTIONS.**

#### **§49-4-702. Prepetition diversion to informal resolution; mandatory prepetition diversion program for status offenses and misdemeanor offenses; prepetition review team.**

(a) Before a juvenile petition is formally filed with the court, the court may refer the matter to a case worker, probation officer or truancy diversion specialist for preliminary inquiry to determine whether the matter can be resolved informally without the formal filing of a petition with the court.

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<sup>†</sup>**NOTE:** Com. Sub. for H. B. 5540 (Chapter 118), which passed prior to this Act, also created a new Article 34. Therefore, this has been redesignated as Article 35 for the code.

(b)(1) If the matter is for a truancy offense, the prosecutor may refer the matter to a state department worker, probation officer, or truancy diversion specialist who shall develop a diversion program pursuant to subsection (d) of this section. If the prosecutor does not refer the matter to a state department worker, probation officer, or truancy diversion specialist pursuant to this subdivision, he or she may proceed to file a petition with the court.

(2) If the matter is for a status offense other than truancy, the prosecutor shall refer the juvenile to a case worker or probation officer who shall develop a diversion program pursuant to subsection (d) of this section.

(3) The prosecutor is not required to refer the juvenile for development of a diversion program pursuant to subdivision (2) of this subsection and may proceed to file a petition with the court if he or she determines:

(A) The juvenile has a prior adjudication for a status or delinquency offense; or

(B) There exists a significant and likely risk of harm to the juvenile, a family member, or the public.

(c) If the matter is for a nonviolent misdemeanor offense, the prosecutor shall determine whether the case can be resolved informally through a diversion program without the filing of a petition. If the prosecutor determines that a diversion program is appropriate, he or she shall refer the matter to a case worker or probation officer who shall develop a diversion program pursuant to subsection (d) of this section.

(d)(1) When developing a diversion program, the case worker, probation officer, or truancy diversion specialist shall:

(A) Conduct an assessment of the juvenile to develop a diversion agreement;

(B) Create a diversion agreement;

(C) Obtain consent from the juvenile and his or her parent, guardian, or custodian to the terms of the diversion agreement;

(D) Refer the juvenile and, if necessary, his or her parent, guardian, or custodian to services in the community pursuant to the diversion agreement.

(2) A diversion agreement may include:

(A) Referral to community services as defined in §49-1-206 of this code for the juvenile to address the assessed need;

(B) Referral to services for the parent, guardian, or custodian of the juvenile;

(C) Referral to one or more community work service programs for the juvenile;

(D) A requirement that the juvenile regularly attend school;

(E) Community-based sanctions to address noncompliance; or

(F) Any other efforts which may reasonably benefit the community, the juvenile, and his or her parent, guardian, or custodian.

(3) When a referral to a service provider occurs, the service provider shall make reasonable efforts to contact the juvenile and his or her parent, custodian, or guardian within 72 hours of the referral.

(4) Upon request by the case worker, probation officer, or truancy diversion specialist, the court may enter reasonable and relevant orders to the parent, custodian, or guardian of the juvenile who have consented to the diversion agreement as is necessary and proper to carry out the agreement.

(5) If the juvenile and his or her parent, custodian, or guardian do not consent to the terms of the diversion agreement created by the case worker, probation officer, or truancy diversion specialist, the petition may be filed with the court.



(6) Referral to a prepetition diversion program shall toll the statute of limitations for status and delinquency offenses.

(7) Probation officers may be authorized by the court to participate in a diversion program.

(e) The case worker, probation officer, or truancy diversion specialist shall monitor the juvenile's compliance with any diversion agreement.

(1) If the juvenile successfully completes the terms of the diversion agreement, a petition shall not be filed with the court and no further action shall be taken.

(2) If the juvenile is unsuccessful in or noncompliant with the diversion agreement, the diversion agreement shall be referred to a prepetition review team convened by the case worker, probation officer or the truancy diversion specialist: *Provided*, That if a new delinquency offense occurs, a petition may be filed with the court.

(f)(1) The prepetition review team may be a subset of a multidisciplinary team established pursuant to §49-4-406 of this code.

(2) The prepetition review team may consist of:

(A) A case worker knowledgeable about community services available and authorized to facilitate access to services;

(B) A service provider;

(C) A school superintendent or his or her designee; or

(D) Any other person, agency representative, member of the juvenile's family, or a custodian or guardian who may assist in providing recommendations on community services for the particular needs of the juvenile and his or her family.

(3) The prepetition review team shall review the diversion agreement and the service referrals completed and determine whether other appropriate services are available to address the needs of the juvenile and his or her family.

(4) The prepetition review shall occur within 14 days of referral from the state department worker, probation officer, or truancy diversion specialist.

(5) After the prepetition review, the prepetition review team may:

(A) Refer a modified diversion agreement back to the case worker, probation officer or truancy diversion specialist;

(B) Advise the case worker, probation officer or truancy diversion specialist to file a petition with the court; or

(C) Advise the case worker to open an investigation for child abuse or neglect.

(g) The requirements of this section are not mandatory until July 1, 2024: *Provided*, That nothing in this section prohibits a judicial circuit from continuing to operate a truancy or other juvenile treatment program that existed as of January 1, 2023: *Provided, however*, That any judicial circuit desiring to create a diversion program after the effective date of this section, may only do so pursuant to this section.

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## CHAPTER 106

**(S. B. 602 - By Senator Grady)**

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[Passed March 1, 2024; in effect 90 days from passage (May 30, 2024)]  
[Approved by the Governor on March 22, 2024.]

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AN ACT to repeal §16-57-1, §16-57-2, §16-57-3, and §16-57-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §18-5-22e; all relating to cardiac response plans; repealing sudden cardiac arrest prevention act; creating cardiac response plans section for county boards of education; providing definitions; requiring schools to develop an emergency response plan and parameters therefor; requiring informational meetings regarding cardiac arrest; requiring a form be completed by students prior to participation in an athletic activity; requiring annual sudden cardiac arrest training for coaches; setting forth circumstances in which students are not allowed to participate in athletic activities; requiring evaluation by authorized physician, certified nurse practitioner or certified nurse specialist, or a physician assistant before returning to athletic activity; requiring school officials to work directly with local emergency service providers to integrate the plan into the community's EMS responder protocols and setting forth parameters therefore; allowing state board rulemaking; and allowing county boards to accept gifts, grants and donations.

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

### **CHAPTER 16. PUBLIC HEALTH.**

#### **ARTICLE 57. Sudden Cardiac Arrest Prevention Act.**

##### **§16-57-1. Purpose.**

[Repealed]

**§16-57-2. Definitions.**

[Repealed]

**§16-57-3. Applicability, educational materials, removal from play, and training.**

[Repealed]

**§16-57-4. Rulemaking.**

[Repealed]

**CHAPTER 18. EDUCATION.****ARTICLE 5. COUNTY BOARD OF EDUCATION.****§18-5-22e. Cardiac response plans.**

(a) For the purposes of this section, the following terms are defined:

"Cardiac Emergency Response Plan" or "the plan" means a written document that establishes the specific steps to reduce death from cardiac arrest.

"Automated External Defibrillator" means a lightweight, portable device that delivers an electric shock through the chest to the heart.

"School" means any school with an athletic department or organized athletic program under the jurisdiction of a county board of education.

"Sudden Cardiac Arrest" means when the heart malfunctions and stops beating unexpectedly.

(b) A school shall develop a cardiac emergency response plan that provides for the following:

(1) A school with an athletic department or organized athletic program shall develop a cardiac emergency response plan that addresses the appropriate use of school personnel to respond to

incidents involving an individual experiencing sudden cardiac arrest or a similar life-threatening emergency while attending or participating in an athletic practice or event while on school grounds; and

(2) School staff trained in first-aid, CPR, and automated external defibrillator use that follow evidence-based guidelines including but not limited to licensed coaches, school nurses, and athletic trainers.

(c) Prior to the start of each athletic season, a school subject to this section shall hold an informational meeting for students, parents, guardians, or other persons having care or charge of a student, regarding the warning signs of sudden cardiac arrest for children of all ages.

(d) No student may participate in an athletic activity until the student has submitted to a designated school official, a form signed by the student and the parent, guardian, or other person having care or charge of the student, stating that the student and the parent, guardian, or other person having care or charge of the student have received and reviewed a copy of the cardiac emergency response plan developed by the school and posted on its webpage. A completed form shall be submitted each school year in which the student participates in an athletic activity.

(e) No individual may coach an athletic activity unless the individual has completed, on an annual basis, the sudden cardiac arrest training course approved by the Department of Education.

(f) A student shall not be allowed to participate in an athletic activity if either of the following is the case:

(1) The student is known to have exhibited syncope or fainting at any time prior to or following an athletic activity and has not been evaluated and cleared for return after exhibiting syncope or fainting; or

(2) The student experiences syncope or fainting while participating in, or immediately following, an athletic activity.

(g) If a student is not allowed to participate in or is removed from participation in an athletic activity under subsection (f) of this section, the student shall not be allowed to return to participation until the student is evaluated and cleared for return in writing by any of the following: (1) A physician authorized under §30-3-1 *et seq.* and §30-14-1 *et seq.* of this code;

(2) A certified nurse practitioner, or certified nurse specialist;  
or

(3) A physician assistant licensed under §30-3E-1 *et seq.* and §30-14A-1 *et seq.* of this code.

(h) School officials shall work directly with local emergency service providers to integrate the plan into the community's EMS responder protocols, which shall include, at a minimum, the following:

- (1) Establishing a cardiac emergency response team;
- (2) Activating the team in response to a sudden cardiac arrest;
- (3) Implementing automated external defibrillator placement and routine maintenance within the school;
- (4) Disseminating the plan throughout the school campus;
- (5) Maintaining ongoing staff training in CPR/AED use;
- (6) Plan for practicing skills learned;
- (7) Integrating local EMS with the plan;
- (8) Ongoing and annual review and evaluation of the plan; and
- (9) Appropriate automated external defibrillator placement.

(i) The State Board of Education may promulgate a legislative rule pursuant §29A-3B-1 *et seq.* of this code to ensure compliance with this section by county school boards.

(j) A county board of education may accept gifts, grants, and donations, including in-kind donations designated for the purchase of an automatic external defibrillator that meets the standards established by the United States Food and Drug Administration and for the costs incurred to inspect and maintain such device and train staff in the use of such device.

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## CHAPTER 107

**(S. B. 806 - By Senator Grady)**

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[Passed March 7, 2024; in effect 90 days from passage (June 5, 2024)]

[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §18-2-12 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-5B-7 of said code; to repeal §18-5F-6 of said code; to repeal §18-9A-7a of said code; to amend and reenact §18-9F-8 of said code; and to amend and reenact §18A-3C-3 of said code, all relating to the Legislative Oversight Commission on Education Accountability; removing required submission of plan to implement and update computer science instruction and learning standards in the public schools; removing required submission of annual report on innovation zones and the progress of innovation zone plans; removing required report on all aspects of the program at the end of the first year a virtual instruction program is implemented; removing required report on proposed revisions to the calculation of the allowance for service personnel to provide additional funded service personnel positions for lower-population density districts covering a large geographic areas; revising School Building Authority reporting on the school access safety and crisis response article to require the authority to report annually on its duties under the article; and removing requirement for review of the progress of the implementation of the comprehensive systems of support for teacher and leader induction and professional growth.

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

### **ARTICLE 2. STATE BOARD OF EDUCATION.**



**§18-2-12. Computer science courses of instruction; learning standards; state board plan development.**

(a) Legislative findings:

(1) Computer technology increasingly is pervasive in nearly every function of society from consumer products to transportation, communications, electrical infrastructure, logistics, agriculture, medical treatments, research, security, and financial transactions;

(2) The U. S. Bureau of Labor Statistics predicts that by 2024, there will be more than 800,000 new jobs in the STEM fields and more than two thirds of these directly will be in computing occupations;

(3) Studying computer science prepares students to enter many career areas, both within and outside of computing, teaching them logical reasoning, algorithmic thinking, design, and structured problem-solving skills applicable in many contexts from science and engineering to the humanities and business;

(4) Computer science is an established discipline at the collegiate and post-graduate levels but, unfortunately, computer science concepts and courses have not kept pace in the K-12 curriculum, to the point that the nation faces a serious shortage of computer scientists at all levels that is likely to continue for the foreseeable future; and

(5) Organizations such as the Computer Science Teachers Association, the International Society for Technology in Education, and technology industry leaders have developed recommendations for standards, curriculum, and instructional resources for computer technology learning in K-12 schools.

(6) Foundational age-appropriate instruction in the computer science field for all students beginning in elementary school with required and optional advanced computer science instruction for middle school and high school students has become an important component of a well-developed education. Computer science standards should align to relevant aspects of the field such as

computational thinking, block-based programming, text-based programming, network communication, computer architecture, coding, application development, and cyber security. Computer science education standards should be established to ensure students have the fundamentals to be successful in a digital-driven world and the advanced knowledge to prepare them for careers in or linked to computer science.

(b) Nothing in this section requires adoption or implementation of any specific recommendation or any level of appropriation by the Legislature.

(c) Recognizing the importance of computer science instruction and how computer science instruction will assist students in their transition to post-secondary opportunities, the state board shall adopt a policy detailing the appropriate level of computer science instruction that shall be available to students at each programmatic level.

(d) The West Virginia Department of Education shall develop and offer professional development opportunities to ensure educators are equipped with the requisite knowledge and skill to deliver computer science instruction as outlined in this section. The department may partner with high-quality computer science professional learning providers in developing and offering the professional development opportunities.

## **ARTICLE 5B. SCHOOL INNOVATION ZONES ACT.**

### **§18-5B-7. Progress reviews and annual reports.**

At least annually, the state board or its designated committee shall review the progress of the development or implementation of an innovation zone plan. If, following such a review, the state board determines that a designated school, group of schools, subdivision or department of a group of schools, subdivision or department of a school or a school created by a state institution of higher education in accordance with section nine of this article has not made adequate progress toward developing or implementing its plan, the board shall submit a report to the designated school, group

of schools, subdivision or department of a group of schools, subdivision or department of a school or a school created by a state institution of higher education in accordance with section nine of this article identifying its areas of concern. The state board or its designated committee may conduct an additional review within six months of submitting a report in accordance with this section. If, following such additional review, the state board or its designated committee determines that the designated school, group of schools, subdivision or department of a group of schools, subdivision or department of a school or a school created by a state institution of higher education in accordance with section nine of this article has not made adequate progress toward developing or implementing its innovation zone plan, the state board may revoke the designation as an innovation zone or, if the innovation zone plan has been approved in accordance with section five of this article, rescind its approval of the plan.

#### **ARTICLE 5F. ACCESSIBILITY AND EQUITY IN PUBLIC EDUCATION ENHANCEMENT ACT.**

##### **§18-5F-6. Report to Legislative Oversight Commission on Education Accountability.**

[Repealed.]

#### **ARTICLE 9A. PUBLIC SCHOOL SUPPORT.**

##### **§18-9A-7a. Report on alternate method for funding student transportation costs required.**

[Repealed.]

#### **ARTICLE 9F. SCHOOL ACCESS SAFETY ACT.**

##### **§18-9F-8. Report.**

The authority shall report to the Legislative Oversight Commission on Education Accountability regarding its duties under this article, including but not limited to:

- (1) County school access safety plans or annual plan updates;

(2) Allocations, transfers, and disbursements of School Access Safety Fund moneys; and

(3) Collaboration with the state board and the Division of Homeland Security and Emergency Management in complying with the provisions of this article.

## **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

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**\*NOTE:** This section was also amended by H. B. 5405 (Chapter 249), which passed subsequent to this Act.

practice will reflect substantial redirection of existing professional development resources toward this highest priority.

(b) 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) 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 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) 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 teaching a productive learning experience;

(4) 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) 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) 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) 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) 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) 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) 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.

(e) 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) 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:

(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) 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.



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## CHAPTER 108

**(Com. Sub. for H. B. 4709 - By Delegates Dean, Young,  
Worrell, and Dillon)**

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[Passed March 6, 2024; in effect ninety days from passage.]  
[Approved by the Governor on March 22, 2024.]

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-21A-1, §18-21A-2 and §18-21A-3, all relating to establishing a four-year pilot program to provide participating middle schools with an elective course to better prepare fifth through eighth grade students to take advantage of West Virginia's career and technical education programs and to improve students' college and career readiness prior to high school; requiring the state board of education to promulgate a legislative rule, and, if necessary, an emergency rule, to implement the provisions of the pilot program; setting forth what is to be included within the provisions of the rule; and requiring by July 1, 2025, and annually thereafter for the duration of the pilot program, a report from the State Superintendent of Schools to the Legislative Oversight Commission on Education Accountability.

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

### **ARTICLE 21A. CAREER AND TECHNICAL EDUCATION PILOT PROGRAM FOR MIDDLE SCHOOL STUDENTS.**

#### **§18-21A-1. Definitions.**

As used in this article, unless used in a context that clearly requires a different meaning the term:

"Academic skills instruction" means instruction on skill sets required to discover and take advantage of educational opportunities, including, but not limited to: post-secondary education admissions requirements; employment rates and average salaries of graduates of vocational schools and higher education institutions; state, federal, and private scholarship and grant opportunities; and preparation of a college or technical school application.

"Career skills instruction" means instruction on skill sets required to discover and take advantage of employment opportunities, including, but not limited to: performing a job search; developing a résumé; preparing for a job interview; and developing and deploying personal networks to find job opportunities.

"Elective Course" means a one semester course in which a student may choose to enroll.

"Guest Speakers" mean individuals who are not employed by the middle school who the qualified instructor chooses to assist in meeting the pilot program objectives.

"Qualified instructor" means teachers and other middle school staff possessing a post-secondary degree. Additional certification or licensure are not required to instruct the course.

"Participating middle school" means any school containing the fifth, sixth, seventh or eighth grade that chooses to participate with the requirements of the pilot program.

"Local Partners" means high schools, vocational schools, community and technical colleges, public universities, and any other state institutions of higher education that choose to provide speakers to participating middle schools upon the middle school's request.

"On-Site Research" means on-site presentations and experiential learning at local employer job sites, job fairs, high schools, vocational schools, community and technical colleges,

public and private universities, and other post-secondary academic institutions that introduce students to potential career paths.

"Personal Graduation Plan" means a student's formal written plan to become employable following high school.

**§18-21A-2. Career and technical education pilot program for middle school students established; funding.**

(a) A four-year pilot program is hereby established to provide participating middle schools with an elective course to better prepare fifth through eighth grade students to take advantage of West Virginia's career and technical education programs and to improve students' college and career readiness prior to high school.

(b) Funding. — A middle school's participation in the pilot program is contingent upon the availability of existing funding.

**§18-21A-3. Rulemaking; reporting.**

(a) The state board shall promulgate a legislative rule, and, if necessary, an emergency rule, pursuant to §29A-3B-1, *et seq.* to implement the provisions of this article. The provisions of the rule shall include, at a minimum:

(1) Guidelines for admission to the pilot program;

(2) Administration of the program which includes parameters that include the definitions contained in §18-21A-1 of this code; and

(3) Requirement that program participants receive a certificate upon successful completion of the pilot program.

(b) By July 1, 2025, and annually thereafter for the duration of the pilot program, the state superintendent shall report to the Legislative Oversight Commission on Education Accountability on:

(1) The number of students participating;

(2) The graduation rates of participating students;

(3) To the extent practicable, the job placement rates of participant students,

(4) Any issues with the program reported by students, parents, and participating middle schools; how these issues are being addressed; and whether the issues require legislative action; and

(5) A recommendation from the state superintendent on whether the program should continue beyond its four-year period.

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## CHAPTER 109

**(Com. Sub. for H. B. 4830 - By Delegates Toney, Statler,  
Ellington, Ferrell, Hornby, Longanacre and Campbell)**

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[Passed March 8, 2024; in effect ninety days from passage.]  
[Approved by the Governor on March 26, 2024.]

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AN ACT to amend and reenact §18-2-40 and §18-2-41 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-2C-5 of said code; to amend and reenact §18-5-15a of said code; to amend and reenact §18-9F-10 of said code; and to amend and reenact §61-8F-6 of said code, all relating generally to training requirements for school personnel; modifying frequency of training from annually to upon employment and every three years thereafter, for suicide prevention awareness, child sexual abuse prevention, the county policy on harassment, intimidation or bullying, and multicultural education; requiring first aid training include blood borne pathogen information; requiring those who care for, educate, or house disabled children to be trained on mandatory reporting obligations.

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

### CHAPTER 18. EDUCATION.

#### ARTICLE 2. STATE BOARD OF EDUCATION.

##### **§18-2-40. Suicide prevention awareness training; dissemination of information.**

(a)(1) *Legislative findings.* — The Legislature recognizes that the state of West Virginia has one of the highest rates of suicide in the nation, and that suicide serves as one of the leading causes of death in our state.

(2) The Legislature further finds that nationwide, suicide rates amongst adolescents and young adults are on the rise. As a result of disrupted families, poverty, and the opioid crises which have severely affected a significant number of families across this state, West Virginia's students face a number of issues which may increase their risk of suicide.

(3) Consequently, the Legislature finds that it is imperative that those in our education system closest to our students receive training to increase their ability to better recognize students who may be exhibiting signs that they are at risk of suicide.

(b) On or before September 1, 2020, upon employment and every three years after, the State Board of Education shall provide for the routine education of all professional educators, including principals and administrators, and those service personnel having direct contact with students on warning signs and resources to assist in suicide prevention under guidelines established by the state board. The education may be accomplished through self-review of suicide prevention materials and resources approved by the state board.

(c) On or before September 1, 2020, and each year thereafter, a public middle and high school administrator shall disseminate and provide opportunities to discuss suicide prevention awareness information to all middle and high school students. The information may be obtained from the Bureau for Behavioral Health and Health Facilities or from a commercially developed suicide prevention training program approved by the State Board of Education in consultation with the bureau to assure the accuracy and appropriateness of the information.

(d) The provisions of this section shall be known as Jamie's Law.

#### **§18-2-41. Education and Prevention of the Sexual Abuse of Children.**

(a) Education of children in grades K-12 — Beginning July 1, 2019, children in grades K-12 shall receive body age-appropriate

safety information at least once per academic school year, with a preference for four times per academic year. To facilitate this process and develop resources, the state board shall propose a legislative rule for promulgation, in accordance with §29A-3b-1 *et seq.* of this code, by December 31, 2018. The rule shall provide for at least the following:

- (1) Developmentally appropriate education and resources;
- (2) Social media usage and content;
- (3) Implementation of best practices;
- (4) Differing county and school sizes, demographics, etc. relating to implementation strategies;
- (5) Strategies for dealing with disclosures after student education;
- (6) Rules informed by family voice;
- (7) Offender dynamics;
- (8) Child-on-child scenarios;
- (9) Rules on development of supplementary materials, including posting of the child abuse hotline, to embed into the school climate;
- (10) Protocols for local crisis response in conjunction with §18-9F-9 of this code.

(b) Training of public school employees upon their employment and then again every three years. The state board shall propose by December 31, 2018 a legislative rule for promulgation in accordance with §29A-3b-1 *et seq.* of this code, and if necessary may promulgate an emergency rule in accordance with said article, for the establishment of standards for training requirements of all public school employees focused on developing skills, knowledge, and capabilities related to preventing child sexual abuse and recognizing and responding to suspected abuse and neglect. The rule shall provide for at least the following:

(1) This required training shall include comprehensive instruction and information to better equip schools and their employees, including how to:

(A) Recognize sexually offending behaviors in adults, questionable behaviors such as boundary violations, and signs in adults that might indicate they pose a sexual risk to children;

(B) Recognize, appropriately respond to, and prevent sexually inappropriate, coercive, or abusive behaviors among children and youth served by schools;

(C) Recognize behaviors and verbal cues that might indicate a child or youth has been a victim of abuse or neglect;

(D) Support the healthy development of children and youth and the building of protective factors to mitigate against their sexual victimization by adults or peers;

(E) Recognize and appropriately respond to student infatuations and flirtations with adults in schools;

(F) Recognize appropriate and inappropriate social media usage by adults and children;

(G) Provide consistent and standard protocols for responding to disclosures of sexual abuse or reports of boundary-violating behaviors by adults or children in a supportive and appropriate manner which meet mandated reporting requirements;

(H) Provide adequate understanding of the age-appropriate, comprehensive, evidence-informed child sexual abuse prevention education which will be offered to their students; and

(I) Reflect the research on Adverse Childhood Experiences (ACEs) and trauma-informed care.

(2) The rule shall contain provisions to ensure public school employees complete the required training every three years.



(A) The required training shall be at least a cumulative four hours (half day) of instruction on the elements identified in this section.

(B) A skills renewal is required every three years thereafter.

(C) The mode of delivery for the trainings may include in-person or e-learning instruction and may include a series of trainings or modules.

(D) The state board shall provide certificates of satisfactory completion for the employee and the employer documenting the employee completed the required training.

## **ARTICLE 2C. HARASSMENT, INTIMIDATION OR BULLYING PROHIBITION.**

### **§18-2C-5. Policy training and education.**

(a) Schools and county boards are encouraged, but not required, to form bullying prevention task forces, programs and other initiatives involving school staff, students, teachers, administrators, volunteers, parents, law enforcement and community members.

(b) To the extent state or federal funds are appropriated for these purposes, each school district shall:

(1) Provide training on the harassment, intimidation or bullying policy to school employees upon employment and volunteers who have direct contact with students; and

(2) Develop a process for educating students on the harassment, intimidation or bullying policy.

(c) Information regarding the county board policy against harassment, intimidation or bullying shall be incorporated into each school's current employee training program upon employment and renewed every three years thereafter.

## **ARTICLE 5. COUNTY BOARD OF EDUCATION.**

**§18-5-15a. Study of multicultural education for school personnel.**

County boards of education shall upon employment and every three years thereafter, provide a program, during at least one noninstructional day of the school term, for the study of multicultural education for all school personnel as defined in subsection (a), section one, article one, chapter eighteen-a of this code. The study provided shall be in compliance with regulations to be developed by the state Board of Education.

As used in this section, multicultural education means the study of the pluralistic nature of American society, including its values, institutions, organizations, groups, status positions and social roles.

**ARTICLE 9F. SCHOOL ACCESS SAFETY ACT.****§18-9F-10. School safety requirements.**

In addition to any other requirement contained in this article or the Crisis Response Plan required by §18-9F-9 of this code, each county board of education shall implement a school safety program before September 1, 2019, that at a minimum, requires:

(1) Room numbers to be placed on exterior walls or windows of school buildings, so rooms with exterior walls can be identified by law enforcement, first responders, and State Fire Marshals from the outside;

(2) Providing updated floor plans of the school to first responders, local law enforcement, and State Fire Marshals by September 1 of each school year;

(3) First aid training, that includes blood borne pathogen information, for all school personnel upon employment; and

(4) Active shooter training for all school personnel and students at the beginning of each school year.

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

**ARTICLE 8F. SPECIAL PROTECTIONS FOR DISABLED CHILDREN ACT OF 2022.****§61-8F-6. Specific directives to enhance the safety of disabled children.**

(a) The West Virginia Department of Education in collaboration with the Secretary of Human Services shall:

(1) On or before January 1, 2023, develop, produce, and disseminate an eight-hour education program for people employed in or to be employed in the care, housing, and education of disabled children as well as their supervisory personnel and administrators. The program shall include, but not be limited to, the legal duties of persons so employed, the behavioral characteristics associated with different disabling conditions, symptoms of disabling conditions, appropriate interventions necessary to support a child in a particular setting, and the process of mandatory reporting of abuse. Successful completion of the program shall be mandatory for state, county, and municipal employees engaged in the care, housing, and education of disabled children as well as their supervisory personnel and administrators upon employment and every three years after; and

(2) On or before January 1, 2023, investigate the availability and implementation cost of a program for public schools and government operated programs for disabled children which allows parents, guardians, and custodians to remotely view classrooms and other areas where disabled children are taught, housed, or cared for and provide copies of the findings and proposals to the President of the Senate and the Speaker of the House of Delegates prior to the first day of the 2023 Regular Session of the Legislature.

(3) To the extent practicable the program shall consider and include input from family members and caregiving of disabled children.

(b) On or before January 1, 2023, the West Virginia Prosecuting Attorney's Institute in collaboration with the Law Enforcement Professional Standards subcommittee on the

Governor's Committee on Crime Delinquency and Correction shall develop a three-hour mandatory educational program for prosecuting attorneys and law enforcement officers that offers education:

(1) As to the provisions of this article; and

(2) In the investigation and prosecution of crimes against disabled children including mandatory reporting of all abuse.

(3) To the extent practicable the program shall consider and include input from family members and caregiving of disabled children.

(c) The State Board of Education shall create a database which identifies school employees who are under active investigation for misconduct towards children into which county boards of education shall report and review when considering employing a person with previous experience in the education system.

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## CHAPTER 110

### **(H. B. 4832 - By Delegates Ellington, Toney, Statler, and Kimble)**

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[Passed March 4, 2024; in effect ninety days from passage.]

[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §18-9B-21 of the Code of West Virginia, 1931, as amended, relating to state superintendent's reports regarding the finances of school districts.

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

#### **ARTICLE 9B. STATE BOARD OF SCHOOL FINANCE.**

##### **§18-9B-21. Reports by state superintendent.**

The state superintendent shall make an annual report to the Legislative Oversight Commission on Education Accountability regarding the finances of each school district. Any school district that fails to report its finances to the state superintendent may be subject to a reduction of its state funding as authorized in §18-9B-19 of this code. The state superintendent shall make such special reports as the Legislative Oversight Commission on Education Accountability may request.

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## CHAPTER 111

**(H. B. 4860 - By Delegates E. Pritt, Ellington, Toney,  
Campbell, Willis, Dittman, Stephens, Foggin, DeVault, and  
Ross)**

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[Passed March 4, 2024; in effect ninety days from passage.]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §18-20-1c of the Code of West Virginia, 1931, as amended, relating to education of exceptional children in an integrated classroom; and providing that the general education teacher shall utilize the supplementary services documentation sheet on days when accommodations were made.

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

### **ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.**

**\*§18-20-1c. Integrated classrooms serving students with exceptional needs; and requirements as to the assistance, training and information to be provided to the affected classroom teacher.**

(a) The regular classroom teacher is entitled to the following when placing a student with exceptional needs into an integrated classroom when the student's individualized education program requires an adjustment in either the curriculum, instruction or service to be provided by the regular classroom teacher:

(1) Training provided pursuant to the integrated classroom program and additional individualized training, pursuant to the rules developed by the State Board of Education, if requested by the regular classroom teacher to prepare the teacher to meet the exceptional needs of individual students. Whenever possible, the

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**\*NOTE:** This section was also amended by H. B. 5158 (Chapter 116), which passed subsequent to this Act.

training shall be provided prior to the placement. Where prior training is not possible, the training shall be commenced no later than 10 days following the placement of the student into the regular classroom. Unavoidable delays in the provision of training may not result in the exclusion of a special needs student from any class if the training cannot be provided in 10 days;

(2) A signed copy of the individualized education program for the special education student prior to the placement of the student into the regular classroom. The receiving and referring teachers shall participate in the development of that student's individualized education program and shall also sign the individualized education program as developed. In all cases the teacher shall receive a copy of the individualized education program for the special education student prior to or at the time of the placement of the student into the regular classroom. Any teacher disagreeing with the individualized education program committee's recommendation shall file a written explanation outlining his or her disagreement or recommendation;

(3) Participation by referring teachers in all eligibility committees and participation by referring and receiving teachers in all individualized education program committees which involve possible placement of an exceptional student in an integrated classroom;

(4) Opportunity to reconvene the committee responsible for the individualized education program of the student with special needs assigned to the regular classroom teacher. The meeting shall include all persons involved in a student's individualized education program and shall be held within 21 days of the time the request is made; and

(5) Assistance from persons trained or certified to deal with a student's exceptional needs whenever assistance is part of the student's individualized education program as necessary to promote accomplishment of the program's goals and objectives: *Provided*, That aides in the area of special education cannot be reassigned to more than one school without the employee's consent.

(b) Except teachers already required to participate in the development of a student's individualized education program and sign it as provided in subdivision (2) of this section, all other teachers in whose class or program a student with exceptional needs is enrolled shall:

(1) Participate in the meeting to develop the student's individualized education program, or read and sign a copy of the student's individualized education program plan acknowledging that he or she has read and understands it; and

(2) Make accommodations and modifications for the student, if needed or identified, to help the student succeed in the class or program: *Provided*, That the general education teacher shall not be responsible for daily accommodation logs. The general education teacher shall only be responsible for acknowledging, at the end of each grading period, that each accommodation as required by the IEP has been met. All accommodations of the students shall be discussed before placement and it is the responsibility of the special education instructor to monitor progress: *Provided further*, That parents and guardians may request daily accommodation logs.

This requirement includes, but is not limited to, teachers of music, musical education, art, driver education and other instruction offered.



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## CHAPTER 112

**(H. B. 4863 - By Delegates Espinosa, Householder, Hornby, Hite, Hardy, W. Clark, Hillenbrand, and Chiarelli)**

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[Passed March 8, 2024; in effect ninety days from passage.]  
[Approved by the Governor on March 22, 2024.]

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-44<sup>†</sup>, relating to the creation of the Patriotic Access to Students in Schools Act; defining patriotic societies; and providing for the opportunity to speak and recruit at public schools.

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

### **ARTICLE 2. STATE BOARD OF EDUCATION.**

#### **†§18-2-44. Patriotic societies; opportunity to speak and recruit at public schools.**

(a) As used in this section, "patriotic society" means any youth group listed in Title 36 of the United States Code.

(b) Beginning with the 2024-2025 school year, the principal of each public school in the state shall allow representatives of a patriotic society the opportunity to speak with and recruit school students to participate in their organization during school hours to inform the students of how the patriotic society may further the students' educational interests and civic involvement to better their schools, communities, and themselves. Participation of students is voluntary and must not interfere with instructional learning.

(c) The patriotic society must notify the board of education of its intent to speak to the students. Upon approval from the board the patriotic society shall provide verbal or written notice to the principal. The principal shall provide verbal or written approval of the specific day and time for the society to address the students.

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<sup>†</sup>**NOTE:** Com. Sub. for S. B. 466 (Chapter 104), which passed prior to this Act, also created a new Section 44. Therefore, this has been redesignated as Section 45 for the code.

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## CHAPTER 113

**(H. B. 4945 - By Delegates Espinosa, Hornby, Chiarelli,  
Householder, Mazzocchi, W. Clark, Hite, Smith, Hardy,  
Statler, and Ellington)**

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[Passed March 9, 2024; in effect ninety days from passage.]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §18-8-12 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-9A-25 of said code; to amend and reenact §18-31-2, §18-31-3, §18-31-4, §18-31-5, §18-31-6, §18-31-7, §18-31-8, §18-31-10, and §18-31-11 of said code; and to amend said code by adding thereto two new sections, designated §18-31-2a and §18-31-14, all relating generally to the Hope Scholarship Program; providing that microschoools, learning pods, and individualized instructional programs have the authority to issue secondary school diplomas; providing that the annual Hope Scholarship Program appropriation calculation will be based on the estimated number of participating students instead of the number of participating students in the prior year; defining terms; providing that Hope Scholarship students have certain educational privileges made available to other nonpublic school students; permitting the State Treasurer to appear by designee at Hope Scholarship Board meetings; modifying qualifications for certain Board members for future appointments; clarifying that the Hope Scholarship Board may take issues involving Hope Scholarship students in charter schools to the West Virginia Professional Charter School Board; authorizing the Hope Scholarship Board to request certain information from county superintendents and county boards of education; clarifying that Hope Scholarship funds may only be utilized for expenses incurred in a kindergarten through secondary school education; requiring a year-round application and awards process; requiring parental agreement

to include provisions requiring parents to notify the board if a student reenrolls in public school or graduates from a secondary school program; clarifying that all records and personally identifying information of a Hope Scholarship student, applicant, or parent is confidential and not subject to disclosure pursuant to the West Virginia Freedom of Information Act; clarifying that a kindergarten-level applicant's Hope Scholarship participation does not commence if the student does not begin kindergarten-level education that school year; clarifying that a public charter school may invoice a Hope Scholarship student for educational services; modifying qualifying expenses for Hope Scholarship accounts; authorizing the Board to adopt rules and procedures regarding Hope Scholarship student receipt of services from a public school or school district; requiring the Board to promulgate legislative rules permitting certain providers to compensate employees who are parents of Hope Scholarship students; authorizing the Board to adopt certain reimbursement procedures; clarifying annual renewal process for Hope Scholarship parents and students; modifying annual academic assessment requirements for certain grade levels; authorizing the Board to propose legislative rules related to audit of education service providers; requiring education service providers conducting background screenings of employees and other persons in contact with students to certify screening results to the board; clarifying that providers may not assess increased or additional fees against Hope Scholarship students based on participation in the program; and adding reporting requirements.

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

## **ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.**

### **§18-8-12. Issuance of a diploma or other appropriate credential by public, private, homeschool, microschool, or learning pod administrator.**

A person who administers a program of secondary education at a public school, private school, home school, microschool, learning

pod, or individualized instructional program pursuant to the Hope Scholarship Act that meets the requirements of this chapter may issue a diploma or other appropriate credential to a person who has completed the program of secondary education. Such diploma or credential is legally sufficient to demonstrate that the person meets the definition of having a high school diploma or its equivalent. No state agency or institution of higher learning in this state may reject or otherwise treat a person differently solely on the grounds of the source of such a diploma or credential. Nothing in this section prevents an institution, once a student has been fully admitted, from administering placement tests or other assessments to determine the appropriate placement of students into college-level course sequences or to assess the content thereof for the purposes of determining whether a person meets other requirements for a specific program.

## **ARTICLE 9A. PUBLIC SCHOOL SUPPORT.**

### **§18-9A-25. Funding for Hope Scholarship Program.**

(a) Notwithstanding any other provision of this article to the contrary, for fiscal year 2023 and each fiscal year thereafter, in addition to all other amounts required by this article, the Department of Education shall include in its budget request, and the Governor shall include in each budget bill submitted to the Legislature, an appropriation to the Department of Education for the greater of an amount not less than two percent of net public school enrollment adjusted for state aid purposes or the total number of estimated Hope Scholarship applications for the fiscal year, multiplied by the prior year's statewide average net state aid allotted per pupil. The Hope Scholarship Board shall certify the estimated number of Hope Scholarship applications for the fiscal year to the Department of Education by December 10 of each year. The amount appropriated shall be transferred by the Department of Education to the Hope Scholarship Board to be used solely to meet the Hope Scholarship Program obligations set forth in §18-31-1 *et seq.* of this code except as otherwise provided in this section. The Governor shall also provide in each budget for the reappropriation for expenditure during the ensuing fiscal year the unused accumulated balance in the Hope Scholarship Fund.

(b) Each fiscal year, the amount required to be requested and included in the budget bill for appropriation under subsection (a) of this section shall be reduced by an amount equal to the unused accumulated amounts transferred to the Hope Scholarship Board for these purposes from previous years.

## **ARTICLE 31. HOPE SCHOLARSHIP PROGRAM.**

### **§18-31-2. Definitions.**

The following words have the meanings ascribed to them unless the context clearly indicates a different meaning:

(1) "Account" or "scholarship" means a Hope Scholarship account, awarded pursuant to this article, to which funds are allocated by the board to the parent or parents of an eligible Hope Scholarship student in order to pay qualifying elementary and secondary education expenses to educate the student pursuant to the requirements and conditions of this article;

(2) "Board" means the Hope Scholarship Board created pursuant to §18-31-3 of this code;

(3) "Curriculum" means a complete course of study for a particular elementary or secondary education content area or grade level including, but not limited to, textbooks; workbooks; student and teacher curriculum kits; activity, learning, or study guides; or any supplemental materials required by the curriculum;

(4) "Education service provider" means a person or organization that receives payments from Hope Scholarship accounts to provide educational goods and services to Hope Scholarship students;

(5) "Eligible recipient" means a child who:

(A) Is a resident of this state; and

(B) Is enrolled full-time and attending a public elementary or secondary school program in this state for at least 45 calendar days during an instructional term at the time of application and until an

award letter is issued by the board under §18-31-5(c) of this code, or enrolled full-time in a public elementary or secondary school program in this state for the entire instructional term the previous year, or is eligible at the time of application to enroll in a kindergarten program in this state pursuant to §18-8-1a of this code, except that if on July 1, 2024, the participation rate of the combined number of students in the Hope Scholarship Program and students eligible who have applied to participate in the Hope Scholarship program during the previous school year is less than five percent of net public school enrollment adjusted for state aid purposes for the previous school year, then, effective July 1, 2026, a child is considered to meet the requirements of this paragraph if he or she is enrolled, eligible to be enrolled, or required to be enrolled in a kindergarten program or public elementary or secondary school program in this state at the time of application;

(6) "Hope scholarship funds" means the moneys deposited in a Hope Scholarship student's account in accordance with the requirements of this article:

(7) "Hope scholarship student" means a student who receives a scholarship pursuant to this article;

(8) "Individualized Instructional Program (IIP)" means a customized educational experience that takes place either at home or another location. Hope Scholarship students participating in an IIP are not enrolled in a participating school and shall be governed by the requirements of this article, unless otherwise stated, and not any other compulsory school attendance exemption requirements;

(9) "Parent" means a biological parent, legal guardian, custodian, or other person with legal authority to act on behalf of an eligible recipient or Hope Scholarship student;

(10) "Participating school" means any private school that provides education to elementary and/or secondary students and has notified the board of its intention to participate in the program and comply with the program's requirements;

(11) "Resident school district" means the county school district in which the student resides; and

(12) "Treasurer" means the West Virginia State Treasurer.

**§18-31-2a. Educational privileges and programs available to Hope Scholarship students.**

(a) Notwithstanding any provision of this code to the contrary, a Hope Scholarship student that pursues an individualized instructional program is exempt from the requirements of compulsory school attendance pursuant to §18-8-1(m) of this code and shall be subject to the requirements of this article unless otherwise stated: *Provided*, That a Hope Scholarship student that pursues an individualized instructional program shall have the same privileges and access to programs that this code makes available to students exempt from compulsory school attendance pursuant to §18-8-1(c) of this code including, but not limited to:

(1) The ability to receive a diploma from the student's secondary educational program administrator according to the requirements of §18-8-12 of this code;

(2) The ability to receive the PROMISE scholarship according to the requirements of §18C-7-1 *et seq.* of this code;

(3) The ability to receive a work permit without prior review by a school administrator pursuant to §21-6-3 of this code; and

(4) The ability to participate in an ACE program according to the requirements in §18-2E-11 of this code.

(b) Notwithstanding any provision of this code to the contrary, a Hope Scholarship student that attends a participating school shall have the same privileges and access to programs available to students exempt from compulsory school attendance pursuant to §18-8-1 of this code by virtue of attendance of a nonpublic school including, but not limited to:

(1) The ability to receive a diploma from the student's school administrator according to the requirements of §18-8-12 of this code;

(2) The ability to receive the PROMISE scholarship according to the requirements of §18C-7-1 *et. seq.* of this code; and

(3) The ability to participate in an ACE program according to the requirements in §18-2E-11 of this code.

(c) Nothing in this section may be construed as subjecting homeschool students or nonpublic school students not participating in the Hope Scholarship Program to the requirements of this article.

**§18-31-3. West Virginia Hope Scholarship Board; members; terms; compensation; proceedings generally.**

(a) The West Virginia Hope Scholarship Program shall be administered by the West Virginia Hope Scholarship Board.

(b) The board shall consist of nine members and include the following:

(1) The State Treasurer, or his or her designee;

(2) The State Auditor, or his or her designee;

(3) The State Attorney General, or his or her designee;

(4) The State Superintendent of Schools, or his or her designee;

(5) The Chancellor of Higher Education, or his or her designee;

(6) The Director of the Herbert Henderson Office of Minority Affairs, or his or her designee; and

(7) Three members appointed by the Governor with the advice and consent of the Senate who are parents of Hope Scholarship students, or for the initial appointments of board members following the effective date of this article, parents who intend to apply for the Hope Scholarship on behalf of eligible recipients, to be appointed as follows:



(A) Only state residents are eligible for appointment to the board;

(B) The parent members shall reside in geographically diverse areas of the state;

(C) For appointments made after July 1, 2024, the parent members shall represent parents of students engaged in a diverse range of educational options, such as microschools or other individualized instruction;

The Governor shall make appointments necessary to satisfy the requirements of subdivision (7) of this section to staggered terms as determined by the Governor. After the initial staggering of terms, appointed parent board members shall serve for three-year terms and are eligible for reappointment at the expiration of their terms; and

(D) If there is a vacancy among appointed members, the vacancy shall be filled by appointment to the unexpired term of a person meeting the requirements of this section by the Governor with the advice and consent of the Senate. Members of the board shall serve until the later of the expiration of the term for which the member was appointed or the appointment of his or her successor.

(c) Members of the board shall serve without compensation. The board may reimburse members for all reasonable and necessary expenses, including travel expenses, actually incurred by board members in the conduct of their official duties. Any expense reimbursements shall be made from the West Virginia Hope Scholarship Program Expense Fund at the same rate paid to state employees.

(d) The Treasurer is the chairman and presiding officer of the board. The Treasurer may provide office space and staff to the board upon request of the board.

(e) The State Superintendent of Schools may provide staff to the board, upon request of the board.

(f) A majority of the members of the board constitutes a quorum for the transaction of the business of the board.

(g) Members of the board are subject to the ethical standards and financial disclosure requirements of the West Virginia Governmental Ethics Act in §6B-1-1 *et seq.* of this code.

#### **§18-31-4. Powers of the board.**

The board is authorized to take any action necessary to effectuate the provisions of this article and to successfully administer the Hope Scholarship Program, subject to applicable state and federal law including, but not limited to, the following:

(1) Adopt and amend bylaws;

(2) Execute contracts and other instruments for necessary goods and services, employ necessary personnel and engage the services of private consultants, actuaries, auditors, counsel, managers, trustees, and any other contractor or professional needed for rendering professional and technical assistance and advice: *Provided*, That election of these services is not subject to the provisions of §5A-3-1 *et seq.* of this code;

(3) Implement the program through the use of financial organizations as account depositories and managers;

(4) Develop and impose requirements, policies, procedures, and guidelines to implement and manage the program;

(5) Determine whether an expenditure of Hope Scholarship funds is or was a qualifying expense to educate a Hope Scholarship student pursuant to §18-31-7 of this code. The board may approve or deny expenditures by a majority vote;

(6) Review any appeals made pursuant to §18-31-10(b) and §18-31-10(d) of this code;

(7) Establish the method by which moneys in the Hope Scholarship Expense Fund shall be allocated to pay for

administrative costs and assess, collect and expend administrative fees, charges, and penalties;

(8) Authorize the assessment, collection, and retention of fees and charges against the amounts paid into and the earnings on the Hope Scholarship funds by a financial institution, investment manager, fund manager, West Virginia Investment Management Board, West Virginia Board of Treasury Investments, or other professional managing or investing the Hope Scholarship funds and accounts;

(9) Invest and reinvest any of the funds and accounts under the board's control with a financial institution, an investment manager, a fund manager, the West Virginia Investment Management Board, West Virginia Board of Treasury Investments, or other professionals investing the funds and accounts: *Provided*, That investments made under this article shall be made in accordance with the provisions of §44-6C-1 *et seq.* of this code;

(10) Solicit and accept gifts, including bequests and other testamentary gifts made by will, trust, or other disposition; grants; loans; aid; and property, real or personal of any nature and from any source, or to participate in any other way in any federal, state, or local governmental programs in carrying out the purposes of this article: *Provided*, That the board shall use the property received to effectuate the desires of the donor, and shall convert the property received into cash within 180 days of receipt;

(11) Take any issues relating to Hope Scholarship student participation in established public charter schools to the West Virginia Professional Charter School Board; and

(12) Request such information from the Department of Education and the county boards as is necessary for the completion of the board's responsibilities pursuant to this article.

### **§18-31-5. Award of Hope Scholarships.**

(a) The Hope Scholarship Program is established to provide the option for a parent to better meet the individual elementary and

secondary education needs of his or her eligible child. The program shall be operational no later than July 1, 2022.

(b) The board shall create a standard application form that a parent can submit to establish his or her student's eligibility for the award of Hope Scholarship funds, to be placed in a personal education savings account to be used for qualifying education expenses on behalf of the eligible recipient as provided for in §18-31-7 of this code. Information about scholarship funds and the application process shall be made available on the board's website.

(c) The board shall process, accept, and make available Hope Scholarship applications and awards at any time during the calendar year. The board may update the application as needed. The board shall issue an award letter to eligible recipients within 45 days of receipt of a completed application and all required documentation.

(d) The board shall approve an application for a Hope Scholarship if all of the following circumstances are met:

(1) A parent submits an application for a Hope Scholarship in accordance with the legislative rules promulgated by the board;

(2) A student on whose behalf the parent is applying is an eligible recipient, as provided in §18-31-2(5) of this code;

(3) The parent signs an agreement with the board, promising to do all of the following:

(A) To provide an education for the eligible recipient in at least the subjects of reading, language, mathematics, science, and social studies;

(B) To use the Hope Scholarship funds exclusively for qualifying expenses incurred in providing the student an elementary or secondary education as provided for in §18-31-7 of this code;

(C) To comply with the rules and requirements of the Hope Scholarship Program;

(D) To afford the Hope Scholarship student opportunities for educational enrichment such as organized athletics, art, music, or literature; and

(E) To notify the Hope Scholarship Board immediately and cease use of Hope Scholarship funds upon the student's reenrollment in a public school or when the student graduates from or otherwise successfully completes a secondary school program;

(4) The board confirms with the West Virginia Department of Education that the student satisfies §18-31-2(5) of this code: *Provided*, That if the department does not reply within 30 days, this criteria is considered satisfied.

(e) All records accepted or maintained by the board containing personally identifying information of a Hope Scholarship student, applicant, or parent are confidential and not a public record subject to release pursuant to the West Virginia Freedom of Information Act, as codified in §29B-1-1 *et seq.* of this code.

**§18-31-6. Funding of Hope Scholarships; program and expense funds.**

(a) There is hereby created in the State Treasury a special revenue fund designated and known as the West Virginia Hope Scholarship Program Fund. The fund shall be administered by the Treasurer and shall consist of funds transferred by the Department of Education in accordance with §18-9A-25 of this code. All interest and other returns derived from the deposit and investment of moneys in the Hope Scholarship Fund shall be credited to the fund. Any balance, including accrued interest and other returns, remaining in the fund at the end of each fiscal year shall not revert to the General Revenue Fund but shall remain in the fund and be expended as provided by this section.

(b) The amount of Hope Scholarship funds made available to an eligible recipient on a yearly basis shall be equal to 100 percent of the prior year's statewide average net state aid share allotted per pupil based on net enrollment adjusted for state aid purposes, subject to the provisions of subsection (c) of this section: *Provided*,

That the amount of the funding to an eligible recipient who is awarded a Hope Scholarship account for less than a full fiscal year shall be prorated based on the portion of the fiscal year the eligible recipient is awarded the Hope Scholarship account. On or prior to the submission of the Department of Education's budget request each year, the board shall notify the Department of Education of the estimated number of Hope Scholarship applications for the fiscal year for purposes of facilitating the necessary transfer of moneys pursuant to §18-9A-25 of this code.

(c) Expenditures from the Hope Scholarship Fund shall be limited to the purposes set forth in this article: *Provided*, That an amount not to exceed five percent of the fund shall be transferred annually to the West Virginia Hope Scholarship Program Expense Fund established in subsection (h) of this section to cover the annual administrative costs of the Hope Scholarship Program. If the number of Hope Scholarship accounts increases significantly after any fiscal year, the Treasurer may request an appropriation by the Legislature to the West Virginia Hope Scholarship Program Expense Fund in an amount equal to the administrative costs associated with the increase in Hope Scholarship accounts.

(d) The first deposit of Hope Scholarship funds into an eligible recipient account shall be subject to the execution of the parental agreement required by §18-31-5 of this code. Upon execution of the required parental agreement, and subject to the provisions of §18-31-9(e) of this code, one half of the total annually required deposit shall be made no later than August 15 of every year into an eligible recipient's Hope Scholarship account, and one half of the total annually required deposit shall be made no later than January 15 of every year. Any funds remaining in a Hope Scholarship account at the end of the fiscal year may be carried over to the next fiscal year upon successful renewal of the account.

(e) Funds deposited in a student's Hope Scholarship account, other than those funds expended on transportation services pursuant to §18-31-7(11) of this code, do not constitute taxable income to the parent or the Hope Scholarship student.

(f) The board shall continue to make deposits into an eligible recipient's Hope Scholarship account in accordance with the provisions of this section unless any of the following conditions have occurred:

(1) A parent of an eligible recipient fails to renew a Hope Scholarship account or withdraws from the Hope Scholarship Program;

(2) The board determines that a student is no longer eligible for a Hope Scholarship;

(3) The board suspends or revokes participation in the Hope Scholarship Program for failure to comply with the requirements of this article;

(4) The Hope Scholarship student successfully completes a secondary education program or does not commence kindergarten-level education in the year that eligibility is based on the student's kindergartener status; or

(5) The Hope Scholarship student reaches 21 years of age.

(g) If any of the conditions in subsection (f) of this section occur, the board shall notify the parent that the eligible recipient's account will be closed in 45 calendar days. If a parent fails to adequately address the condition or conditions upon which closure is based or does not respond within 30 calendar days of receipt of notice, the board shall close the account and any remaining moneys shall be returned to the state.

(h)(1) There is hereby created in the State Treasury a special revenue fund designated and known as the West Virginia Hope Scholarship Program Expense Fund. The account shall consist of moneys received pursuant to this section; moneys, if any, transferred from special revenue funds administered by the Treasurer; or any governmental or private grants and any state general fund appropriations, if any, for the Hope Scholarship Program. All interest and other returns derived from the deposit and investment of moneys in the Hope Scholarship Program Expense Fund shall be credited to the fund. Any balance, including

accrued interest and other returns, remaining in the fund at the end of each fiscal year shall not revert to the General Revenue Fund but shall remain in the fund and be expended as provided by this section.

(2) All expenses incurred by the Treasurer or the board in developing and administering the Hope Scholarship Program shall be payable from the West Virginia Hope Scholarship Expense Fund.

**§18-31-7. Qualifying expenses for Hope Scholarship accounts.**

(a) Parents of a Hope Scholarship student shall agree to use the funds deposited in their student's Hope Scholarship account only for the following qualifying expenses to educate the student:

(1) Ongoing services provided by a public school district pursuant to §18-31-8(f) of this code, including without limitation, individual classes and extracurricular activities and programs: *Provided*, That notwithstanding the provisions of §18-5G-3 of this code, a public charter school may invoice a Hope Scholarship student's account for said services;

(2) Tuition and fees at a participating school;

(3) Tutoring services provided by an individual or a tutoring facility: *Provided*, That such tutoring services are not provided by a member of the Hope Scholarship student's immediate family;

(4) Fees for nationally standardized assessments, advanced placement examinations, any examinations related to college or university admission, and tuition and/or fees for preparatory courses for the aforementioned exams;

(5) Tuition and fees for programs of study or the curriculum of courses that lead to an industry-recognized credential that satisfies a workforce need;

(6) Tuition and fees for nonpublic online learning programs including, but not limited to, online curriculum courses and tutorial programs;



(7) Tuition and fees for alternative education programs;

(8) Fees for after-school or summer education programs;

(9) Educational services and therapies including, but not limited to, occupational, behavioral, physical, speech-language, and audiology therapies;

(10) Curriculum as defined in §18-31-2 of this code;

(11) Instruments or equipment required as part of a music education course or curriculum;

(12) Fees for transportation paid to a fee-for-service transportation provider for the student to travel to and from an education service provider; and

(13) Any other qualifying expenses as approved by the board established pursuant to §18-31-3 of this code: *Provided*, That the board may adopt rules and procedures for Hope Scholarship students who want to continue to receive services provided by a public school or district.

(b) Hope Scholarship funds may only be used for educational purposes in accordance with subsection (a) of this section. Nothing in this section requires that a Hope Scholarship student be enrolled, full- or part-time, in either a private school or nonpublic online school.

(c) Hope Scholarship funds may not be refunded, rebated, or shared with a parent or student in any manner: *Provided*, That the Hope Scholarship Board shall promulgate legislative rules to ensure that an education service provider with 15 or more students can provide compensation to employees of the provider in the provider's regular course of business, notwithstanding the fact that an employee's child receives services from the education service provider.

(d) The board may adopt procedures for establishing a reimbursement process for any qualifying expenses not available for purchase by a Hope Scholarship parent through the existing

online Hope Scholarship Program portal. Any refund or rebate for goods or services purchased with Hope Scholarship funds shall be credited directly to a student's Hope Scholarship account.

(e) Nothing in this section prohibits the parents of a Hope Scholarship student from making payments for the costs of educational goods and services not covered by the funds in their student's Hope Scholarship account. However, personal deposits into a Hope Scholarship account are not permitted.

**§18-31-8. Annual continuation of Hope Scholarship accounts; participation in public school system.**

(a) Notwithstanding any changes in eligibility, effective January 1, 2025, a Hope Scholarship student may continue participation in the program from school year to school year without reapplying for the program until one of the conditions set forth in §18-31-6(f) occurs: *Provided*, That the board shall verify with the Department of Education the following information by July 1 of every year:

(1) A list of all active Hope Scholarship accounts;

(2) The resident school district of each Hope Scholarship student;

(3) For a Hope Scholarship student who chooses to attend a participating school, annual confirmation of his or her continued attendance at a nonpublic school that complies with all requirements that other nonpublic school students must comply with; and

(4) For a Hope Scholarship student who chooses an individualized instructional program:

(A) (i) He or she has annually taken a nationally normed standardized achievement test of academic achievement in the subject areas of reading, language, and mathematics, and when available for the student's grade-level, science and social studies;

(ii) The mean of the child's overall test results in the subject areas tested for any single year is within or above the fourth stanine or, if below the fourth stanine, show improvement from the previous year's results; and

(iii) The mean of the child's overall test results are reported to the county superintendent; or

(B) (i) A certified teacher conducts a review of the student's academic work annually;

(ii) The certified teacher determines that the student is making academic progress commensurate with his or her age and ability; and

(iii) The certified teacher's determination is reported to the county superintendent.

(b) As a condition of continued participation in the Hope Scholarship Program from one school year to the next, a parent must annually meet the following requirements, according to the deadlines and procedures established by the Board:

(1) The parent must submit proof of the student's continued West Virginia residency;

(2) The parent must execute the parent agreement with the Board described in §18-31-5(d)(3) of this code ahead of each school year; and

(3) The parent must report to the county superintendent of the student's county of residence that the student has complied with all attendance and academic requirements in accordance with subsection (a) of this section for the most recent school year.

(c) Each county superintendent shall submit the test results and determinations reported to him or her pursuant to subsection (a) of this section to the board and the Department of Education each year on or before June 15.

(d) If a parent fails to meet the annual conditions for continued participation in the Hope Scholarship Program described in subsection (b) of this section, the board shall notify the parent that the eligible recipient's account will be closed in 45 calendar days. If a parent declines continued participation in the program or does not respond within 30 calendar days of receipt of notice, the board shall close the account and any remaining moneys shall be returned to the state.

(e) If an eligible recipient decides to return to the Hope Scholarship Program after failing to meet the conditions for continued participation described in subsection (b) of this section, they must reapply.

(f) The board, in consultation with the Department of Education, may adopt rules and policies for Hope Scholarship students who want to continue to receive services provided by a public school or district, including individual classes and extracurricular programs, in combination with an individualized instructional program. The board, in consultation with the Department of Education, shall ensure that any public school or school district providing such services receives the appropriate pro rata share of a student's Hope Scholarship funds based on the percentage of total instruction provided to the student by the public school or school district. County boards and charter school governing boards shall charge tuition to Hope Scholarship students who enroll for services in a public school within the county or in a public charter school. Hope Scholarship students who enroll for services part-time in public school shall not be included in net enrollment for state aid funding purposes under §18-9A-2 of this code. Nothing in this subsection prohibits a Hope Scholarship student from using the funds deposited in his or her account on both services provided by a public school or district and other qualifying expenses as provided for in §18-31-7 of this code.

(g) The board, in consultation with the Department of Education, may adopt rules and policies to provide the least disruptive process for Hope Scholarship students who desire to stop receiving Hope Scholarship payments and return full-time to a public school.

**§18-31-10. Auditing of Hope Scholarship Program; suspension of accounts and providers.**

(a) The board may propose legislative rules for approval pursuant to §29A-3-1 *et seq.* of this code for the auditing of individual Hope Scholarship accounts and shall conduct or contract for the random auditing of individual Hope Scholarship accounts as needed to ensure compliance with the requirements of this article and rules promulgated pursuant to this article.

(b) As part of the auditing process, the board may remove a parent or eligible recipient from the Hope Scholarship Program and close a Hope Scholarship account for failure to comply with the terms of the parental agreement required by §18-31-5 of this code, failure to comply with the applicable laws, failure of the student to remain eligible, or intentional and fraudulent misuse of Hope Scholarship funds: *Provided*, That the board shall create procedures to ensure that a fair process exists to determine the removal of a parent or eligible recipient from the Hope Scholarship Program and a parent or Hope Scholarship student may appeal the decision to make the student ineligible for funds to the board.

(c) The board may propose legislative rules for approval pursuant to §29A-3-1 *et seq.* of this code for the auditing of education service providers and shall conduct or contract for the random auditing of individual providers as needed to ensure compliance with the requirements of this article and rules promulgated pursuant to this article.

(d) If the board determines that an education service provider has intentionally and substantially misused Hope Scholarship funds, the board may bar the education service provider from continuing to receive payments. The board shall create procedures to ensure that a fair process exists to determine whether an education service provider may be barred from receiving payment from Hope Scholarship accounts and an education service provider may appeal a decision to bar it from receiving payments to the board. If the board bars an education service provider from receiving payments from Hope Scholarship accounts, it shall notify parents and students of its decision as quickly as possible.

(e) If the board obtains evidence of potential fraudulent use of Hope Scholarship funds, it may refer suspected cases to the State Auditor for purposes of investigation, collection, and potential criminal investigation.

**§18-31-11. Requirements for and rights of education service providers.**

(a) To be eligible to accept payments from a Hope Scholarship account, an education service provider shall:

(1) Submit notice to the board that they wish to participate in the Hope Scholarship Program;

(2) Provide participating parents with a receipt for all qualifying educational expenses for the Hope Scholarship student;

(3) Agree not to refund, rebate, or share Hope Scholarship funds with parents or students in any manner, except that funds may be remitted or refunded to a Hope Scholarship account in accordance with §18-31-7(c) of this code;

(4) Certify that it will not discriminate on any basis prohibited by 42 U.S.C. 1981;

(5) Submit any employee or other person who will have contact with Hope Scholarship students receiving services from the provider to a criminal background check and certify that said background check does not indicate conviction of a felony involving violence to the person and that the employee or other person is not on a federal or state sex offender registry; and

(6) In the case of a participating school, provide notice of each Hope Scholarship student's enrollment annually to the county superintendent of any student for which a student's tuition is being paid through the Hope Scholarship Program.

(b) This article does not limit the independence or autonomy of an education service provider or make the actions of an education service provider the actions of the state government.

(c) Education service providers shall be given maximum freedom to provide for the educational needs of Hope Scholarship students without governmental control.

(d) A participating school or education service provider is not required to alter its creed, practices, admission policy, hiring policy or curriculum in order to accept eligible recipients whose parents pay tuition or fees from a Hope Scholarship account pursuant to this article: *Provided*, That an education service provider is prohibited from requiring a student or family to pay tuition, costs, or fees above or in addition to the provider's regular tuition or fee schedule based in whole or in part upon a student or family member's participation in the Hope Scholarship Program.

(e) This article does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of education service providers beyond those necessary to enforce the requirements of the program.

#### **§18-31-14. Reporting.**

(a) The board shall provide a comprehensive report on the status of the Hope Scholarship Program to the Legislative Oversight Commission on Education Accountability on or before December 31, 2026, and annually on or before December 31 of each year thereafter, addressing the progress of the program throughout the state. As part of the annual report, the board, in collaboration with the state and county boards of education, shall survey participating Hope Scholarship families to determine:

(1) The types of educational services chosen by Hope Scholarship students;

(2) Demographic and geographic data of participating students;

(3) Number of students participating with special needs;

(4) For Hope Scholarship students who withdrew from a public school, the stated reason for withdrawing;

(5) County superintendent and board compliance with Hope Scholarship reporting requirements; and

(6) Parent satisfaction with the Hope Scholarship Program.

(b) The board shall use only aggregate, nonidentifying evaluation data when compiling any such public reports.



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## CHAPTER 114

**(Com. Sub. for H. B. 4951 - By Delegates W. Clark, E. Pritt,  
Kump, Ferrell, Foggin, and Willis)**

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[Passed March 9, 2024; in effect ninety days from passage.]  
[Approved by the Governor on March 26, 2024.]

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article designated §18-10R-1, §18-10R-2, §18-10R-3, §18-10R-4, §18-10R-5, §18-10R-6, §18-10R-7, §18-10R-8, §18-10R-9, §18-10R-10, §18-10R-11, §18-10R-12, and §18-10R-13, relating to the Interstate Compact for School Psychologists; stating purpose; defining terms; providing for state and school psychologists' participation in compact; determining home state for active military members and their spouses; providing for discipline by the state; establishment of school psychologist interstate licensure compact commission and providing its powers and duties; facilitating information exchange; providing for oversight, dispute resolution and enforcement; providing an effective date, and process for withdrawal of a state and amendments; providing for construction and severability; and providing for consistent state laws with the compact superseding any laws in conflict with the compact.

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

### **ARTICLE 10R. INTERSTATE COMPACT FOR SCHOOL PSYCHOLOGISTS.**

#### **§18-10R-1. Interstate Compact for School psychologists; purpose.**

(a) The purpose of this compact is to facilitate the interstate practice of school psychology in educational or school settings, and

in so doing to improve the availability of school psychological services to the public. This compact is intended to establish a pathway to allow school psychologists to obtain equivalent licenses to provide school psychological services in any member state. In this way, this compact shall enable the member states to ensure that safe and effective school psychological services are available and delivered by appropriately qualified professionals in their educational settings.

(b) To facilitate the objectives described in subsection (a) of this section, this compact:

(1) Enables school psychologists who qualify for receipt of an equivalent license to practice in other member states without first satisfying burdensome and duplicative requirements;

(2) Promotes the mobility of school psychologists between and among the member states in order to address workforce shortages and to ensure that safe and reliable school psychological services are available in each member state;

(3) Enhances the public accessibility of school psychological services by increasing the availability of qualified, licensed school psychologists through the establishment of an efficient and streamlined pathway for licensees to practice in other member states;

(4) Preserves and respects the authority of each member state to protect the health and safety of its residents by ensuring that only qualified, licensed professionals are authorized to provide school psychological services within that state;

(5) Requires school psychologists practicing within a member state to comply with the scope of practice laws present in the state where the school psychological services are being provided;

(6) Promotes cooperation between the member states in regulating the practice of school psychology within those states; and

(7) Facilitates the relocation of military members and their spouses who are licensed to provide school psychological services.

### **§18-10R-2. Definitions.**

“Active Military Member” means any person with full-time duty status in the armed forces of the United States, including members of the National Guard and Reserve.

“Adverse Action” means disciplinary action or encumbrance imposed on a license by a state licensing authority.

“Alternative Program” means a non-disciplinary, prosecutorial diversion, monitoring, or practice remediation process entered into in lieu of an adverse action which is applicable to a school psychologist and approved by the state licensing authority of a member state in which the participating school psychologist is licensed. This includes, but is not limited to, programs to which licensees with substance abuse or addiction issues may be referred in lieu of an adverse action.

“Commissioner” means the individual appointed by a member state to serve as the representative to the commission for that member state.

“Compact” means this School Psychologist Interstate Licensure Compact.

“Continuing Professional Education” means a requirement, imposed by a member state as a condition of license renewal to provide evidence of successful participation in professional educational activities relevant to the provision of school psychological services.

“Criminal Background Check” means the submission of fingerprints or other biometric- information for a license applicant for the purpose of obtaining that applicant’s criminal history record information, as defined in 28 C.F.R. § 20.3(d), and the state’s criminal history record repository as 81 defined in 28 C.F.R. § 20.3(f).

“Doctoral Level Degree” means a graduate degree program that consists of at least 90 graduate semester hours in the field of school psychology including a supervised internship.

“Encumbered License” means a license that a state licensing authority has limited in any way other than through an alternative program, including temporary or provisional licenses.

“Executive committee” means the commission’s chair, vice chair, secretary and treasurer and any other commissioners as may be determined by commission rule or bylaw.

“Equivalent License” means a license to practice school psychology which a member state has identified as a license which may be provided to school psychologists from other member states pursuant to this compact.

“Home state” means the member state that issued the home state license to the licensee and is the licensee’s primary state of practice.

“Home state License” means the license that is not an encumbered license issued by the home state to provide school psychological services.

“School Psychological Services” means academic, mental and behavioral health services including assessment, prevention, consultation and collaboration, intervention, and evaluation provided by a school psychologist in a school, as outlined in applicable professional standards as determined by commission rule.

“License” means a current license, certification, or other authorization granted by a member state’s licensing authority that permits an individual to provide school psychological services.

“Licensee” means an individual who holds a license from a member state to provide school psychological services.

“Licensing Authority” means a member state’s regulatory body responsible for issuing licenses or otherwise overseeing the practice of school psychology.

“Member State” means a state that has enacted the compact and been admitted to the commission in accordance with the provisions of this article and commission rules.

“Model Compact” means the model language for the School Psychologist Interstate Licensure Compact on file with the Council of State Governments or other entity as designated by the commission.

“Practice of School Psychology” means the delivery school psychological services.

“School Psychologist Interstate Licensure Compact Commission” or “Commission” means the joint government agency established by this compact whose membership consists of representatives from each member state that has enacted the compact, and as further described in section seven of this article.

“Specialist-Level Degree” means a degree program that requires at least 60 graduate semester hours or their equivalent in the field of school psychology including a supervised internship.

“Qualifying National Exam” means a national licensing examination endorsed by the National Association of School Psychologists and any other exam as approved by the rules of the commission.

“Qualifying School Psychologist Education Program” means an education program which awards a Specialist-Level or Doctoral-Level degree or equivalent upon completion and is approved by the rules of the commission as meeting the necessary minimum educational standards to ensure that its graduates are ready, qualified, and able to engage in the practice of school psychology.

“Remote State” means a member state other than the home state where a licensee holds a license through the compact.

“Rule” means a regulation promulgated by an entity, including but not limited to the commission and the state licensing authority of each member state, that has the force of law.

“School Psychologist” means an individual who has met the requirements to obtain a home state license that legally conveys the professional title of school psychologist, or its equivalent as determined by the rules of the commission.

“Scope of Practice” means the procedures, actions, and processes a school psychologist licensed in a state is permitted to undertake in that state and the circumstances under which that licensee is permitted to undertake those procedures, actions, and processes. The procedures, actions, and processes, and the circumstances under which they may be undertaken, may be established through means including, but not limited to, statute, rules, case law, and other processes available to the state licensing authority or other government agency.

“State” means any state, commonwealth, district, or territory of the United States of America.

“State Licensing Authority” means an agency, whether the Department of Education or otherwise, or other entity operating as an arm of a state that is responsible for the licensing and regulation of school psychologists.

“State Specific Requirement” means a requirement for licensure covered in coursework or examination that includes content of unique interest to the state.

“Unencumbered License” means a license that authorizes a licensee to engage in the full and unrestricted practice of school psychology.

### **§18-10R-3. State participation in the compact.**

(a) To be eligible to join this compact, and to maintain eligibility as a member state, a state shall:

(1) Enact a compact statute that is not materially different from the model compact as defined in the commission's rules;

(2) Participate in the sharing of information with other member states as reasonably necessary to accomplish the objectives of this compact, and as further defined in section eight of this article;

(3) Identify and maintain with the commission a list of equivalent licenses available to licensees who hold a home state license under this compact;

(4) Have a mechanism in place for receiving and investigating complaints about licensees;

(5) Notify the commission, in compliance with the terms of the compact and the commission's rules, of any adverse action taken against a licensee, or of the availability of investigative information which relates to a licensee or applicant for licensure;

(6) Require that applicants for a home state license have:

(A) Taken and passed a qualifying national exam as defined by the rules of the commission;

(B) Completed a minimum of 1200 hours of supervised internship, of which at least 600 have been completed in a school, prior to being approved for licensure;

(C) Graduated from a qualifying school psychologist education program; and

(7) Comply with the terms of this compact and the rules of the commission.

(b) Each member state shall grant an equivalent license to practice school psychology in that state upon application by a licensee who satisfies the criteria of §18-10R-4(a) of this code. Each member state shall grant renewal of the equivalent license to a licensee who satisfies the criteria of §18-10R-4(b) of this code.

(c) Member states may set and collect a fee for granting an equivalent license.

**§18-10R-4. School psychologist participant in the compact .**

(a) To obtain and maintain an equivalent license from a receiving state under this compact, a licensee must:

(1) Hold and maintain an active home state license;

(2) Satisfy any applicable state specific requirements established by the member state after an equivalent license is granted;

(3) Complete any administrative or application requirements which the commission may establish by rule, and pay any associated fees;

(4) Complete any requirements for renewal in the home state, including applicable continuing professional education requirements; and

(5) Upon their application to receive a license under this compact, undergo a criminal background check in the member state in which the equivalent license is sought in accordance with the laws and regulations of such member state.

(b) To renew an equivalent license in a member state other than the home state, a licensee must only apply for renewal, complete a background check, and pay renewal fees as determined by the licensing authority.

**§18-10R-5. Active military members or their spouses.**

A licensee who is an active military member or is the spouse of an active military member shall be considered to hold a home state license in any of the following locations:

(a) The licensee's permanent residence;

(b) A member state that is the licensee's primary state of practice; or

(c) A member state where the licensee has relocated pursuant to a permanent change of station (PCS).



**§18-10R- 6. Discipline; adverse actions.**

(a) Nothing in this compact shall be considered or construed to limit the authority of a member state to investigate or impose disciplinary measures on licensees according to the state's practice laws.

(b) Member states may receive, and shall provide, files and information regarding the investigation and discipline, if any, of licensees in other member states upon request. Any member state receiving such information or files shall protect and maintain the security and confidentiality thereof, in at least the same manner that it maintains its own investigatory or disciplinary files and information. Prior to disclosing any disciplinary or investigatory information received from another member state, the disclosing state shall communicate its intention and purpose for such disclosure to the member state which originally provided that information.

**§18R-10-7. Establishment of the School Psychologist Interstate Licensure Compact Commission.**

(a) The member states hereby create and establish a joint government agency whose membership consists of all member states that have enacted the compact, and this agency shall be known as the School Psychologist Interstate Licensure Compact Commission. The commission is an instrumentality of the member states acting jointly and not an instrumentality of any one state. The commission shall come into existence on or after the effective date of the compact as set forth in §18-10R-11 of this code.

(b) Membership, Voting, and Meetings.

(1) Each member state shall have and be limited to one delegate selected by that member state's licensing authority.

(2) The delegate shall be the primary administrative officer of the member state licensing authority or his or her designee who is an employee of the member state licensing authority.

(3) The commission shall by rule or bylaw establish a term of office for delegates and may by rule or bylaw establish term limits.

(4) The commission may recommend removal or suspension of any delegate from office.

(5) A member state's licensing authority shall fill any vacancy of its delegate occurring on the commission within 60 days of the vacancy.

(6) Each delegate has one vote on all matters before the commission requiring a vote by commission delegates.

(7) A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates to meet by telecommunication, videoconference, or other means of communication.

(8) The commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws. The commission may meet by telecommunication, video conference or other similar electronic means.

(c) The powers, duties, and responsibilities of the commission include:

(1) Establishing the fiscal year of the commission;

(2) Establishing code of conduct and conflict of interest policies;

(3) Establishing and amending rules and bylaws;

(4) Establishing the procedure through which a licensee may change his or her home state;

(5) Maintaining its financial records in accordance with the bylaws;

(6) Meeting and taking such actions as are consistent with the provisions of this compact, the commission's rules, and the bylaws;

(7) Initiating and concluding legal proceedings or actions in the name of the commission, provided that the standing of any member state licensing authority to sue or be sued under applicable law shall not be affected;

(8) Maintaining and certifying records and information provided to a member state as the authenticated business records of the commission, and designating an agent to do so on the commission's behalf;

(9) Purchasing and maintaining insurance and bonds;

(10) Borrowing, accepting, or contracting for services of personnel, including, but not limited to, employees of a member state;

(11) Conducting an annual financial review;

(12) Hiring employees, electing or appointing officers, fixing compensation, defining duties, granting such individuals appropriate authority to carry out the purposes of the compact, and establishing the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(13) Assessing and collecting fees;

(14) Accepting any and all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and services, and receiving, using, and disposing of the same; provided that at all times the commission shall avoid any appearance of impropriety and/or conflict of interest;

(15) Leasing, purchasing, retaining, owning, holding, improving, or using any property, real, personal, or mixed, or any undivided interest therein;

(16) Selling, conveying, mortgaging, pledging, leasing, exchanging, abandoning, or otherwise disposing of any property real, personal, or mixed;

(17) Establishing a budget and making expenditures;

(18) Borrowing money;

(19) Appointing committees, including standing committees, composed of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;

(20) Providing and receiving information from, and cooperating with, law enforcement agencies;

(21) Establishing and electing an executive committee, including a chair and a vice chair;

(22) Determining whether a state's adopted language is materially different from the model compact language such that the state would not qualify for participation in the compact; and

(23) Performing any other functions necessary or appropriate to achieve the purposes of this compact.

(d) The Executive committee may act on behalf of the commission according to the terms of this compact. The powers, duties, and responsibilities of the executive committee include:

(1) Overseeing of the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its rules and bylaws, and other such duties as considered necessary;

(2) Recommending to the commission changes to the rules or bylaws, changes to this compact legislation, fees charged to member states, fees charged to licensees, and other fees;

(3) Ensuring compact administration services are appropriately provided, including by contract;

(4) Preparing and recommending the budget;

(5) Maintaining financial records on behalf of the commission;

(6) Monitoring compact compliance of member states and provide compliance reports to the commission;

(7) Establishing additional committees as necessary;

(8) Exercising the powers and duties of the commission during the interim between commission meetings, except for adopting or amending Rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the commission by rule or bylaw; and

(9) Performing other duties as provided in the rules or bylaws of the commission.

(e) The executive committee shall be composed of up to seven members:

(1) The chair and vice chair of the commission shall be voting members of the executive committee; and

(2) The commission shall elect five voting members from the current membership of the commission.

(f) The commission may remove any member of the executive committee as provided in the commission's bylaws.

(g) The executive committee shall meet at least annually.

(1) Executive committee meetings shall be open to the public, except that the executive committee may meet in a closed, non-public meeting as provided in subdivision four, subsection (h) of this section.

(2) The executive committee shall give 30 days' notice of its meetings, posted on its website and as determined to provide notice to persons with an interest in the business of the commission.

(3) The executive committee may hold a special meeting in accordance with subsection subdivision three, subsection (h) of this section.

(4) The commission shall adopt and provide to the member states an annual report.

(h) Meetings of the commission.

(1) All meetings shall be open to the public, except that the commission may meet in a closed, non-public meeting as provided subdivision four, subsection (h) of this section.

(2) Public notice for all meetings of the full commission of meetings shall be given in the same manner as required under the rulemaking provisions in §18-10R-9 of this code, except that the commission may hold a special meeting as provided subsection subdivision three, subsection (h) of this section.

(3) The commission may hold a special meeting when it must meet to conduct emergency business by giving 48 hours' notice to all commissioners, on the commission's website, and other means as provided in the commission's rules. The commission's legal counsel shall certify that the commission's need to meet qualifies as an emergency.

(4) The commission or the executive committee or other committees of the commission may convene in a closed, non-public meeting for the commission or executive committee or other committees of the commission to receive legal advice or to discuss:

(i) Non-compliance of a member state with its obligations under the compact;

(1) The employment, compensation, discipline or other matters, practices or procedures related to specific employees;

(2) Current or threatened discipline of a Licensee by the commission or by a member state's licensing authority;

(3) Current, threatened, or reasonably anticipated litigation;

(4) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

(5) Accusing any person of a crime or formally censuring any person;

(6) Trade secrets or commercial or financial information that is privileged or confidential;

(7) Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(8) Investigative records compiled for law enforcement purposes;

(9) Information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact;

(10) Matters specifically exempted from disclosure by federal or Member state law; or

(11) Other matters as promulgated by the commission by rule.

(j) If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the meeting will be closed and reference each relevant exempting provision, and such reference shall be recorded in the minutes.

(k) The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the commission or order of a court of competent jurisdiction.

(l) Financing of the commission.

(1) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(2) The commission may accept any and all appropriate revenue sources as provided in subsection subdivision 14, subsection (c) of this section.

(3) The commission may levy on and collect an annual assessment from each member state and impose fees on licensees practicing in the member states under an equivalent license to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount for member states shall be allocated based upon a formula that the commission shall promulgate by rule.

(4) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

(5) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the financial review and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the commission.

(j) Qualified Immunity, Defense, and Indemnification.

(1) The members, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing in this subdivision shall be construed to protect any such person from suit or liability for any damage, loss,



injury, or liability caused by the intentional or willful or wanton misconduct of that person. The procurement of insurance of any type by the commission shall not in any way compromise or limit the immunity granted hereunder.

(2) The Commission shall defend any member, officer, executive director, employee, and representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or as determined by the commission that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities: *Provided*, That nothing in this subdivision shall be construed to prohibit that person from retaining their own counsel at their own expense: *Provided, however*, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

(3) The commission shall indemnify and hold harmless any member, officer, executive director, employee, and representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

(4) Nothing in this section shall be construed as a limitation on the liability of any licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable state laws.

(5) Nothing in this compact shall be interpreted to waive or otherwise abrogate a member state's state action immunity or state action affirmative defense with respect to antitrust claims under the

Sherman Act, Clayton Act, or any other state or federal antitrust or anticompetitive law or regulation.

(6) Nothing in this compact shall be construed to be a waiver of sovereign immunity by the Member states or by the commission.

**§18-10R-8. Facilitating information exchange.**

(a) The commission shall provide for facilitating the exchange of information to administer and implement the provisions of this compact in accordance with the rules of the commission, consistent with generally accepted data protection principles.

(b) Notwithstanding any other provision of state law to the contrary, a member state shall agree to provide for the facilitation of the following Licensee information as required by the Rules of the commission, including:

(1) Identifying information;

(2) Licensure data;

(3) Adverse actions against a license and information related thereto;

(c) Non-confidential information related to alternative program participation, the beginning and ending dates of such participation, and other information related to such participation not made confidential under member state law;

(1) Any denial of application for licensure, and the reasons for such denial;

(2) The presence of investigative information; and

(3) Other information that may facilitate the administration of this compact or the protection of the public, as determined by the rules of the commission.

(d) Nothing in this compact shall be considered or construed to alter, limit, or inhibit the power of a member state to control and maintain ownership of its licensee information or alter, limit, or

inhibit the laws or regulations governing Licensee information in the member state.

**§18-10R-9. Rulemaking.**

(a) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this interstate compact and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(b) The commission shall promulgate reasonable rules to achieve the intent and purpose of this interstate compact. In the event the commission exercises its rulemaking authority in a manner that is beyond purpose and intent of this interstate compact, or the powers granted hereunder, then such an action by the commission shall be invalid and have no force and effect of law in the member states.

(c) If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four (4) years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

(d) Rules or amendments to the Rules shall be adopted or ratified at a regular or special meeting of the commission in accordance with commission rules and Bylaws.

(e) Prior to promulgation and adoption of a final rule or rules by the commission, and at least thirty (30) days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

(1) On the website of the commission or other publicly accessible platform; and

(2) On the website of each member state licensing authority or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

(f) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule with 48 hours' notice, with opportunity to comment, provided that the usual rulemaking procedures shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(1) Meet an imminent threat to public health, safety, or welfare.

(2) Prevent a loss of commission or member state funds.

(3) Meet a deadline for the promulgation of an administrative Rule that is established by federal law or rule; or

(4) Protect public health and safety.

#### **§18-10R-10. Oversight, dispute resolution, and enforcement.**

(a) Oversight;

(1) The executive and judicial branches of the State government in each member state shall enforce this compact and take all actions necessary and appropriate to implement the compact.

(2) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing in this subdivision shall affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct or any such similar matter.

(3) The commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the compact and shall have standing to intervene

in such a proceeding for all purposes. Failure to provide the commission service of process shall render a judgment or order void as to the commission, this compact, or promulgated rules.

(b) Default, Technical Assistance, and Termination;

(1) If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall provide written notice to the defaulting state. The notice of default shall describe the default, the proposed means of curing the default, and any other action that the commission may take, and shall offer training and specific technical assistance regarding the default.

(2) The commission shall provide a copy of the notice of default to the other member states.

(c) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a supermajority of the delegates of the member states, and all rights, privileges and benefits conferred on that state by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(d) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting State's legislature, the defaulting state's licensing authority and each of the member states' licensing authorities.

(e) A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(f) Upon the termination of a state's membership from this compact, that state shall immediately provide notice to all Licensees within that state of such termination. The terminated

state shall continue to recognize all licenses granted pursuant to this compact for a minimum of six (6) months after the date of said notice of termination.

(g) The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(h) The defaulting state may appeal the action of the commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

(i) Dispute Resolution;

(1) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and non- member states.

(2) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(j) Enforcement;

(1) By majority vote as provided by rule, the commission may initiate legal action against a member state in default in the United States District Court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the compact and its promulgated rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees. The remedies in this subdivision shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or the defaulting member state's law.

(2) A member state may initiate legal action against the commission in the U.S. District Court for the District of Columbia or the federal district where the commission has its principal offices to enforce compliance with the provisions of the compact and its promulgated rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

(3) No person other than a member state shall enforce this compact against the Commission.

### **§18-10R-11. Effective date, withdrawal, and amendment.**

(a) The compact shall come into effect on the date on which the compact statute is enacted into law in the seventh member state.

(1) On or after the effective date of the compact specified in subsection (a) of this section, the commission shall convene and review the enactment of each of the charter member states to determine if the statute enacted by each such charter member state is materially different than the model compact statute.

(A) A charter member state whose enactment is found to be materially different from the model compact statute shall be entitled to the default process set forth in §18-10R-10 of this code.

(B) If any member state is later found to be in default, or is terminated or withdraws from the compact, the commission shall remain in existence and the compact shall remain in effect even if the number of member states should be less than seven.

(2) Member states enacting the compact subsequent to the charter member states shall be subject to the process set forth in §18-10R-7(C)(21) to determine if their enactments are materially different from the model compact statute and whether they qualify for participation in the compact.

(3) All actions taken for the benefit of the commission or in furtherance of the purposes of the administration of the compact prior to the effective date of the compact or the commission coming

into existence shall be considered to be actions of the commission unless specifically repudiated by the commission.

(A) Any state that joins the compact subsequent to the commission's initial adoption of the Rules and bylaws shall be subject to the rules and bylaws as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.

(B) Any member state may withdraw from this compact by enacting a statute repealing the same.

(C) A member state's withdrawal shall not take effect until 180 days after enactment of the repealing statute.

(D) Withdrawal shall not affect the continuing requirement of the withdrawing state's licensing authority to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.

(E) Upon the enactment of a statute withdrawing from this compact, a state shall immediately provide notice of such withdrawal to all licensees within that state. Notwithstanding any subsequent statutory enactment to the contrary, such withdrawing state shall continue to recognize all licenses granted pursuant to this compact for a minimum of six (6) months after the date of such notice of withdrawal.

(i) Nothing contained in this compact shall be construed to invalidate or prevent any licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this compact.

(ii) This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.



**§18-10R-12. Construction and severability.**

(a) This compact and the commission's rulemaking authority shall be liberally construed so as to effectuate the purposes, and the implementation and administration of the compact. Provisions of the compact expressly authorizing or requiring the promulgation of rules shall not be construed to limit the commission's rulemaking authority solely for those purposes.

(b) The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is held by a court of competent jurisdiction to be contrary to the constitution of any Member state, a State seeking participation in the compact, or of the United States, or the applicability thereof to any government, agency, person or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person or circumstance shall not be affected thereby.

(c) Notwithstanding subsection B of this section, the commission may deny a state's participation in the compact or, in accordance with the requirements of §18-10R-10.B of this code, terminate a member state's participation in the compact, if it determines that a constitutional requirement of a Member state is a material departure from the compact. Otherwise, if this compact shall be held to be contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the Member state affected as to all severable matters.

**§18-10R-13. Consistent effect and conflict with other state laws.**

(a) Nothing in this article shall prevent or inhibit the enforcement of any other law of a member state that is not inconsistent with the compact.

(b) Any laws, statutes, regulations, or other legal requirements in a member state in conflict with the compact are superseded to the extent of the conflict.

(c) All permissible agreements between the commission and the member states are binding in accordance with their terms.

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## CHAPTER 115

**(Com. Sub. for H. B. 4986 - By Delegates Rohrbach, Warner, Statler, Ellington, Toney, Foggin, Mazzocchi, Longanacre, Ferrell, Jennings, and Hornby)**

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[Passed March 6, 2024; in effect ninety days from passage.]  
[Approved by the Governor on March 22, 2024.]

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-19e, relating to providing computer science and cybersecurity instruction for adult learners.

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

### **ARTICLE 5. COUNTY BOARD OF EDUCATION.**

#### **§18-5-19e. Computer science and cybersecurity instruction for adult learners.**

(a) The State Superintendent of Schools, or designee, shall seek, apply for, and if received, administer, and distribute through the division of PK through 12 Adult Instruction & Career Engagement, any grants or other financial assistance that the Federal government and other public or private sources shall make available for purposes of providing computer science and cybersecurity instruction to adults.

(b) The State Superintendent of Schools, or designee, shall use or distribute any grants or other financial assistance received from the Federal government, and other public or private sources for purposes of providing computer science and cybersecurity instruction to adults, to school districts, public charter schools, area career and technology centers, job service and West Virginia Workforce centers, public libraries, adult education centers, and learning centers that qualify as non-profit entities under 26

U.S.C.S. §501(c)(3), not to exceed \$300,000 per recipient. This shall occur on a biennium basis beginning on July 1, 2024, and ending June 30, 2026.

(c) School districts, public charter schools, public libraries, area career and technology centers, job service and West Virginia Workforce centers, adult education centers, and learning centers that qualify as non-profit entities under 26 U.S.C.S. §501(c)(3) shall use all or part of the grant money or financial assistance received to cover the expenditures, including instruction compensation, incurred in providing computer science and cybersecurity courses to adults.

(d) The State Superintendent of Schools shall have authority to provide for the suitable coordination and supervision necessary to implement the purposes of this section.

(e) All computer science and cybersecurity instruction for adult learners established under this section shall be under regulations of the State Department of Education.

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## CHAPTER 116

**(Com. Sub. for H. B. 5158 - By Delegates Toney, Ellington,  
Statler, and Vance)**

[Passed March 8, 2024; in effect ninety days from passage.]

[Approved by the Governor on March 26, 2024.]

AN ACT to amend and reenact §18-1-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-10N-2 of said code; to amend and reenact §18-20-1 and §18-20-1a of said code; to repeal §18-20-1b of said code; and to amend and reenact §18-20-1c, §18-20-1d, §18-20-2, §18-20-3, §18-20-4, §18-20-5, §18-20-6, §18-20-7, §18-20-8, §18-20-9, §18-20-10, and §18-20-11, all relating to updating statutory provisions regarding the special education code; defining local educational agency; clarifying that districts and county boards subsumed under the local educational agency; updating definitions; updating terminology used in education of exceptional children; clarifying local educational agencies special educational programs include services outside the school environment; requiring state board's rules assuring exceptional students receive an education in accordance with state and federal laws include students in foster care and correctional facilities; clarifying services required by local educational agency that must be provided until age of majority; requiring preschool programs, special education and related services for students with disabilities or developmental delays begin services by student's 3rd birthday; clarifying preschool programs for students with disabilities or developmental delays are available to such students in mental health facilities, residential institutions, and private entities who have entered into an agreement with a local educational agency; repealing outdated code section; clarifying provisions regarding assistance, training and information to be provided to integrated classroom teachers; allowing any teacher to request

an IEP meeting in certain instance; prohibiting a teacher from being penalized for advocating for his or her student; allowing the teacher to work with the family or guardian; providing that the general education teacher is not responsible for daily accommodation logs; requiring that data to support the decision to place a student into an integrated classroom be included in the Individualized Education Plan; updating terminology for individualized education programs; clarifying minimum training for autism mentor and allowing for partial or full reimbursement of tuition for training as autism mentor; updating terminology regarding reports; requiring local educational agencies to maintain a continuum of services, including integrated classrooms and out of school environments; requiring training to integrated education and submission of annual reports; updating terminology regarding examination and reports by medical or other specialists; updating language regarding powers and duties of superintendent; updating language regarding advisory council for the education of exceptional children; updating requirements of exceptional children monitoring and accountability review teams; updating terminology regarding interagency plan for exceptional children and advisory council; updating terminology regarding gifted education caseload review; and updating language regarding video cameras in self-contained classrooms.

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

## **CHAPTER 18. EDUCATION.**

### **ARTICLE 1. DEFINITIONS; LIMITATIONS OF CHAPTER; GOALS FOR EDUCATION.**

#### **§18-1-1. Definitions.**

The following words used in this chapter and in any proceedings pursuant thereto have the meanings ascribed to them unless the context clearly indicates a different meaning:

(a) "School" means the students and teachers assembled in one or more buildings, organized as a unit;

(b) "Local educational agency" means a public board of education or other public authority legally constituted within the State of West Virginia for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of the State, as authorized by West Virginia Code, including county school districts, schools and facilities under the supervision of the West Virginia Board of Education (WVBE), and public charter schools;

(c) "District" means county school district and is subsumed under the category of local educational agency;

(d) "State board" means the West Virginia Board of Education;

(e) "County board" or "board" means a county board of education and is subsumed under the category of local educational agency;

(f) "State superintendent" means the state superintendent of Schools;

(g) "County superintendent" or "superintendent" means a local educational agency superintendent of schools;

(h) "Teacher" means a teacher, supervisor, principal, superintendent, public school librarian or any other person regularly employed for instructional purposes in a public school in this state;

(i) "Service person" or "service personnel", whether singular or plural, means any nonteaching school employee who is not included in the meaning of "teacher" as defined in this section, and who serves the school or schools as a whole, in a nonprofessional capacity, including such areas as secretarial, custodial, maintenance, transportation, school lunch and aides. Any reference to "service employee" or "service employees" in this chapter or

chapter eighteen-a of this code means service person or service personnel as defined in this section;

(j) "Social worker" means a nonteaching school employee who, at a minimum, possesses an undergraduate degree in social work from an accredited institution of higher learning and who provides various professional social work services, activities or methods as defined by the state board for the benefit of students;

(k) "Regular full-time employee" means any person employed by a local educational agency who has a regular position or job throughout his or her employment term, without regard to hours or method of pay;

(l) "Career clusters" means broad groupings of related occupations;

(m) "Work-based learning" means a structured activity that correlates with and is mutually supportive of the school-based learning of the student and includes specific objectives to be learned by the student as a result of the activity;

(n) "School-age juvenile" means any individual who is entitled to attend or who, if not placed in a residential facility, would be entitled to attend public schools in accordance with: (1) Section five, article two of this chapter; (2) sections fifteen and eighteen, article five of this chapter; or (3) section one, article twenty of this chapter;

(o) "Student with a disability" means an exceptional child, other than gifted and exceptional gifted, pursuant to section one, article twenty of this chapter;

(p) "Casual deficit" means a deficit of not more than three percent of the approved levy estimate or a deficit that is nonrecurring from year to year; and

(q) "Athletic director" means a person employed by a local educational agency to work in a school's athletic program pursuant to section one-a, article two, chapter eighteen-a of this code.

## **ARTICLE 10N. INFORMATION TECHNOLOGY ACCESS FOR THE BLIND AND VISUALLY IMPAIRED.**

### **§18-10N-2. Definitions.**

The following words have the meanings indicated:

(a) "Access" means the ability to receive, use and manipulate data and operate controls included in information technology.

(b) "Blind or visually impaired individual" means an individual who:

Has a visual impairment that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness.

(c) "Information technology" means all electronic information processing hardware and software, including telecommunications.

(d) "Nonvisual" means synthesized speech, Braille and other output methods not requiring sight.

(e) "State agency" means the state or any of its departments, agencies or boards or commissions.

(f) "Telecommunications" means the transmission of information, voice, or data by radio, video or other electronic or impulse means.

## **ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.**

### **§18-20-1. Establishment of special programs and teaching services for students with exceptionalities.**

(a) In accordance with the following provisions, local educational agencies (LEAs), including all county boards of



education, schools and facilities under the supervision of the State board, and public charter schools acting as their own local educational agency (LEA) throughout the state shall establish and maintain special education services for all exceptional school-age students between five and twenty-one years of age, including, but not limited to, services provided in general education classrooms, co-teaching classrooms, special education resource classes, self-contained classes, homebound services, and other placements determined appropriate to meet the unique needs of students with disabilities as determined by Individualized Education Program (IEP) teams. Special education programs must be provided to students until the end of the school year in which they reach the age of 21 years or until the student earns a regular high school diploma, whichever occurs first. Provisions shall be made for educating exceptional students (including students with disabilities and students identified as gifted or exceptionally gifted who differ from their non-disabled peers to the extent that they need specially designed instruction in order to access the curriculum and receive a free appropriate public education. The term "gifted" means exceptional intellectual abilities and potential for achievement that requires specially designed instruction and/or services beyond those normally provided in the general classroom instruction. The term "exceptional gifted" means those students in grades nine through twelve meeting the criteria for gifted with at least one of the additional criteria as identified in State Board Policy 2419. Exceptional gifted students shall be referred for identification pursuant to state board policy. Each local education agency (LEA) is mandated to provide gifted education to its students according to guidelines promulgated by the state board and consistent with the provisions of this chapter. In addition, county boards of education may establish and maintain other educational services for exceptional students as the State Superintendent of Schools may approve.

(b) Each local educational agency (LEA) shall establish and maintain special educational programs which include services outside the school environment for students who are homebound due to injury or who for any other reason as certified by a licensed

physician are homebound for a period that has lasted or will last more than three weeks. The state board shall adopt rules to advance and accomplish this program and to assure that all exceptional students in the state, including students in mental health facilities, residential institutions, foster care, correctional facilities, and private schools, will receive an education in accordance with the mandates of state and federal laws.

(c) Each local educational agency (LEA) shall adopt a policy that allows a student with disabilities, whose individualized education program provides for an alternate diploma to participate in the graduation ceremony with their same-grade classmates if requested in writing by their parent or legal guardian, or the student who is subject to this request if the student is of the age of majority. The local educational agency (LEA) shall also permit the student to continue receiving special education services after the graduation ceremony until the end of the school year in which the student reaches the age of 21 years. The local educational agency (LEA) may not terminate, deny, or declare the student ineligible for post-graduation ceremony special education services due to their participation in the graduation ceremony.

**§18-20-1a. Preschool programs for students with disabilities or developmental delays; rules and regulations.**

(a) Each local educational agency (LEA) shall develop a coordinated service delivery plan in accordance with standards for preschool programs for students with disabilities or developmental delays and begin services where plans are already developed with IEPs in place by the student's 3<sup>rd</sup> birthday.

(b) Each local educational agency (LEA) shall establish and maintain a special educational program, including, but not limited to, universal Pre-K classes which integrate students with disabilities, special classes and services provided in out-of-school environments for all students with disabilities three through five years of age.

(c) As used in this section, the term "students with disabilities" means those eligible individuals who fall in any one of the disability categories as defined in federal or state special education regulations. Special education and related services for eligible

students with a developmental delay will be provided as of the student's third birthday when eligibility is determined prior to the third birthday.

(d) This programming is available to all such students in the state, including in mental health facilities, residential institutions, and private entities who have entered into an agreement for collaborative programming with a local educational agency (LEA).

**§18-20-1b. Preschool programs for handicapped children; rules and regulations.**

[Repealed.]

**\*§18-20-1c. Integrated classrooms serving students with exceptional needs; and requirements as to the assistance, training and information to be provided to integrated classroom teachers.**

(a) The general education classroom teacher is entitled to the following when a student with exceptional needs is placed into an integrated classroom and the student's individualized education program (IEP) requires curriculum modifications, including delivery of, instruction or services and accommodations to be provided by the regular classroom teacher:

(1) Training provided pursuant to the rules developed by the State Board of Education, if requested by the regular classroom teacher to prepare the teacher to meet the exceptional needs of individual students. Whenever possible, the training shall be provided prior to the placement. Where prior training is not possible, the training shall be commenced no later than ten days following the placement of the student into the integrated classroom. Unavoidable delays in the provision of training may not result in the exclusion of a student with exceptional needs from any class if the training cannot be provided in ten days;

(2) A signed copy of the individualized education program for the special education student prior to the placement of the student into the regular classroom. When possible, the receiving and referring teachers shall participate in the development of that student's individualized education program and shall also sign the

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**\*NOTE:** This section was also amended by H. B. 4860 (Chapter 111), which passed prior to this Act.

individualized education program as developed. In all cases the teacher shall receive a copy of the individualized education program for the student with exceptional needs prior to or at the time of the placement of the student into the regular classroom. Any teacher or other member of the IEP team disagreeing with the individualized education program team's recommendation shall file a written explanation outlining his or her disagreement or recommendation;

(3) Participation by referring teachers in all eligibility committees and participation by referring and receiving teachers in all individualized education program committees which involve possible placement of a student with exceptional needs in an integrated classroom;

(4) Opportunity to reconvene the committee responsible for the individualized education program of the student with exceptional needs assigned to the regular classroom teacher. Any teacher may request an IEP meeting if the data after 45 days shows that a student is not in the least restrictive environment for academic growth. The meeting shall include all persons involved in a student's individualized education program and shall be held within twenty-one days of the time the request is made. If changes are made to a student's IEP, affecting services and/or placement, the services shall be available immediately upon the change in placement; and

(5) A teacher may not be penalized in any way for advocating for his or her student and the teacher may work with the family or guardian of the student to recommend local advocates, share documentation and information, inform the guardians of his or her due process rights, and may call for an IEP meeting to review the information gathered from documentation to best address the student's special education needs; and

(6) Assistance from persons trained or certified to address a student's exceptional needs whenever assistance is part of the student's individualized education program as necessary to promote accomplishment of the program's goals and objectives: *Provided*, That aides in the area of special education cannot be

reassigned to more than one school without the employee's consent.

(b) Except teachers already required to participate in the development of a student's individualized education program and sign it as provided in subdivision (2) of this section, all other teachers in whose class or program a student with exceptional needs is enrolled shall:

(1) Participate in the meeting to develop the student's individualized education program, or read and sign a copy of the student's individualized education program plan acknowledging that he or she has read and understands it; and

(2) Make appropriate accommodations and modifications for the student, if needed or identified, to help the student succeed in the class or program, and document, at minimum, the provision of these accommodations and modifications: *Provided*, That the general education teacher shall not be responsible for daily accommodation logs. The general education teacher shall only be responsible for acknowledging, at the end of each grading period, that each accommodation as required by the IEP has been met. All accommodations of the students shall be discussed before placement and it is the responsibility of the special education instructor to monitor progress: *Provided further*, That parents and guardians may request daily accommodation logs.

(3) Data to support the decision to place a student into an integrated classroom shall be included in the Individualized Education Plan.

(4) Nothing in this section may be construed as interfering with or limiting access to the Federal Individuals with Disabilities Education Act, and regulatory Due Process and complaint procedures available to students, families, and personnel.

(c) This requirement includes, but is not limited to, music education, art, driver education, health, foreign language, and other instruction offered.

(d) If the teacher provides a series of documentation within a 45-day grading period that shows that the student is not in their least restrictive environment, to the point that his or her placement does not ensure the student with exceptionalities makes appropriate progress toward meeting the student's annual goals, the teacher may begin all available Federal and State process and complaint procedures. The teacher may not be penalized in any way for advocating for his or her student and the teacher may work with the family or guardian of the student to recommend local advocates, share documentation and information, inform the guardians of his or her due process rights, and may call for an IEP meeting to review the information gathered from documentation and address the concerns to best adjust the IEP, as necessary, to best address the student's special education needs.

**§18-20-1d. Adoption of a state model for individualized education program.**

The state board shall adopt a basic model for individualized education programs to be used by all special education teachers throughout the public schools of the state when preparing individualized education programs for students with exceptional needs.

The model achieved through the online IEP platform shall comply with, but may not exceed, all state laws and federal laws, policies, rules, and regulations relating to providing education services to students with exceptional needs and shall allow for the individualization of programming based on the unique needs of each student.

No professional educator may be required to prepare or implement an individualized education program which exceeds the requirements of federal and state laws, policies, rules or regulations.

**§18-20-2. Providing suitable educational facilities, equipment and services.**

(a) Each county board shall provide suitable educational facilities, special equipment and special services that are necessary to implement the IEP of each student with a disability. Special services include provisions and procedures for finding and enumerating exceptional students of each type, diagnosis by appropriate specialists who will certify the student's need and eligibility for special education and make recommendations for treatment and prosthesis as may accommodate the disability, such as specially designed instruction by qualified teachers, transportation, and related services. Qualifications of teachers and therapists shall be in accordance with standards prescribed or approved by the state board.

(b) A county board may provide for educating resident exceptional children by contracting with other counties or other educational agencies which maintain special education facilities. Fiscal matters shall follow policies approved by the state board.

(c) The county board shall provide a four-clock-hour program of training for any teacher aide employed to assist teachers in providing services to exceptional children under this article prior to the assignment. The program shall consist of training in areas specifically related to the education of exceptional children, pursuant to rules of the state board. The training shall occur during normal working hours and an opportunity to be trained shall be provided to a service person prior to filling a vacancy in accordance with the provisions of section eight-b, article four, chapter eighteen-a of this code.

(d) The county board annually shall make available during normal working hours to all regularly employed teachers' aides twelve hours of training that satisfies the continuing education requirements for the aides regarding:

(1) Providing services to students who have displayed challenging or aggressive behavior or have demonstrated the potential for challenging or aggressive behavior; and

(2) Providing services to children diagnosed with autism spectrum disorder. This training shall be structured to permit the

employee to qualify as an autism mentor after thirty hours of staff development related to providing instructional support to students with autism including prevention and de-escalation techniques with alternative to restraint. The county board shall:

(A) Notify in writing all teachers' aides of the location, date and time when training will be offered for qualification as an autism mentor; and

(B) Consider partial or full reimbursement of tuition for any regularly employed or substitute teacher's aide who elects to attend this training.

(e) For any student whose individualized education plan (IEP) or education plan established pursuant to Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §794, requires the services of a sign support specialist or an educational sign language interpreter I or II:

(1) Any educational sign language interpreter I or II assigned to assist that student is a related service provider member of the education team who participates in IEP meetings and works with the team to implement the IEP;

(2) A sign support specialist may be assigned to a student with an exceptionality other than deaf or hard of hearing if it is determined that the student needs signs to support his or her expressive communication; and

(3) A sign support specialist may be assigned to a student who is deaf or hard of hearing in lieu of an interpreter only if an educational sign language interpreter I or II is unavailable, and the sign support specialist is executing a professional development plan while actively seeking certification as an educational sign language interpreter I or II. After two years the sign support specialist may remain in the assignment only if an educational sign language interpreter I or II remains unavailable, and with an approved waiver by the West Virginia Department of Education. An employee in this situation is entitled to full payment of the costs of certification acquisition or renewal pursuant to the certification



renewal provisions of section four, article two, chapter eighteen-a of this code.

(f) Every teacher of a student for whom a school or local educational agency (LEA) prepares a plan of accommodation pursuant to Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §794, shall receive specific instruction from the school regarding the contents and requirements of the plan and the teacher shall receive a copy of the written plan and every update thereto and the teacher shall sign an acknowledgment of receipt of each plan and update.

### **§18-20-3. Local educational agency reports.**

(a) Each local educational agency (LEA) shall, after having received from the faculty Senates in its schools, the strategic plans mandated by subsection (13), section five, article five-a of this chapter, develop a local educational agency (LEA) strategic plan which includes the integration of students with exceptional needs into the regular classroom to the maximum extent appropriate and addresses steps to improve proficiency in all subgroups, including the students with disabilities subgroup, and submit said strategic plan to the State Superintendent of Schools annually.

(b) Each local educational agency (LEA) must maintain a continuum of services for students with disabilities including, but not limited to, general education full-time, which encompasses the integrated classroom and services in out of school environments. Relevant training shall be provided related to integrated education, basic and specialized health care procedures including the administration of medications, receiving or requesting reimbursement from state appropriated funds, and submitting annual reports and such other reports as the State Superintendent of Schools may require.

### **§18-20-4. Examination and report by medical or other specialists.**

Each student prior to receiving a special education program shall be evaluated by a qualified professional, including but not

limited to, a psychologist, educational specialist (reading specialist, speech and language clinician, or other specialists as required by the state Board of Education for specific areas of exceptionality) who shall report to the local educational agency (LEA) superintendent of schools. The specialists' report shall include relevant data and recommendations for individualized interventions.

No educationally exceptional student eligible for a free appropriate public education shall be excluded from attending public schools.

#### **§18-20-5. Powers and duties of state superintendent.**

(a) The State Superintendent of Schools shall organize, promote, administer and be responsible for:

(1) Providing leadership and support to local educational agencies (LEA) in establishing, organizing and maintaining a continuum of services for students with exceptionalities.

(2) Cooperating with all other public and private agencies engaged in providing medical, mental health, educational, or respite services for students with exceptionalities, and in helping coordinate the services of such agencies.

(3) (A) Preparing the necessary rules, policies, and formulas for distribution of available appropriated funds, reporting forms and procedures necessary to define minimum standards in providing suitable facilities for education of students with exceptionalities and ensuring the employment, certification and approval of qualified teachers and therapists subject to approval by the State Board of Education: *Provided*, That no state rule, policy or standard under this article or any county board rule, policy or standard governing special education may exceed the requirements of federal law or regulation.

(B) A separate appropriation shall be made to the Department of Education to be disbursed to county boards and public charter schools authorized pursuant to §18-5G-1 *et seq.* of this code to assist them with serving exceptional students with high cost/high

acuity exceptional needs that exceed the capacity of the local educational agency (LEA) to provide with funds available. Each local educational agency (LEA) shall apply to the state superintendent to receive this funding in a manner set forth by the state superintendent that assesses and takes into account varying acuity levels of the students with exceptionalities. Any remaining funds at the end of a fiscal year from the appropriation shall be carried over to the next fiscal year. When possible, federal funds shall be disbursed to local educational agencies (LEAs) for this purpose before any of the state appropriation is disbursed. The state board shall promulgate a rule in accordance with the provisions of §29A-3B-1 *et seq.* of this code that implements the provisions of this subdivision relating to disbursing the funds to the local educational agencies (LEAs). The rule at least shall include a definition for “children with high acuity needs”.

(4) Receiving from local educational agencies (LEAs), their applications, annual reports and claims for reimbursement from such moneys as are appropriated by the Legislature, auditing such claims, and preparing vouchers to reimburse said local educational agencies the amounts reimbursable to them.

(5) Assuring that all students with exceptionalities in the state, including students in mental health facilities, residential institutions, private schools receiving public funds and correctional facilities as provided in §18-2-13f of this code receive an education in accordance with state and federal laws: *Provided*, That the state superintendent shall also assure that adults in correctional facilities and regional jails receive an education to the extent funds are provided therefor and to the extent that those adult students are still eligible to receive a free appropriate public education (FAPE).

(6) Performing other duties and assuming other responsibilities in connection with this program as needed.

(b) Nothing contained in this section shall be construed to prevent any local education agency (LEA) from establishing and maintaining a full continuum of services for students with exceptionalities out of funds available from local revenue.

**§18-20-6. Advisory council for the education of exceptional children.**

In accordance with the Individuals with Disabilities Education Act, there shall be an advisory council for the education of students with exceptionalities which shall advise and consult with the state Board of Education on matters pertinent thereto. The advisory council shall be composed of twelve members appointed by the state superintendent of schools, four of which shall be parents of students with exceptionalities utilizing or eligible for the services of the special educational programs established hereunder. Other members of the advisory council shall include at least one individual with a disability, teacher of students with exceptionalities, state education official, local education official, and an administrator of programs for students with exceptionalities. No more than two officers and employees of the state may be eligible for appointment to the advisory council. Members shall be appointed for terms of three years except for initial terms which may be for one, two or three years. Each year the terms of office of one third of the advisory council shall expire. The members of the advisory council shall be citizens and residents of this state, who by reason of their training, education or experience are qualified to carry out the functions of the advisory council under this article.

The advisory council shall elect a chairperson annually.

All members shall be eligible for reappointment. A member shall, unless sooner removed, continue to serve until the member's term expires and the member's successor has been appointed and has qualified. A vacancy caused by the death, resignation or removal of a member prior to the expiration of the member's term shall be filled only for the remainder of such term.

For the purpose of carrying out its functions under this article, six members of the advisory council shall constitute a quorum. The advisory council shall meet at least four times each year and at a time designated by the chairperson. Additional meetings may be held when called by the chairperson or when requested by six members of the advisory council.

The time and place of all meetings and agenda items must be publicly announced and available to the public upon request at least ten days prior to the meeting, and meetings must be open to the public. Official minutes must be kept of all council meetings and shall be made available to the public upon request.

Members of the council shall not receive any compensation for their services on the council, but shall be reimbursed any actual expenses incurred by them in carrying out their duties from funds appropriated to the Department of Education.

The council shall:

(a) Consult with the state Board of Education concerning and comment publicly upon any rules and regulations formulated by such board regarding the education of students with exceptionalities;

(b) Consult with and advise the state board and superintendent and the Legislature concerning any problems presented to the council including unmet needs within the state in the education of students with exceptionalities;

(c) Hold public meetings at such times and places as the advisory council deems appropriate;

(d) Periodically review and comment publicly upon the state plan for special programs and make any recommendations it may have concerning changes it may deem proper. Annually, the advisory council shall submit an annual report of its activities and suggestions to the state Board of Education and the superintendent, and shall make such report available to the public.

#### **§18-20-7. Exceptional children program compliance monitoring and accountability review teams.**

The state board shall establish exceptional children program compliance monitoring and accountability review teams to conduct cyclical on-site reviews of such programs at least every four years in each local educational agency (LEA) for the purpose of reviewing identification procedures, complying with any or all

applicable laws and policies, delivering services, verifying enrollment and attendance reports, recommending changes, providing support for continuous improvement, and fulfilling such other duties as may be established by the state board.

Each monitoring and accountability review team unit shall consist of individuals with expertise in state and federal laws applicable to the education of students with disabilities, as well as the identification and delivery of special education services to students with disabilities.

**§18-20-8. Interagency plan for exceptional children; advisory council.**

(a) The state departments of human services and education shall enter into a collaborative agreement for the purpose of developing a statewide plan of coordinating comprehensive, multidisciplinary interagency programs providing appropriate early intervention services to all developmentally delayed and at-risk children, ages birth through five years, and their families.

This comprehensive, coordinated statewide plan shall include, at a minimum:

- (1) Specification of the population to be served;
- (2) The development of regulations and procedural safeguards;
- (3) The development of procedures for administration, supervision and monitoring;
- (4) The identification and coordination of all available resources; and
- (5) The development of formal interagency agreements that define the financial responsibility of each agency and all additional components necessary to ensure meaningful cooperation and coordination.

(b) To assist in the development of such a plan, an advisory council consisting of twelve members shall be created. The

departments of health, human services and education shall each appoint four members, and each shall include in such appointments one parent of a child with a disability under the age of six; one public or private provider of early intervention services for developmentally delayed and at-risk children; one individual involved in the education training of personnel who work with preschool special needs; and one other person.

The functions of the council shall include the following:

(1) Meet at least quarterly;

(2) Solicit information and opinions from concerned agencies, groups and individuals; and

(3) Advise and assist the departments of health, human services and education in the development of the statewide plan herein required.

Following the submission of the advisory council's first annual report, the joint committee on education is authorized and empowered to disband the council or alter its functions as it deems advisable.

The members of the council may be reimbursed for actual and necessary expenses incurred in the performance of their official duties in accordance with state law from appropriations to the departments of health, human services and education or available federal funds.

#### **§18-20-9. Gifted education caseload review.**

Notwithstanding any other provision of this code to the contrary, the teacher-student ratio for gifted, honors, and advanced placement education in grades nine through twelve shall be the same as regular classroom education and not as required for special education of students with exceptionalities: *Provided*, That this shall not apply to education of exceptional gifted, as defined in section one, article twenty of this chapter.

**§18-20-10. Dyslexia and dyscalculia defined.**

(a) The Legislature finds as follows:

(1) Reading difficulties are the most common cause of academic failure and underachievement;

(2) There are many students who demonstrate significant weaknesses with reading, writing and mathematics that are influenced by specific learning disabilities, including dyslexia, dyscalculia, and related learning difficulties. Of those who are referred to special education services in public schools, the majority are referred because of problems with language, reading, writing, or a combination of each;

(3) Teaching reading effectively, especially to students experiencing difficulty, requires considerable knowledge and skill. Informed and effective classroom instruction, especially in the early grades, can prevent and relieve the severity of language difficulties, and significantly improve literacy development;

(4) For those students with specific learning disabilities, including dyslexia and dyscalculia, who need specialized instruction, competent intervention can lessen the impact of the disorder and help the student overcome the most debilitating symptoms;

(5) While programs for specific learning disabilities, including dyslexia and dyscalculia, that certify or support teachers, clinicians or specialists differ in their preparation methodologies, teaching approaches and organizational purposes, they should ascribe to a common set of professional standards for the benefit of the students they serve. Compliance with such standards can assure the public that individuals who serve students with specific learning disabilities in public schools are prepared to implement scientifically based and clinically proven practices;

(6) The International Dyslexia Association (IDA) offers widely-adopted and consistent standards to guide the preparation, certification, and professional development for teachers of reading



and related literacy skills in classroom, remedial and clinical settings; and

(7) The basis of ascribing to common standards to benefit students with specific learning disabilities, including dyslexia and dyscalculia, requires recognizing common characteristics of the disabilities. The Legislature finds that the definitions of dyslexia and dyscalculia prescribed by the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-5-TR) are the appropriate measures for recognizing characteristics of dyslexia and dyscalculia in students.

(b) The Legislature recognizes the following regarding dyslexia and dyscalculia:

(1) Dyslexia and dyscalculia are conditions that may be considered under the specific learning disability category, and their definitions are consistent with IDEA and state board policy. State board policy provides that "specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia;

(2) Dyslexia is an alternative term used to refer to a pattern of learning difficulties characterized by problems with accurate or fluent word recognition, poor decoding, and poor spelling abilities. If dyslexia is used to specify this particular pattern of difficulties, it is important also to specify any additional difficulties that are present, such as difficulties with reading comprehension or math reasoning; and

(3) Dyscalculia is an alternative term used to refer to a pattern of learning difficulties characterized by problems processing numerical information, learning arithmetic facts, and performing accurate or fluent calculations. If dyscalculia is used to specify this particular pattern of mathematic difficulties, it is important also to

specify any additional difficulties that are present, such as difficulties with math reasoning or word reasoning accuracy.

(c) The state board shall:

(1) Develop a list of appropriate screeners, early assessments, and professional development that address and ensure that all students receive the necessary and appropriate screenings, evaluations, and early assessments for specific learning disabilities, including dyslexia and dyscalculia which contain information related to the following:

(A) Appropriate literacy and numeracy screening tools for identifying students who are at risk for academic difficulty in reading and/or math, including dyslexia and dyscalculia, and who require tiered intervention;

(B) Appropriate diagnostic assessment components that can be used to help identify and diagnose;

(C) Appropriate evidence-based instruction and intervention strategies for students who are at risk for academic difficulty in reading and/or mathematics, including students who exhibit possible indicators of risk for dyslexia and/or dyscalculia;

(D) Appropriate accommodations for students who exhibit possible indicators of risk for, or who have been diagnosed with, dyslexia, dyscalculia, and/or other specific learning disabilities;

(E) Connecting a multi-tiered system of support framework to specific learning disability identification; and

(F) The use of the terms "dyslexia" and "dyscalculia" in Individualized Education Programs, and in evaluation reports by professionals qualified to render these diagnoses; and

(2) Explore options to assist any local educational agency (LEA) with acquiring approved literacy and/or numeracy screening tools: *Provided*, That the local educational agency is unable to acquire its own literacy and/or numeracy screening tools that are consistent with state educational agency recommendations;

(3) Adopt and make publicly available guidelines for including dyslexia diagnostic evaluation components in comprehensive assessments for special education and related services. These guidelines shall:

(A) Recommend at least one person on each multidisciplinary evaluation team be knowledgeable about dyslexia and be able to recognize when a dyslexia diagnostic component should be requested in the evaluation process;

(B) Recommend that a diagnosis of dyslexia be given when the data from the comprehensive evaluation components indicate such a diagnosis is appropriate;

(C) Include recommendations for how to document a dyslexia diagnosis in an IEP; and

(D) Include that a Section 504 Plan be considered if a student has a dyslexia diagnosis but does not qualify for special education services;

(4) Adopt and make publicly available a list of approved diagnostic assessment components that can be used to help identify and diagnose dyslexia during comprehensive multidisciplinary evaluations;

(5) Adopt and make publicly available guidelines and a list of resources for dyslexia intervention practices that are evidence-based, including practices consistent with the Science of Reading and Structured Literacy, that are explicit, direct, sequential, systematic, and multisensory;

(6) Adopt and make publicly available a list of recommended accommodations and instructional practices to be used with students who exhibit signs of dyslexia or have been diagnosed with dyslexia. These shall reflect contemporary research and guidelines of the Science of Reading related to dyslexia. These recommendations shall include, but are not limited to, structured literacy approaches that are explicit, direct, sequential, systematic, and multisensory;

(7) Adopt and make publicly available a list of available professional development resources that support evidence-based intervention for struggling readers, including the Science of Reading and Structured Literacy. This list shall be made publicly available and include resources endorsed or espoused by technical assistance centers, research organizations, and professional associations that support the Science of Reading and Structured Literacy regarding dyslexia, including the International Dyslexia Association; and

(8) Develop and make publicly available informational materials related to dyslexia for parents and guardians that include information about the multidisciplinary evaluation process, updated regularly.

(d) The local education agency shall:

(1) Develop a system for parents and guardians to annually receive digital and print informational materials related to dyslexia;

(2) Ensure at least one educator at each school is trained to administer, score, and interpret the data from the literacy screening instrument or instruments, and to recognize signs of dyslexia;

(3) Notify parents of the results of these literacy screeners while emphasizing that not all students who perform poorly on these screening instruments have dyslexia. Also, not all students with dyslexia will perform poorly on the screeners;

(4) Provide evidence-based reading intervention to students who exhibit academic risk in future reading performance, including indicators of dyslexia;

(5) Conduct comprehensive assessments to determine eligibility for special education services when a student does not respond or only minimally responds to intervention strategies and/or when there is a suspected disability of dyslexia. If a determination is made through the evaluation process that a student needs to be assessed for dyslexia, provide assessment and diagnosis as necessary per West Virginia Department of Education guidelines;

(6) Employ appropriate accommodations and instructional practices recommended by the West Virginia Department of Education based upon the students' needs. When those needs are related to dyslexia, these accommodations and instructional techniques or strategies shall also meet the West Virginia Department of Education-approved guidelines for dyslexia accommodations and instructional practices;

(7) Require all elementary educators, special educators, reading interventionists or specialists, and other personnel determined appropriate by the local education agency to receive professional development on the possible signs of dyslexia and the related classroom accommodations and instructional practices approved by the West Virginia Department of Education;

(8) Administer a literacy screening instrument or instruments to students in grades 3-5 who transfer from a local education agency where literacy screening instruments were not administered. If the literacy screening instrument indicates a deficit in reading, the school will provide intervention according to current policy. If a student does not respond or only minimally responds to intervention, a referral for multidisciplinary evaluation shall be made; and

(9) Require all appropriate personnel, as determined by the local education agency, to annually receive professional development relating to the possible indicators for dyslexia and dyscalculia, accommodations and modifications in the classroom environment, proper instructional practices for educating students who exhibit possible indicators of risk for, or who have been, diagnosed with dyslexia, dyscalculia, and/or other specific learning disabilities. Local education agencies may create more than one module to satisfy the requirements of this subdivision.

(e) The state board shall promulgate a rule pursuant to §29A-3B-1 *et seq.* of this code to implement this section. In addition to other provisions to implement this section, the rule shall at least include the following:

(1) If a student is reading substantially below grade level according to formal and/or informal assessments, including benchmark assessments, and has never been evaluated for special education, a request may be made by a school, parent, or teacher for the administration of an age- or grade-appropriate West Virginia Department of Education-approved literacy screening instrument or instruments. These points of data may be used to either start intervention and progress monitoring per West Virginia Department of Education guidance, or make a referral for a special education evaluation;

(2) Acknowledgement that each local education agency may have one certified Literacy and Numeracy Specialist in each local educational agency, or another appropriate professional designated by relevant local educational agency leadership, to be appropriately trained, or be seeking appropriate training, in intervention, accommodations, and instructional strategies for students with dyslexia or a related disorder. The trained individual(s) shall serve as an advisor and trainer for dyslexia and related disorders for the local educational agency. The reading specialist(s) or other designated professional(s) shall have an understanding of the definition of dyslexia and a working knowledge of:

(A) Techniques to help a student on the continuum of skills with dyslexia;

(B) Dyslexia characteristics that may manifest at different ages and levels;

(C) The basic foundation of the keys to reading, including multisensory, explicit, systematic, and structured literacy instruction; and

(D) Appropriate interventions, accommodations, and assistive technology supports for students with dyslexia.

(f) Legislative Oversight Commission on Education Accountability (LOCEA):

(1) The final draft of the state board's literacy and numeracy rule shall be submitted to the Legislative Oversight Commission on Education Accountability (LOCEA) by August 1, 2023.

(2) The following shall be submitted to the Legislative Oversight Commission on Education

Accountability (LOCEA) annually:

(A) Disaggregated data concerning literacy and numeracy patterns statewide;

(B) Statewide interventions implemented; and

(C) The statewide professional development plan.

(3) Progress monitoring regarding K-2 screening and 3-8 formative assessments shall be presented to the Legislative Oversight Commission on Education Accountability (LOCEA) after data is collected for the beginning, middle, and end of the school year.

**\*§18-20-11. Video cameras required in certain special education classrooms; audio recording devices required in restroom of a self-contained classroom.**

(a) A local educational agency (LEA) shall ensure placement of video cameras in self-contained classrooms and audio recording devices in the restrooms of self-contained classrooms as defined in state board policy.

(b) As used in this section:

(1) "Incident" means a raised suspicion by a teacher, aide, parent, or guardian of a student, of bullying, abuse, or neglect of a student or of harm to an employee of a public school by:

(A) An employee of a public school or local educational agency (LEA); or

(B) Another student;

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**\*NOTE:** This section was also amended by H. B. 4274 (Chapter 149), which passed prior to this Act.

(2) "Self-contained classroom" means a classroom at a public school in which a majority of the students in regular attendance are provided special education instruction and as further defined in state board policy; and

(3) "Special education" means the same as defined in §18-20-1 *et seq.* of this code.

(c) (1) A local educational agency (LEA) shall provide a video camera to a public school for each self-contained classroom that is a part of that school which shall be used in every self-contained classroom.

(2) Prior to August 1, 2023, a local educational agency (LEA) shall provide an audio recording device to a public school to be used in the restroom of each self-contained classroom that is a part of that school. If the public school is not able to receive the audio recording device by August 1, 2023, the public school may apply to the state Department of Education for a waiver to extend that date to August 1, 2024.

(3) The principal of the school or other school administrator whom the principal assigns as a designee shall be the custodian of the video camera and audio recording device, all recordings generated by the video camera and audio recording device, and access to those recordings pursuant to this section.

(d)(1) Every public school that receives a video camera under this section shall operate and maintain the video camera in every self-contained classroom that is part of that school.

(2) Every public school that receives an audio recording device under this section shall operate and maintain the audio recording device in every restroom that is a part of a self-contained classroom that is part of that school: *Provided*, That each restroom of a self-contained classroom shall have posted on its door a notice that states: "Pursuant to state law, this restroom is equipped with an audio recording device for the protection of the students."

(3) If there is an interruption in the operation of the video camera or audio recording device for any reason, a written



explanation should be submitted to the school principal and the local educational agency (LEA) board explaining the reason and length for which there was no recording. The explanation shall be maintained at the local educational agency (LEA) board office for at least one year.

(e)(1) A video camera placed in a self-contained classroom shall be capable of:

(A) Monitoring all areas of the self-contained classroom, including, without limitation, a room attached to the self-contained classroom and used for other purposes; and

(B) Recording audio from all areas of the self-contained classroom, including, without limitation, a room attached to the self-contained classroom and used for other purposes.

(2) A video camera placed in a self-contained classroom shall not monitor a restroom or any other area in the self-contained classroom where a student changes his or her clothes except, for incidental monitoring of a minor portion of a restroom or other area where a student changes his or her clothes because of the layout of the self-contained classroom.

(3) An audio recording device shall be placed in the restroom of the self-contained classroom and notice provided pursuant to §18-20-11(d)(2) of this code.

(4) A video camera or audio recording device required by this section is not required to be in operation during the time in which students are not present in the self-contained classroom.

(f) Before a public school initially places a video camera in a self-contained classroom or an audio recording device in the restroom of a self-contained classroom pursuant to this section, the local educational agency (LEA) shall provide written notice of the placement to:

(1) The parent or legal guardian of a student who is assigned to the self-contained classroom: *Provided*, That the parent or guardian be allowed the opportunity to opt out of the bathroom audio

monitoring for their student. An Individual Education Plan or 504 plan shall outline the opt out and an alternative arrangement for the student or parent needs and requested accommodation; and

(2) The school employee(s) who is assigned to work with one or more students in the self-contained classroom.

(g)(1) Except as provided in subdivision (2) of this subsection, a public school shall retain video and audio recorded pursuant to this section for at least three months after the date of the recording, subject to the following:

(A) If the minimum three-month period overlaps the summer break occurring between the last day of one instructional term and the first day of the next instructional term, the minimum three-month period shall be extended by the number of days occurring between the two instructional terms;

(B) For any school-based camera system or audio device recording device that is installed or replaced after April 1, 2022, the public school shall retain video recorded from a camera or audio device recording for at least 365 days after the date the video or audio was recorded and no extension of this time period during the summer break is required.

(2) If a person requests to review a recording under subsection (k) or subsection (l) of this section, the public school shall retain the recording from the date of the request until:

(A) The earlier of the person reviewing the recording or 60 days after the person who requested the video or audio recording was notified by the public school that the video or audio recording is available; and

(B) Any investigation and any administrative or legal proceedings that result from the recording have been completed, including, without limitation, the exhaustion of all appeals.

(3) In no event may the recording be deleted or otherwise made unretrievable before the time period set forth in subdivision (1) of this subsection elapses.

(h) This section does not:

(1) Waive any immunity from liability of a public local educational agency (LEA) or employee of a public local educational agency (LEA);

(2) Create any liability for a cause of action against a public school or local educational agency (LEA) or employee of a public school or local educational agency (LEA); or

(3) Require the principal or other designated school administrator to review the recording absent an authorized request pursuant to this code section or suspicion of an incident except as otherwise provided in subsection (j) of this section.

(i) A public school or local educational agency (LEA) shall not use video or audio recorded under this section for:

(1) Teacher evaluations; or

(2) Any purpose other than the promotion and protection of the health, wellbeing, and safety of students receiving special education and related services in a self-contained classroom or restroom of a self-contained classroom.

(j) Except as provided under subsections (k) and (l) of this section, a recording made under this section is confidential and shall not be released or reviewed by anyone except the school principal, other school administration designee, or local educational agency (LEA) designee if the school principal or other school administration designee is unable to review the video or audio recording pursuant to this subsection. The school principal, other school administration designee, or local educational agency (LEA) designee shall review no less than 15 minutes of the video and no less than 15 minutes of audio of each self-contained classroom and restroom at the school no less than every 90 calendar days. The state board shall include in its rule authorized by this section requirements for documentation of compliance with the video and audio reviewing requirements of this subsection.

(k) Within seven days of receiving a request, a public school or local educational agency (LEA) shall allow review of a recording by:

(1) A public school or local educational agency (LEA) employee who is involved in an alleged incident that is documented by the recording and has been reported to the public school or local educational agency (LEA);

(2) A parent or legal guardian of a student who is involved in an alleged incident that is documented by the recording and has been reported to the public school or local educational agency (LEA); or

(3) An employee of a public school or local educational agency (LEA) as part of an investigation into an alleged incident that is documented by the recording and has been reported to the public school or local educational agency (LEA).

(l) Within seven days of receiving a request, a public school or local educational agency (LEA) shall allow review of a recording by and comply with all subsequent requests for review or release of the recording by:

(1) A law-enforcement officer or employee of the Department of Human Services, as part of an investigation into an alleged incident that is documented by the recording and has been reported to the agency: *Provided*, That if a release of the recording is requested pursuant to this subdivision, the agency receiving a copy of the recording shall maintain strict confidentiality of the recording and not further release the recording without authorization from the public local educational agency (LEA) through its superintendent; or

(2) A judge, counsel, or other legal entity that is charged with deciding or representing either the school board, students, or employees in any matters related to legal issues arising from an incident: *Provided*, That the recording may only be released pursuant to an appropriate protective order or under seal.

(m) If an incident is discovered while initially reviewing a recording that requires a report to be made under §49-2-803 of this code, that report shall be made by the reviewer pursuant to that section within 24 hours of viewing the incident.

(n) When a recording is under review as part of the investigation of an alleged incident, and the recording reveals a student violating a disciplinary code or rule of the school, which violation is not related to the alleged incident for which the review is occurring, and which violation is not already the subject of a disciplinary action against the student, the student is not subject to disciplinary action by the school for such unrelated violation unless it reveals a separate incident as described in §18-20-11(b)(1) of this code.

(o) It is not a violation of subsection (j) of this section if a contractor or other employee of a public school or local educational agency (LEA) incidentally reviews a recording under this section if the contractor or employee of a public school or local educational agency (LEA) is performing job duties related to the:

(1) Installation, operation, or maintenance of video or audio equipment; or

(2) Retention of video or audio recordings.

(p) This section applies solely to cameras and audio recording devices installed pursuant to this code section and does not limit the access of a student's parent or legal guardian to a recording reviewable under the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. §1232g, or any other law.

(q) A public school or local educational agency (LEA) shall:

(1) Take necessary precautions to conceal the identity of a student who appears in a video recording but is not involved in the alleged incident documented by the video recording for which the public school allows viewing under subsection (j) of this section, including, without limitation, blurring the face of the uninvolved student; and

(2) Provide procedures to protect the confidentiality of student records contained in a recording in accordance with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. §1232g, or any other law.

(r) (1) Any aggrieved person may appeal to the State Board of Education an action by a public school or local educational agency (LEA) that the person believes to be in violation of this section.

(2) The state board shall grant a hearing on an appeal under this subsection within 45 days of receiving the appeal.

(s) (1) A public school or local educational agency (LEA) may use funds distributed from the Safe Schools Fund created in §18-5-48 of this code or any other available funds to meet the requirements of this section.

(2) A public school or local educational agency (LEA) may accept gifts, grants, or donations to meet the requirements of this section.

(t) The state board may promulgate a rule in accordance with §29A-3B-1 *et seq.* of this code to clarify the requirements of this section and address any unforeseen issues that might arise relating to the implementation of the requirements of this section.

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## CHAPTER 117

### (Com. Sub. for H. B. 5514 - By Delegates Statler, Toney, and Foggin)

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[Passed March 8, 2024; in effect ninety days from passage.]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §18-5-1a and §18-5-4 of the Code of West Virginia, 1931, as amended, relating to county boards of education members; increasing the number of annual training hours for county board members; modifying the subjects on which county board members must be trained; authorizing the State Board to require board members to complete additional training upon request from the State Superintendent; adding ex officio members to the county board member training standards review committee; requiring the State Superintendent to make an annual report to the Legislative Oversight Commission on Education Accountability relating to county board member training; increasing compensation for attending meetings; reducing the number of meetings board members may be compensated to attend; and prohibiting county board members from receiving compensation if training requirements are not met.

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

#### ARTICLE 5. COUNTY BOARD OF EDUCATION.

##### **\*§18-5-1a. Eligibility of members; training requirements.**

(a) A person who is a member of a county board:

(1) Shall be a citizen and resident in the county in which he or she serves on the county board. A person who is a candidate for membership on a county board or who is a member-elect of a

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**\*NOTE:** This section was also amended by S. B. 159 (Chapter 119), which passed subsequent to this Act.

county board shall be a citizen and resident in the county in which he or she seeks to serve on the county board;

(2) May not be employed by the county board on which he or she serves, including employment as a teacher or service person;

(3) May not engage in the following political activities:

(A) Become a candidate for or hold any other public office, other than to succeed himself or herself as a member of a county board subject to the following:

(i) A candidate for a county board, who is not currently serving on a county board, may hold another public office while a candidate if he or she resigns from the other public office prior to taking the oath of office as a county board member.

(ii) The term “public office” as used in this section does not include service on any other board, elected or appointed, profit or nonprofit, under the following conditions:

(I) The person does not receive compensation; and

(II) The primary scope of the board is not related to public schools.

(B) Become a candidate for, or serve as, an elected member of any political party executive committee;

(C) Become a candidate for, or serve as, a delegate, alternate or proxy to a national political party convention;

(D) Solicit or receive political contributions to support the election of, or to retire the campaign debt of, any candidate for partisan office;

(4) May engage in any or all of the following political activities:

(A) Make campaign contributions to partisan or bipartisan candidates;



(B) Attend political fundraisers for partisan or bipartisan candidates;

(C) Serve as an unpaid volunteer on a partisan campaign;

(D) Politically endorse any candidate in a partisan or bipartisan election; or

(E) Attend a county, state or national political party convention.

(b) A member or member-elect of a county board, or a person desiring to become a member of a county board, may make a written request to the West Virginia Ethics Commission for an advisory opinion to determine if another elected or appointed position held or sought by the person is an office or public office which would bar service on a county board pursuant to subsection (a) of this section.

(1) Within 30 days of receipt of the request, the Ethics Commission shall issue a written advisory opinion in response to the request and publish the opinion in a manner which, to the fullest extent possible, does not reveal the identity of the person making the request.

(2) A county board member who relies in good faith upon an advisory opinion issued by the West Virginia Ethics Commission to the effect that holding a particular office or public office is not a bar from membership on a county board and against whom proceedings are subsequently brought for removal from the county board on the basis of holding that office or offices is entitled to reimbursement by the county board for reasonable attorney's fees and court costs incurred by the member in defending against these proceedings, regardless of the outcome of the proceedings.

(3) A vote cast by the member at a meeting of the county board may not be invalidated due to a subsequent finding that holding the particular office or public office is a bar to membership on the county board.

(4) Good faith reliance on a written advisory opinion of the West Virginia Ethics Commission that a particular office or public office is not a bar to membership on a county board is an absolute defense to any civil suit or criminal prosecution arising from any proper action taken within the scope of membership on the county board, becoming a member-elect of the county board or seeking election to the county board.

(c) To be eligible for election or appointment as a member of a county board, a person shall possess at least a high school diploma or a general educational development (GED) diploma. This provision does not apply to members or members-elect who have taken office prior to May 5, 1992, and who serve continuously from that date forward.

(d) A person elected to a county board after May 1, 2024, may not assume the duties of county board member unless he or she has first attended and completed an orientation training relating to boardsmanship, governance effectiveness, and fiscal management which shall be provided between the date of election and the beginning of the member's term of office under the following conditions:

(1) A portion or portions of subsequent training such as that offered in the orientation training may be provided to members after they have commenced their term of office;

(2) Attendance in the orientation training provided between the date of election and the beginning of the member's term of office permits the member-elect to assume the duties of county board member, as specified in this section: *Provided*, That any county board member who is unable to attend the initial orientation training for good cause, is required to complete the orientation training within 30 days of being sworn in as a county board member.

(3) Members appointed to the county board shall attend and complete the next orientation course offered following their appointment: *Provided*, That any county board appointee who is unable to attend the initial training course for good cause, is

required to complete the orientation training within 30 days of being appointed; and

(4) The provisions of this subsection relating to orientation training do not apply to members who have taken office prior to July 1, 2024, and who serve continuously from that date forward.

(e) Annually, each member of a county board shall receive twelve hours of training in areas relating to boardsmanship, governance effectiveness, fiscal management, and school performance issues including, but not limited to, pertinent state and federal statutes such as the “Process for Improving Education” set forth in §18-2E-5 of this code, the Every Student Succeeds Act (ESSA), the Individuals with Disabilities Education and Improvement Act of 2004 (IDEA), and their respective administrative rules: *Provided*, That the State Board may require any county board member to attend additional training if they believe that the training would be beneficial in assisting the member in successfully fulfilling their duties on the county board as requested by the State Superintendent.

(1) All training required in this section shall be approved by the state board and conducted by the West Virginia School Board Association or other organization or organizations approved by the state board:

(A) The state board may exclude time spent in training on school performance issues from the requisite twelve-hour requirement; and

(B) If the state board elects to exclude time spent in training on school performance issues from the requisite twelve hours, the state board shall limit the training to a feasible and practicable amount of time.

(2) Failure to attend and complete the orientation training, annual training, or training required by the State Board, without good cause as determined by the state board by duly promulgated legislative rules constitutes neglect of duty under §6-6-7 of this code.

(f) In the final year of any four-year term of office, a member shall satisfy the annual training requirement before January 1, unless the county board member is not seeking re-election. Failure to comply with the training requirements of this section without good cause as defined by the state board by duly promulgated legislative rules constitutes neglect of duty under §6-6-7 of this code.

(g) The state board shall appoint a committee named the “county board member training standards review committee” whose members shall include the chair of the House Committee on Education and the chair of the Senate Committee on Education, or their designee, which shall serve as non-voting ex officio members. The county board member training standards review committee shall, at a minimum, meet annually. Subject to state board approval, the committee shall determine which trainings and training organizations shall be approved and whether county board members have satisfied the annual training requirement. Members of the committee serve without compensation but may be reimbursed by their agencies or employers for all reasonable and necessary expenses actually incurred in the performance of their duties under this subsection.

(h) On or before January 1, 2026, the State Superintendent shall report annually to the Legislative Oversight Commission on Education Accountability on the activities of the county board member training standards review committee, the types of training provided to county board members, the level of training participation by county board members, and the number of board meetings held.

**§18-5-4. Meetings; employment and assignment of teachers; budget hearing; compensation of members; affiliation with state and national associations.**

(a) The county board shall meet on the dates provided by law, and at any other times the county board deems necessary. Subject to adequate public notice, nothing in this section prohibits the county board from conducting regular meetings in facilities within the county other than the county board office. At any meeting

authorized in this section and held in compliance with the provisions of §18A-1-1 *et seq.* of this code, the county board may employ qualified teachers, or those who will qualify by the time they assume their duties, necessary to fill existing or anticipated vacancies for the current or next ensuing school year. Meetings of the county board shall be held in compliance with the provisions of §18A-1-1 *et seq.* of this code for purposes relating to the assignment, transfer, termination and dismissal of teachers and other school employees.

(b) Special meetings may be called by the president or any three members, but no business may be transacted other than that designated in the call.

(c) In addition, a public hearing shall be held concerning the preliminary operating budget for the next fiscal year not fewer than ten days after the budget has been made available to the public for inspection and within a reasonable time prior to the submission of the budget to the state board for approval. Reasonable time shall be granted at the hearing to any person who wishes to speak regarding any part of the budget. Notice of the hearing shall be published as a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code.

(d) A majority of the members of the county board constitutes the quorum necessary for the transaction of official business.

(e) Board members may receive compensation at a rate not to exceed \$260 per meeting attended, but they may not receive pay for more than 40 meetings in any one fiscal year. Board members who serve on an administrative council of a multicounty vocational center also may receive compensation for attending up to twelve meetings of the council at the same rate as for meetings of the county board: *Provided*, That council meetings are not counted as board meetings for purposes of determining the limit on compensable board meetings: *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.

(f) Members also shall be paid, upon the presentation of receipts, for all necessary traveling expenses, including all authorized meetings, incurred on official business, at the order of the county board.

(g) When, by a majority vote of its members, a county board considers it a matter of public interest, the county board shall join the West Virginia School Board Association and may join the National School Board Association and shall pay the dues prescribed by the associations and approved by action of the respective county boards. Membership dues and actual traveling expenses incurred by board members for attending meetings of the West Virginia School Board Association shall be paid by their respective county boards out of funds available to meet actual expenses of the members, but no allowance may be made except upon presentation of receipts.

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## CHAPTER 118

**(Com. Sub. for H. B. 5540 - By Delegates Stephens, Toney, Sheedy, Ellington, Barnhart, Hite, Willis, Rohrbach, Dittman, and Lewis)**

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[Passed March 1, 2024; in effect ninety days from passage.]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-34-1, creating the Fentanyl Prevention and Awareness Education Act; requiring annual education of public school students in grades 6-12; setting forth methods of instruction; and mandating start date of instruction.

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

### **ARTICLE 34. LAKEN'S LAW**

#### **§18-34-1. Laken's Law.**

(a) The Fentanyl Prevention and Awareness Education Act or “Laken’s Law” would help prevent overdose deaths in teens and young adults due to fentanyl and fentanyl components. This shall be accomplished through education of students in grades 6-12 in all public schools and be mandated annually using the following methods:

- (1) Students will be taught about fentanyl, heroin, and opioids awareness, prevention, and abuse;
- (2) Students will be instructed in the life-saving use of FDA-approved opioid reversal agents;
- (3) Students will be instructed on the prevention of the abuse of and addiction to fentanyl;

(4) Students will be instructed on available state and community resources and organizations that work to prevent and reduce youth substance use; and

(5) Students will receive health education covering the issues of substance abuse and youth substance abuse in particular.

(b) This mandatory instruction will begin in the 2024-2025 school year.



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## CHAPTER 119

**(S. B. 159 - By Senators Weld, Boley, Chapman, Deeds, Oliverio, Phillips, Roberts, Rucker, Swope, Tarr, Woodrum, Hamilton, Trump, Stuart, Grady, and Jeffries)**

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[Passed March 9, 2024; in effect 90 days from passage (June 7, 2024)]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §3-5-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-2-1 of said code; and to amend and reenact §18-5-1a of said code, all relating to prohibiting persons who have been convicted of certain crimes against minors from holding positions on boards of education; and requiring that a candidate for county board of education include a statement on the certificate of announcement that he or she swears and affirms that he or she has not been convicted of certain crimes against minors.

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

### CHAPTER 3. ELECTIONS.

#### 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.

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**\*NOTE:** This section was also amended by H. B. 4552 (Chapter 125), which passed prior to this Act.

(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 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 is 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) For candidates for county board of education, a statement that the candidate swears and affirms that he or she has not been convicted of an offense under §61-8A-1 *et seq.*, §61-8B-1 *et seq.*, and §61-8C-1 *et seq.* of this code in which the victim was a minor;

(9) A statement that the person filing the certificate of announcement is a candidate for the office in good faith; and

(10) 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 an 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 §3-5-19 of this code 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.

## CHAPTER 18. EDUCATION.

### ARTICLE 2. STATE BOARD OF EDUCATION.

#### **§18-2-1. CREATION; COMPOSITION; APPOINTMENT, QUALIFICATIONS, TERMS, AND REMOVAL OF MEMBERS; OFFICES.**

There is a State Board of Education, to be known as the West Virginia Board of Education, which is a corporation and as such may contract and be contracted with, plead and be impleaded, sue and be sued, and have and use a common seal. The state board consists of 12 members, of whom one is the state Superintendent of Schools, ex officio; one of whom is the Chancellor of the Higher Education Policy Commission, ex officio; and one of whom is the Chancellor of the West Virginia Council for Community and

Technical College Education, ex officio, none of whom is entitled to vote. The other nine members are citizens of the state, appointed by the Governor, with the advice and consent of the Senate, for overlapping terms of nine years. Terms of office begin on November 5 of the appropriate year and end on November 4 of the appropriate year. Not more than five members are appointed from any one congressional district.

No more than five of the appointive members may belong to the same political party and no person is eligible for appointment to membership on the state board who is a member of any political party executive committee or holds any other public office or public employment under the federal government or under the government of this state or any of its political subdivisions, or who is an appointee or employee of the board. Members are eligible for reappointment. Any vacancy on the board shall be filled by the Governor by appointment for the unexpired term.

Notwithstanding the provisions of §6-6-4 of this code, a member of the state board may not be removed from office by the Governor except for official misconduct, incompetence, neglect of duty, or gross immorality and then only in the manner prescribed by law for the removal by the Governor of state elective officers.

Before exercising any authority or performing any duties as a member of the state board, each member shall qualify as such by taking and subscribing to the oath of office prescribed by section five, article IV of the Constitution of West Virginia, the certificate whereof shall be filed with the Secretary of State. A suitable office in the state Department of Education at the State Capitol shall be provided for use by the state board.

Notwithstanding the provisions of §6-5-5 of this code, no person who has been convicted of an offense under the provisions of §61-8A-1 *et seq.*, §61-8B-1 *et seq.*, §61-8C-1 *et seq.*, and §61-8D-1 *et seq.* of this code in which the victim is a minor may hold office as a member of the state board.

## **ARTICLE 5. COUNTY BOARD OF EDUCATION.**

**\*§18-5-1A. ELIGIBILITY OF MEMBERS; TRAINING REQUIREMENTS.**

(a) A person who is a member of a county board:

(1) Shall be a citizen and resident in the county in which he or she serves on the county board. Also, a person who is a candidate for membership on a county board or who is a member-elect of a county board shall be a citizen and resident in the county in which he or she seeks to serve on the county board;

(2) May not be employed by the county board on which he or she serves, including employment as a teacher or service person;

(3) May not engage in the following political activities:

(A) Become a candidate for or hold any other public office, other than to succeed him or herself as a member of a county board subject to the following:

(i) A candidate for a county board, who is not currently serving on a county board, may hold another public office while a candidate if he or she resigns from the other public office prior to taking the oath of office as a county board member.

(ii) The term "public office" as used in this section does not include service on any other board, elected or appointed, profit or nonprofit, under the following conditions:

(I) The person does not receive compensation; and

(II) The primary scope of the board is not related to public schools.

(B) Become a candidate for, or serve as, an elected member of any political party executive committee;

(C) Become a candidate for, or serve as, a delegate, alternate or proxy to a national political party convention;

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**\*NOTE:** This section was also amended by H. B. 5514 (Chapter 117), which passed prior to this Act.

(D) Solicit or receive political contributions to support the election of, or to retire the campaign debt of, any candidate for partisan office;

(4) May engage in any or all of the following political activities:

(A) Make campaign contributions to partisan or bipartisan candidates;

(B) Attend political fund raisers for partisan or bipartisan candidates;

(C) Serve as an unpaid volunteer on a partisan campaign;

(D) Politically endorse any candidate in a partisan or bipartisan election; or

(E) Attend a county, state, or national political party convention.

(b) A member or member-elect of a county board, or a person desiring to become a member of a county board, may make a written request to the West Virginia Ethics Commission for an advisory opinion to determine if another elected or appointed position held or sought by the person is an office or public office which would bar service on a county board pursuant to subsection (a) of this section.

(1) Within 30 days of receipt of the request, the Ethics Commission shall issue a written advisory opinion in response to the request and shall publish the opinion in a manner which, to the fullest extent possible, does not reveal the identity of the person making the request.

(2) A county board member who relies in good faith upon an advisory opinion issued by the West Virginia Ethics Commission to the effect that holding a particular office or public office is not a bar from membership on a county board and against whom proceedings are subsequently brought for removal from the county board on the basis of holding that office or offices, is entitled to



reimbursement by the county board for reasonable attorney's fees and court costs incurred by the member in defending against these proceedings, regardless of the outcome of the proceedings.

(3) A vote cast by the member at a meeting of the county board may not be invalidated due to a subsequent finding that holding the particular office or public office is a bar to membership on the county board.

(4) Good faith reliance on a written advisory opinion of the West Virginia Ethics Commission that a particular office or public office is not a bar to membership on a county board is an absolute defense to any civil suit or criminal prosecution arising from any proper action taken within the scope of membership on the county board, becoming a member-elect of the county board or seeking election to the county board.

(c) To be eligible for election or appointment as a member of a county board, a person shall possess at least a high school diploma or a general educational development (GED) diploma. This provision does not apply to members or members-elect who have taken office prior to May 5, 1992, and who serve continuously from that date forward.

(d) A person elected to a county board after July 1, 1990, may not assume the duties of county board member unless he or she has first attended and completed a course of orientation relating to boardsmanship and governance effectiveness which shall be given between the date of election and the beginning of the member's term of office under the following conditions:

(1) A portion or portions of subsequent training such as that offered in orientation may be provided to members after they have commenced their term of office;

(2) Attendance at the session of orientation given between the date of election and the beginning of the member's term of office permits the member-elect to assume the duties of county board member, as specified in this section;

(3) Members appointed to the county board shall attend and complete the next orientation course offered following their appointment; and

(4) The provisions of this subsection relating to orientation do not apply to members who have taken office prior to July 1, 1988, and who serve continuously from that date forward.

(e) Annually, each member of a county board shall receive seven clock hours of training in areas relating to boardmanship, governance effectiveness, and school performance issues including, but not limited to, pertinent state and federal statutes such as the "Process for Improving Education" set forth in §18-2E-5 of this code and the "No Child Left Behind Act" and their respective administrative rules.

(1) The orientation and training shall be approved by the state board and conducted by the West Virginia School Board Association or other organization or organizations approved by the state board:

(A) The state board may exclude time spent in training on school performance issues from the requisite seven hours herein required; and

(B) If the state board elects to exclude time spent in training on school performance issues from the requisite seven hours, the state board shall limit the training to a feasible and practicable amount of time.

(2) Failure to attend and complete the approved course of orientation and training relating to boardmanship and governance effectiveness without good cause, as determined by the state board by duly promulgated legislative rules, constitutes neglect of duty under §6-6-7 of this code.

(f) In the final year of any four-year term of office, a member shall satisfy the annual training requirement before January 1. Failure to comply with the training requirements of this section without good cause, as defined by the state board by duly

promulgated legislative rules, constitutes neglect of duty under §6-6-7 of this code.

(g) The state board shall appoint a committee named the "County Board Member Training Standards Review Committee" whose members shall meet at least annually. Subject to state board approval, the committee shall determine which particular trainings and training organizations shall be approved, and whether county board members have satisfied the annual training requirement. Members of the committee serve without compensation but may be reimbursed by their agencies or employers for all reasonable and necessary expenses actually incurred in the performance of their duties under this subsection.

(h) Notwithstanding the provisions of §6-5-5 of this code, no person who has been convicted of an offense under the §61-8A-1 et seq., §61-8B-1 et seq., §61-8C-1 et seq., and §61-8D-1 *et seq.* of this code in which the victim is a minor may hold office as a member of a county board.

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## CHAPTER 120

**(S. B. 166 - By Senators Chapman, Deeds, Hunt, Oliverio,  
Roberts, Rucker, Swope, Tarr, Woodrum, and Stuart)**

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[Passed March 7, 2024; to take effect January 1, 2025]  
[Approved by the Governor on March 26, 2024.]

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AN ACT to amend and reenact §3-7-3, §3-7-6, and §3-7-7 of the Code of West Virginia, 1931, as amended, all relating to contested elections procedure update; changing jurisdiction of election contests for county, district, and municipal elections to the circuit courts; requiring a recount proceeding to be completed before filing certain election contests; providing certain procedural requirements for election contests before circuit courts; providing for appeals of a decision made by a circuit court in an election contest be made to the Supreme Court of Appeals; and granting rule-making authority to the Supreme Court of Appeals regarding election contests before circuit courts.

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

### **ARTICLE 7. CONTESTED ELECTIONS.**

#### **§3-7-3. Contests before special court; procedure; enforcement.**

(a) Where the election of Secretary of State, Auditor, Treasurer, Attorney General, Commissioner of Agriculture, a justice of the Supreme Court of Appeals, a judge of the Intermediate Court of Appeals, a judge of a circuit court, or a judge of a family court is contested, the case shall be heard and decided by a special court constituted as follows:

(1) The contestee shall select one, the contestant another, and the Governor a third person, who shall preside in said court; and

the three, or any two of them, shall meet at a time and place within the state to be appointed by the Governor, and, being first duly sworn impartially to decide according to law and the truth upon the petition, returns, and evidence to be submitted to them, shall proceed to hear, and determine the case and certify their decision thereon to the Governor. They shall be entitled to \$10 a day each, and the same mileage as members of the Legislature, to be paid out of the treasury of the state, and the special court may employ a stenographer at a reasonable compensation, to be also paid out of the treasury of the state.

(2) In all hearings or proceedings before the special court, the evidence of witnesses and the production of documentary evidence may be required at any designated place of hearing by the special court, or any member thereof.

(3) If there is disobedience to a subpoena or other process of the special court, or any member thereof, the special court, or any member thereof, or either of the parties to the contest, may invoke the aid of any circuit court in requiring the evidence and testimony of witnesses and the production of papers, books, and documents. And the circuit court, in case of a refusal to obey the subpoena issued to any person, shall issue an order requiring that person to appear before the special court and produce all books and papers, if so ordered, and give evidence touching the matter in question. Any failure to obey the order of the circuit court may be punished by the court as a contempt thereof. A written record shall be kept of all testimony and other proceedings before the special court.

(4) Either party to the contest aggrieved by the final decision of the special court may present his or her petition in writing to the Supreme Court of Appeals, or a justice thereof in vacation, within 30 days after the final decision is certified to the Governor, as hereinbefore provided, praying for the suspension, setting aside, or vacation of the final decision. The applicant shall deliver, or cause to be delivered, a copy of the petition to the other party to the contest, or, in case of his or her absence from the state or from his or her usual place of abode, the applicant shall mail, or cause to be mailed a copy of the petition addressed to his or her last known post-office address, before presenting the petition to the court, or

the justice. The court, or the justice, shall fix a time for the hearing on the application, but the hearing may not be held sooner than five days, unless by agreement of the parties, after the presentation of the petition, and notice of the time and place of the hearing shall be forthwith delivered to the other party to the contest, or, in case of absence from the state or from his or her usual place of abode, the notice may be given by mailing, or causing to be mailed, the notice, or a copy thereof, addressed to him or her at his or her last known post-office address. If the court, or the justice, after the hearing, is of the opinion that a suspending order should issue, the court, or the justice in his or her, discretion, may suspend the final decision and may require bond upon such conditions and in such penalty, and impose such terms and conditions upon the petitioner, as are just and reasonable; and the court, or the justice, shall fix a time for the final hearing on the application. The hearing of the matter shall take precedence over all other matters before the court. For the final hearing, and before the day fixed therefor, the special court shall file with the clerk of the Supreme Court of Appeals all papers, documents, testimony, evidence, and records, or certified copies thereof, which were before it at the hearing resulting in the final decision from which the petitioner appeals, together with a copy in writing of its final decision; and, after argument by counsel, the court shall decide the matter in controversy, both as to the law and the evidence, as it determines to be just and right.

(b) The Supreme Court of Appeals shall enforce the provisions of this section by writ of prohibition, mandamus, certiorari or other appropriate mechanism.

### **§3-7-6. County and district contests; notices; time.**

(a) In all cases of contested elections, the circuit court with jurisdiction over the county or district where the election took place shall be the judge of the election, qualifications, and returns of all county, district, and municipal officers.

(b) An election contest challenging the election of any person to any county, district, or municipal office, including the office of magistrate, must be brought within 10 days after the election result is certified. An election contest shall be filed as a civil action in the

circuit court with jurisdiction over the county or district where the election took place.

(c) For an election contest challenging specific votes cast, votes rejected, or voters who participated in the election, the recount procedure set forth in §3-6-9 of this code is a prerequisite to the initiation of an election contest and that procedure and any related proceeding must be completed prior to the filing of an election contest on those grounds.

(d) For an election contest challenging an elected candidate's eligibility, the legality of the election, or fraud, an election contest civil action can be initiated without the completion of the recount procedure set forth in §3-6-9 of this code.

**§3-7-7. Circuit court to hear county, district, and municipal contests; procedure; review.**

(a) The circuit court with jurisdiction over the county or district where the election took place shall hear and decide election contests initiated pursuant to §3-7-6 of this code.

(b) At the trial of the contest, the circuit court shall hear all legal and proper evidence that may be brought before it by either party, and may, if considered necessary, require the production of the poll books, certificates, and ballots deposited with the county clerk or municipal recorder or clerk, and examine the same.

(c) A contestant has the burden of proof in an election contest.

(d) At the conclusion of the trial of the contest, the circuit court shall direct that a certified copy of the order declaring the result of the contest shall be delivered by the clerk of the circuit court wherein the contest was held to the parties.

(e) An appeal of the decision of the circuit court shall be to the Supreme Court of Appeals.

(f) The Supreme Court of Appeals, exercising the rule-making power granted by §51-1-4 of this code, may promulgate rules and regulations consistent with this article governing the pleadings, practice, and procedure to be employed during county, district, and municipal election contests in the courts of this state.

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## CHAPTER 121

**(Com. Sub. for S. B. 542 - By Senator Barrett)**

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[Passed March 9, 2024; to take effect January 1, 2025]

[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §3-10-7 of the Code of West Virginia, 1931, as amended, relating to amending procedure for filling vacancy in offices of county clerk, county commissioner, or county councilor; providing guidance for filling such vacancies by appointment; providing procedure to follow in commissions or councils having three commissioners or councilors if the county commission or council fails to make the appointment within the specified time; providing procedure to follow in commissions or councils having more than three commissioners or councilors if the county commission or council fails to make the appointment within the specified time; and, clarifying that political party committee naming persons to fill a vacancy is the party from which the vacating person was elected.

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

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

#### **§3-10-7. Vacancies in offices of county commissioner or councilor and clerk of county commission or council.**

(a) Any vacancy in the office of county commissioner or councilor, or clerk of county commission or council, shall be filled by appointment by the county commission or council. The appointee for the office of county commissioner or councilor must reside in a magisterial district in which no other member of the county commission or council resides. The appointee for either clerk of the county commission or council, or the office of county



commissioner or councilor, must be a person of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time of the previous election for that office: *Provided*, That at the time of appointment, the appointee must have been a member of that political party for at least one year prior to the occurrence of the vacancy.

(b) If a quorum of the county commission or council fails to make an appointment within 30 days, the county executive committee of the same political party with which the person holding the office preceding the vacancy was affiliated at the time of the previous election for that office shall submit a list of three legally qualified persons to fill the vacancy for a county having three elected commissioners, or shall submit a list of five legally qualified persons to fill the vacancy for a county having five elected commissioners or councilors. Within 15 days from the date on which the list is received, the county commission or council shall appoint a candidate from the list to fill the vacancy.

(1) In a county having three elected county commissioners, if the county commission or council fails to make the appointment within the specified time, then the county commissioner or councilor with the longest tenure shall eliminate one name from the submitted list, followed by the county commissioner or councilor with the second-longest tenure then eliminating one name from the submitted list. The name remaining after those two names have been eliminated shall be deemed to be appointed by the county commission to fill the vacancy.

(2) In a county having five elected county commissioners or councilors, if the county commission or council fails to make the appointment within the specified time, then the county commissioners or councilors shall strike one name from the list, in turn, in the following order of precedence:

(A)(i) First, all county commissioners or councilors affiliated with the same political party from which the vacating commissioner, councilor, or clerk was elected shall strike a name from the list before those not affiliated with the vacating commissioner, councilor, or clerk's party;

(ii) Second, of the county commissioners or councilors affiliated with the same party from which the vacating commissioner, councilor, or clerk was elected, the commissioner or councilor with the longest tenure shall strike before those with lesser tenure; and

(iii) Third, if there be county commissioners or councilors with equal tenure affiliated with the same party from which the vacating commissioner, councilor, or clerk was elected, a drawing by lot shall be conducted within the timeframe required to fill the vacancy to determine which of them shall eliminate one name from the submitted list before the other commissioner or councilor with equal tenure.

(B) After the county commissioners or councilors affiliated with the same party from which the vacating commissioner, councilor, or clerk was elected make their strikes, the remaining county commissioners or councilors shall follow the same procedure in the same order of precedence provided herein. The name remaining after four names have been eliminated shall be deemed to be appointed by the county commission or council.

(c) If the number of vacancies in a county commission or council deprives that body of a quorum, the Governor shall make an appointment to fill any vacancy in the county commission or council necessary to create a quorum, from a list of three legally qualified persons submitted by the party executive committee of the same political party with which the person holding the office immediately preceding the vacancy was affiliated at the time of the previous election for that office. The Governor shall make any appointments necessary, beginning with the vacancy first created, to create a quorum in accordance with the same procedures applicable to county commissions and councils under §3-10-7(a) of this code. Once a quorum of the county commission or council is reestablished by gubernatorial appointment, the authority to fill the remaining vacancies shall be filled in the manner prescribed in §3-10-7(a) of this code.

(d) An appointment made pursuant to this section is for the period of time provided in §3-10-1 of this code.

(e) Notwithstanding any code provision to the contrary, a county commission or council may appoint a temporary successor to the office of clerk of the county commission or council until the requirements of this section have been met. The temporary successor may serve no more than 30 days from the date of the vacancy.

(f) If an election is necessary under §3-10-1 of this code, the county commission or council, or the president thereof in vacation, shall be responsible for the proper proclamation, by order, and notice required by §3-10-1 of this code.

(g) §3-10-1 of this code shall be followed with respect to any election needed to fill a vacancy, except that if the vacancy occurs after the primary cutoff date but not later than the general cutoff date, candidates to fill the vacancy shall be nominated by the county executive committee in the manner provided in §3-5-19 of this code, as in the case of filling vacancies in nominations, and the names of the persons, so nominated and certified to the clerk of the county commission or council of the county, shall be placed upon the ballot to be voted at the next general election.

(h) If the election for an unexpired term is held at the same time as the election for a full term for county commissioner or councilor, the full term shall be counted first and the unexpired term shall be counted second. If the candidate with the highest number of votes for the unexpired term resides in the same magisterial district as the candidate with the highest number of votes for the full term, the candidate for the full term shall be seated. The candidate with the next highest number of votes for the unexpired term residing in a different magisterial district shall be seated for the unexpired term.

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## CHAPTER 122

**(Com. Sub. for S. B. 623 - By Senators Tarr and Woodrum)**

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[Passed March 8, 2024; to take effect January 1, 2025]  
[Approved by the Governor on March 26, 2024.]

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AN ACT 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.

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

### **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 §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 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) 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 §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 §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 January 1, 2025.



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## CHAPTER 123

**(Com. Sub. for S. B. 624 - By Senators Tarr, Woodrum,  
Roberts, and Takubo)**

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[Passed March 9, 2024; to take effect January 1, 2025]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §3-2-6 and §3-2-27 of the Code of West Virginia, 1931, as amended, all relating to voter registration procedures; specifying times of closure of voter registration before election; and authorizing cancellation of voter registration for individuals who are no longer West Virginia citizens and who have obtained driver's license in another state.

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

### **ARTICLE 2. REGISTRATION OF VOTERS.**

#### **§3-2-6. Time of registration application before an election.**

(a) Voter registration before an election closes on the 21st day before the election or on the first day thereafter which is not a Saturday, Sunday, or legal holiday at

(1) 11:59 p.m. for online registration; or

(2) At the close of business at county clerk's offices and the Secretary of State's office.

(b) An application for voter registration, transfer of registration, change of name, or change of political party affiliation submitted by an eligible voter by the close of voter registration is effective for any subsequent primary, general, or special election if the following conditions are met:

(1) The application contains the information required by §3-2-5(c) of this code. Incomplete applications for registration containing information which are submitted within the required time may be corrected within four business days after the close of registration if the applicant provides the required information; and

(2) The application is received by the appropriate clerk of the county commission no later than the hour of the close of registration or is otherwise submitted by the following deadlines:

(A) If mailed, the application shall be addressed to the appropriate clerk of the county commission and is postmarked by the postal service no later than the date of the close of registration. If the postmark is missing or illegible, the application is presumed to have been mailed no later than the close of registration if it is received by the appropriate clerk of the county commission no later than the third day following the close of registration;

(B) If accepted by a designated agency or motor vehicle licensing office, the application is received by that agency or office no later than the close of registration;

(C) If accepted through a registration outreach program, the application is received by the clerk, deputy clerk, or registrar no later than the close of registration;

(D) If accepted through an approved electronic voter registration system, the application is received by the clerk of the county commission or other entity designated by the Secretary of State no later than 11:59 p.m. on the final day of registration; and

(3) The verification notice required by the provisions of §3-2-16 of this code mailed to the voter at the residence indicated on the application is not returned as undeliverable.

**§3-2-27. Procedure following sending of confirmation notices; correction or cancellation of registrations upon response; designation of inactive when no response; cancellation of inactive voters; records.**

(a) Upon receipt of a confirmation response card mailed pursuant to the provisions of §3-2-26 of this code and returned completed and signed by the voter, the clerk shall either:

(1) Update the voter registration by noting the confirmation of the current address if no other changes are requested or by entering any change of address within the county, change of name, or other correction requested by the voter; or

(2) Cancel the voter's registration if the voter confirms that he or she has moved out of the county.

(b) Upon receipt of the confirmation notice returned undeliverable, the clerk may either:

(1) Send a second confirmation notice to the old residence address if the first notice was sent to a new address provided by the postal service; or

(2) Designate the registration as inactive or transfer it to the inactive voter registration file, as defined in section 19 of this article.

(c) If no response to the confirmation notice is received by February 1 following the mailing of the confirmation notice, the clerk shall designate the registration as inactive or transfer it to the inactive voter registration file as provided in §3-2-19 of this code.

(d) An inactive voter registration shall be returned to active status or transferred to the active voter registration file upon the voter's application to update the registration or to vote in any election while they remain on the inactive list.

(e) The clerk of the county commission shall cancel the records of all voters on the inactive file who have not responded to the confirmation notice, otherwise updated their voter registrations or voted in any state, county, or municipal primary, general or special election held within the county during a period beginning on the date of the notice and ending on the day after the date of the second general election for federal office which occurs after the date of the notice.

(f) Upon notification by the Secretary of State, the clerk of the county commission shall cancel the records of all voters who are no longer West Virginia citizens and have obtained a driver's license in another state based on information provided by the Division of Motor Vehicles under § 3-2-4a(g) of this code.

(g) The amendments to this section enacted by the Legislature in the 2024 Regular Session are effective January 1, 2025.

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## CHAPTER 124

**(Com. Sub. for H. B. 4350 - By Delegates Holstein and Kump)**

[Passed March 9, 2024; in effect January 1, 2025.]

[Approved by the Governor on March 27, 2024.]

AN ACT to amend and reenact §3-5-11 and §3-5-19 of the Code of West Virginia, 1931, as amended, relating to filling vacancies on the ballot for election to a public office; and prohibiting the filling of a vacancy for a candidate to an elected office after the time is closed for announcing as a candidate which is caused by the failure of any person of a particular party to file for the elected office.

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

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

#### **§3-5-11. Withdrawals; filling vacancies in candidacy; publication.**

a) A candidate who has filed a certificate of announcement and wishes to withdraw and decline to stand as a candidate for the office shall file a signed and notarized statement of withdrawal on a form provided by the Secretary of State with the same officer with whom the certificate of announcement was filed. If the notarized statement of withdrawal is received by the proper officer by the deadlines set forth in subsection (b) of this section, the candidate's withdrawal is final and his or her name shall not be certified as a candidate nor printed on any ballot. If a candidate files a notarized statement of withdrawal after the deadlines set forth in subsection (b) of this section, the candidate shall not be withdrawn and the candidate's name shall remain on the ballot.

(b) Deadlines for withdrawing as a candidate:

(1) For primary or special primary elections or nonpartisan elections held in conjunction with a primary election: The notarized statement of withdrawal must be received by the same officer with whom the certificate of announcement was filed by the close of business of that officer not later than the third Tuesday following the close of the candidate filing period.

(2) For general or special general elections or nonpartisan elections held in conjunction with a general election: The notarized statement of withdrawal must be received by the same officer with whom the certificate of announcement was filed by the close of business of that officer not later than 84 days before the general election.

(c) Upon request of the candidate's family, the board of ballot commissioners may remove the name of a candidate who dies before the ballots are printed. If a candidate dies after the ballots are printed but before the election, the clerk of the county commission shall give a written notice which shall be posted with the sample ballot at each precinct with the county to the following effect: "To the voter: (name) of (residence), a candidate for (office) is deceased."

(d) If after the time is closed for announcing as a candidate there is a vacancy on the ballot caused by the failure of any person of a particular party to file for each available seat of each available office, that vacancy may not be filled: *Provided*, That if no person in any party has filed to run for an available seat or available office by the close of the candidate filing period, the relevant party executive committee may fill the vacancy and submit the name to the appropriate filing officer no later than the third Tuesday following the close of the filing period: *Provided, however*, That if the executive committee fails to make an appointment within the time required, the chairperson of the executive committee may make the appointment not later than two days following the deadline for the executive committee; *Provided further*, That for a delegate district or senatorial district situated entirely within a single county, the county executive committee, or its chairperson if the committee fails to act, may fill the vacancy and certify the candidate named to the appropriate filing officer.

(e) No other vacancy shall be filled after the date of the primary election, except as provided in §3-5-19 of this code.

**§3-5-19. Vacancies in nominations; how filled; fees.**

(a) If any vacancy occurs in the party nomination of candidates for office nominated at the primary election or by appointment under the provisions of section 11 of this article, the vacancies may be filled, subject to the following requirements and limitations:

(1) Each appointment made under this section shall be made by the executive committee of the political party for the political division in which the vacancy occurs: *Provided*, That if the executive committee holds a duly called meeting in accordance with §3-1-9 of this code but fails to make an appointment or fails to certify the appointment of the candidate to the proper filing officer within the time required, the chairperson of the executive committee may make the appointment not later than two days following the deadline for the executive committee: *Provided, however*, That for a delegate district or senatorial district situated entirely within a single county, the county executive committee, or its chairperson if the committee fails to act, may fill the vacancy and certify the candidate named to the appropriate filing officer.

(2) Each appointment made under this section is complete only upon the receipt by the proper filing officer of the certificate of appointment by the executive committee, or its chairperson, as the case may be, the certificate of announcement of the candidate as prescribed in section seven of this article and, except for appointments made under subdivision (4), (5), (6) or (7) of this subsection, the filing fee or waiver of fee as prescribed in section eight or eight-a of this article. The proper filing officer is the officer with whom the original certificate of announcement is regularly filed for that office.

(3) If a vacancy in nomination will be caused by the failure of a candidate to file for an office or by withdrawal of a candidate, the vacancy may not be filled.

(4) If a vacancy in nomination is caused by the disqualification of a candidate and the vacancy occurs not later than 84 days before the general election, a nominee may be appointed by the executive

committee and certified to the proper filing officer not later than 78 days before the general election. A candidate may be determined disqualified if a written request is made by an individual with information to show a candidate's ineligibility to the State Election Commission no later than 84 days before the general election explaining grounds why a candidate is not eligible to be placed on the general election ballot or not eligible to hold the office, if elected. The State Election Commission shall review the reasons for the request. If the commission finds the circumstances warrant the disqualification of the candidate, the commission shall authorize appointment by the executive committee to fill the vacancy. Upon receipt of the authorization, a nominee may be appointed by the executive committee and certified to the proper filing officer no later than 78 days before the general election.

(5) If a vacancy in nomination is caused by the incapacity of the candidate and if the vacancy occurs not later than 84 days before the general election, a nominee may be appointed by the executive committee and certified to the proper filing officer no later than 78 days before the general election.

(6) If a vacancy in nomination is caused by the death of the candidate occurring no later than 25 days before the general election, a nominee may be appointed by the executive committee and certified to the proper filing officer no later than 21 days following the date of death or no later than 22 days before the general election, whichever date occurs first.

(b) Except as otherwise provided in §3-10-1 *et seq.* of this code, if any vacancy occurs in a partisan office or position other than political party executive committee, which creates an unexpired term for a position which would not otherwise appear on the ballot in the general election, and the vacancy occurs after the close of candidate filing for the primary election but not later than 84 days before the general election, a nominee of each political party may be appointed by the executive committee and certified to the proper filing officer no later than 78 days before the general election. Appointments shall be filed in the same manner as provided in subsection (a) of this section, except that the filing fee shall be paid before the appointment is complete.



(c) When a vacancy occurs in the board of education after the close of candidate filing for the primary election but not later than 84 days before the general election, a special candidate filing period shall be established. Candidates seeking election to any unexpired term for board of education shall file a certificate of announcement and pay the filing fee to the clerk of the county commission no earlier than the first Monday in August and no later than 77 days before the general election.

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## CHAPTER 125

**(Com. Sub. for H. B. 4552 - By Delegates Barnhart, Kimble,  
Heckert, and Hillenbrand)**

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[Passed March 8, 2024; in effect January 1, 2025.]

[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §3-5-7 of the Code of West Virginia, 1931, as amended, relating to verification of candidate's party affiliation as stated in certificate of announcement; specifying that certificate of announcement for partisan election must include candidate's political party on date of submittal; requiring election officer receiving certificate of announcement to electronically verify candidate's current party affiliation; requiring election officer to refuse certificate of announcement if candidate's current party affiliation not as stated on certificate of announcement; and providing an internal effective date.

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

### **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.

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**\*NOTE:** This section was also amended by S. B. 159 (Chapter 119), which passed subsequent to this Act.

(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.

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## CHAPTER 126

### (H. B. 5298 - By Delegates Espinosa, W. Clark, and Young)

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[Passed March 7, 2024; in effect January 1, 2025.]

[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §3-5-4 of the Code of West Virginia, 1931, as amended, relating to prohibiting a candidate who failed to secure the nomination of a recognized political party in a primary election from seeking the same elected office as candidate of any other recognized political party for the same political office in the next succeeding general election; and providing an internal effective date.

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

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

#### **§3-5-4. Nomination of candidates in primary elections.**

(a) At each primary election, the candidate or candidates of each political party for all offices to be filled at the ensuing general election by the voters of the entire state, of each congressional district, of each state senatorial district, of each delegate district, and of each county in the state shall be nominated by the voters of the different political parties, except that no presidential elector shall be nominated at a primary election.

(b) In primary elections a plurality of the votes cast shall be sufficient for the nomination of candidates for office. Where only one candidate of a political party for any office in a political division, including party committeemen and delegates to national conventions, is to be chosen the candidate receiving the highest number of votes therefor in the primary election shall be declared the party nominee for such office. Where two or more such

candidates are to be chosen in the primary election, the candidates constituting the proper number to be so chosen who shall receive the highest number of votes cast in the political division in which they are candidates shall be declared the party nominees and choices for such offices, except that:

(1) Candidates for the office of commissioner of the county commission shall be nominated and elected in accordance with the provisions of section ten, article nine of the Constitution of the State of West Virginia and the requirements of §7-1-1b of this code;

(2) Members of county boards of education shall be elected at primary elections in accordance with §3-5-5 and §3-5-6 of this code;

(3) Candidates for the House of Delegates shall be nominated and elected in accordance with the residence restrictions provided in §1-2-2 of this code.

(c) In case of tie votes between candidates for party nominations or elections in primary elections, the choice of the political party shall be determined by the executive committee of the party for the political division in which such persons are candidates.

(d) A person who was a candidate for nomination by a recognized political party as defined in §3-1-8 of this code may not, after failing to win the nomination of that political party at a primary election, become a candidate of any other recognized political party for the same political office in the next succeeding general election.

(e) The amendments to this section enacted by the Legislature in the 2024 Regular Session are effective January 1, 2025.



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## CHAPTER 127

**(S. B. 452 - By Senators Tarr, Jeffries, Phillips, and Plymale)**

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[Passed March 8, 2024; in effect 90 days from passage (June 6, 2024)]

[Approved by the Governor on March 22, 2024.]

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AN ACT to amend and reenact §31-15A-8 of the Code of West Virginia, 1931, as amended, relating to designating certain water and wastewater facilities as an emergency project; and modifying the requirements to the designation.

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

### **ARTICLE 15A. WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL.**

**§31-15A-8. Exemption of certain emergency projects from certificate of public convenience and necessity requirements; review of certain emergency projects by Public Service Commission; and exemption for North Fork Hughes River watershed project.**

(a) If the council determines a project to be an emergency, then the emergency project is exempt from the requirement to obtain a certificate of public convenience and necessity under §24-2-11 of this code. If the public utility is a public service district, it is exempt from the approval of the Public Service Commission required under §16-13A-25 of this code.

(b) Projects that are not emergency projects are subject to the requirements of §24-2-11 of this code to the extent they would be otherwise.

(c) The North Fork Hughes River watershed project, proposed to enhance economic growth and development through tourism as

provided in §31-15A-2 (l), of this code and to include a water facility project as defined in §31-15A-2-(n), of this code, is hereby specifically exempted from any requirement imposed by this article, except that the provisions of subsection (a) of this section are specifically made applicable to the project. The project is hereby specifically authorized and the public land corporation shall have, and may exercise, the power of eminent domain and all authority otherwise prescribed by law to acquire necessary land and rights-of-way, to include approximately 478 acres, in connection with the project. Funding for the project shall be provided by the federal government from the Appalachian Regional Commission through the Natural Resources Conservation Service. Upon completion of the project, the property acquired shall be transferred to the state park system. The commissioner of the Department of Tourism and parks or the successor to the commissioner's powers and duties is directed to expand the boundaries of North Bend State Park to include the project area and to operate the expanded park property, including improved recreational facilities, from funds appropriated for that purpose.

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## CHAPTER 128

(Com. Sub. for S. B. 603 - By Senator Woodrum)

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[Passed March 1, 2024; in effect from passage]

[Approved by the Governor on March 5, 2024.]

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AN ACT to amend and reenact §22-15-2 of the Code of West Virginia, 1931, as amended, relating to amending definition of “commercial solid waste facility”; amending definition to exclude solid waste facility that accepts solid waste collected by facility’s owner or operator, who is a Public Service Commission-certificated common carrier, for consolidation and subsequent transportation to disposal or recycling facility; providing that such facility comply with bonding and pre-siting notice requirements; and providing that such facility be located on site that contains a mixed waste processing and resource recovery facility that possesses a solid waste facility permit issued by Department of Environmental Protection.

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

### **ARTICLE 15. SOLID WASTE MANAGEMENT ACT.**

#### **§22-15-2. Definitions.**

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

"Advanced recycling" means a manufacturing process for the conversion of post-use polymers and recovered feedstocks into basic hydrocarbon raw materials, feedstocks, chemicals, and other products like waxes and lubricants through processes that include pyrolysis, gasification, depolymerization, catalytic cracking, hydrogenation, solvolysis, and other similar technologies. The recycled products produced at advanced recycling facilities

include, but are not limited to, monomers, oligomers, plastics, plastics and chemical feedstocks, basic and unfinished chemicals, waxes, lubricants, coatings, and other basic hydrocarbons. Advanced recycling shall not be considered solid waste management or solid waste disposal.

"Advanced recycling facility" means a facility that receives, stores, and converts post-use polymers and recovered feedstocks it receives using advanced recycling. An advanced recycling facility is a manufacturing facility subject to applicable department manufacturing regulations for air, water, and land use. Advanced recycling facilities shall not be considered solid waste facilities.

"Agronomic rate" means the whole sewage sludge application rate, by dry weight, designed:

(1) To provide the amount of nitrogen needed by the food crop, feed crop, fiber crop, cover crop, or vegetation on the land; and

(2) To minimize the amount of nitrogen in the sewage sludge that passes below the root zone of the crop or vegetation grown on the land to the groundwater.

"Applicant" means the person applying for a commercial solid waste facility permit or similar renewal permit and any person related to such person by virtue of common ownership, common management, or family relationships as the director may specify, including the following: Spouses, parents, children, and siblings.

"Approved solid waste facility" means a solid waste facility or practice which has a valid permit under this article.

"Back hauling" means the practice of using the same container to transport solid waste and to transport any substance or material used as food by humans, animals raised for human consumption, or reusable item which may be refilled with any substance or material used as food by humans.

"Bulking agent" means any material mixed and composted with sewage sludge.

"Catalytic cracking" is a manufacturing process through which post-use polymers are heated and melted in the absence of oxygen and then processed in the presence of a catalyst to produce valuable raw materials and intermediate and final products, including, but not limited to, plastic monomers, chemicals, waxes, lubricants, plastic and chemical feedstocks, and other basic hydrocarbons.

"Class A facility" means a commercial solid waste facility which handles an aggregate of between 10,000 and 30,000 tons of solid waste per month. Class A facility includes two or more Class B solid waste landfills owned or operated by the same person in the same county, if the aggregate tonnage of solid waste handled per month by such landfills exceeds 9,999 tons of solid waste per month.

"Commercial recycler" means any person, corporation, or business entity whose operation involves the mechanical separation of materials for the purpose of reselling or recycling at least 70 percent by weight of the materials coming into the commercial recycling facility.

"Commercial solid waste facility" means any solid waste facility that accepts solid waste generated by sources other than the owner or operator of the facility and does not include an approved solid waste facility owned and operated by a person for the sole purpose of the disposal, processing, or composting of solid waste created by that person or such person and other persons on a cost-sharing or nonprofit basis and does not include land upon which reused or recycled materials are legitimately applied for structural fill, road base, mine reclamation, and similar applications, and does not include any solid waste facility that accepts solid waste collected pursuant to and under a common carrier certificate of convenience and necessity issued by the Public Service Commission by the owner or operator (or its affiliate(s)) of the solid waste facility for consolidation and subsequent transport to a disposal or recycling facility: *Provided*, That the owner or operator of the solid waste facility shall comply with §22-15-12 and §22-15-13 of this code: *Provided, however*, That any such solid waste facility be located on a site that contains a mixed waste processing

and resource recovery facility that possesses a solid waste facility permit from the Department of Environmental Protection.

"Compost" means a humus-like material resulting from aerobic, microbial, or thermophilic decomposition of organic materials.

"Composting" means the aerobic, microbial, or thermophilic decomposition of natural constituents of solid waste to produce a stable, humus-like material.

"Commercial composting facility" means any solid waste facility processing solid waste by composting, including sludge composting, organic waste or yard waste composting, but does not include a composting facility owned and operated by a person for the sole purpose of composting waste created by that person or such person and other persons on a cost-sharing or nonprofit basis and shall not include land upon which finished or matured compost is applied for use as a soil amendment or conditioner.

"Cured compost" or "finished compost" means compost which has a very low microbial or decomposition rate which will not reheat or cause odors when put into storage and that has been put through a separate aerated curing cycle stage of 30 to 60 days after an initial composting cycle or compost which meets all regulatory requirements after the initial composting cycle.

"Department" means the Department of Environmental Protection.

"Depolymerization" means a manufacturing process where post-use polymers are broken into smaller molecules such as monomers and oligomers or raw, intermediate, or final products, plastics and chemical feedstocks, basic and unfinished chemicals, waxes, lubricants, coatings, and other basic hydrocarbons.

"Energy recovery incinerator" means any solid waste facility at which solid wastes are incinerated with the intention of using the resulting energy for the generation of steam, electricity, or any other use not specified herein.

"Gasification" means a manufacturing process through which recovered feedstocks are heated and converted into a fuel and gas mixture in an oxygen-deficient atmosphere and the mixture is converted into valuable raw materials and intermediate and final products, including, but not limited to, plastic monomers, chemicals, waxes, lubricants, plastic and chemical feedstocks, and other basic hydrocarbons that are returned to economic utility in the form of raw materials and products.

"Hydrogenation" is a manufacturing process through which hydrogen is used to remove impurities from post-use polymers or recovered feedstock to enable further processing into valuable raw materials and intermediate and final products, including, but not limited to, plastic monomers, chemicals, waxes, lubricants, plastic and chemical feedstocks, and other basic hydrocarbons.

"Incineration technologies" means any technology that uses controlled flame combustion to thermally break down solid waste, including refuse-derived fuel, to an ash residue that contains little or no combustible materials, regardless of whether the purpose is processing, disposal, electric or steam generation, or any other method by which solid waste is incinerated.

"Incinerator" means an enclosed device using controlled flame combustion to thermally break down solid waste, including refuse-derived fuel, to an ash residue that contains little or no combustible materials.

"Landfill" means any solid waste facility used for the disposal of solid waste on or in the land for the purpose of permanent disposal. The facility is situated, for purposes of this article, in the county where the majority of the spatial area of the facility is located.

"Materials recovery facility" means any solid waste facility at which source-separated materials or materials recovered through a mixed waste processing facility are manually or mechanically shredded or separated for purposes of reuse and recycling, but does not include a composting facility.

"Mature compost" means compost which has been produced in an aerobic, microbial, or thermophilic manner and does not exhibit phytotoxic effects.

"Mixed solid waste" means solid waste from which materials sought to be reused or recycled have not been source-separated from general solid waste.

"Mixed waste processing facility" means any solid waste facility at which materials are recovered from mixed solid waste through manual or mechanical means for purposes of reuse, recycling, or composting.

"Municipal solid waste incineration" means the burning of any solid waste collected by any municipal or residential solid waste disposal company.

"Open dump" means any solid waste disposal which does not have a permit under this article, or is in violation of state law, or where solid waste is disposed in a manner that does not protect the environment.

"Person" or "persons" means any industrial user, public or private corporation, institution, association, firm, or company organized or existing under the laws of this or any other state or country; State of West Virginia; governmental agency, including federal facilities; political subdivision; county commission; municipal corporation; industry; sanitary district; public service district; drainage district; soil conservation district; watershed improvement district; partnership; trust; estate; person or individual; group of persons or individuals acting individually or as a group; or any legal entity whatever.

"Post-use polymer" means a plastic to which all the following apply:

- (1) The plastic is derived from any industrial, commercial, agricultural, or domestic activities;

- (2) It is not mixed with solid waste or hazardous waste onsite or during processing at the advanced recycling facility;



(3) The plastic's use or intended use is as a feedstock for the manufacturing of plastic and chemical feedstocks, other basic hydrocarbons, raw materials, or other intermediate products or final products using advanced recycling;

(4) The plastic has been sorted from solid waste and other regulated waste but may contain residual amounts of solid waste such as organic material and incidental contaminants or impurities (e.g., paper labels and metal rings); and

(5) The plastic is processed at an advanced recycling facility or held at the facility prior to processing.

"Publicly owned treatment works" means any treatment works owned by the state or any political subdivision thereof, any municipality or any other public entity which processes raw domestic, industrial, or municipal sewage by any artificial or natural processes in order to remove or so alter constituents as to render the waste less offensive or dangerous to the public health, comfort, or property of any of the inhabitants of this state before the discharge of the plant effluent into any of the waters of this state, and which produces sewage sludge.

"Pyrolysis" means a manufacturing process through which post-use polymers are heated in the absence of oxygen until melted and thermally decomposed and are then cooled, condensed, and converted into valuable raw materials and intermediate and final products, including, but not limited to, plastic monomers, chemicals, waxes, lubricants, plastic and chemical feedstocks, and other basic hydrocarbons, that are returned to economic utility in the form of raw materials or products.

"Recovered feedstock" means one or more of the following materials that has been processed so that it may be used as feedstock in an advanced recycling facility:

(1) Post-use polymers;

(2) Materials for which the United States Environmental Protection Agency has made a nonwaste determination pursuant to

40 C.F.R. 241.3(c), or has otherwise determined are feedstocks and not solid waste;

(3) Recovered feedstock does not include unprocessed municipal solid waste;

(4) Recovered feedstock is not mixed with solid waste or hazardous waste onsite or during processing at an advanced recycling facility.

"Recycling facility" means any solid waste facility for the purpose of recycling at which neither land disposal nor biological, chemical, or thermal transformation of solid waste occurs: *Provided*, That mixed waste recovery facilities, sludge processing facilities, and composting facilities are not considered recycling facilities nor considered to be reusing or recycling solid waste within the meaning of this article, §22-15A-1 *et seq.* and §22C-4-1 *et seq.* of this code.

"Sewage sludge" means solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic septage, scum, or solids removed in primary, secondary, or advanced wastewater treatment processes and a material derived from sewage sludge. "Sewage sludge" does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator.

"Sewage sludge processing facility" is a solid waste facility that processes sewage sludge for: (A) Land application; (B) incineration; or (C) disposal at an approved landfill. Such processes include, but are not limited to, composting, lime stabilization, thermophilic, microbial, and anaerobic digestion.

"Secretary" means the Secretary of the Department of Environmental Protection or such other person to whom the secretary has delegated authority or duties pursuant to §22-1-1 *et seq.* of this code.

"Sludge" means any solid, semisolid, residue, or precipitate, separated from or created by a municipal, commercial, or industrial

waste treatment plant, water supply treatment plant, air pollution control facility, or any other such waste having similar origin.

"Solid waste" means any garbage, paper, litter, refuse, cans, bottles, waste processed for the express purpose of incineration; sludge from a waste treatment plant; water supply treatment plant or air pollution control facility; and other discarded materials, including offensive or unsightly matter, solid, liquid, semisolid, or contained liquid or gaseous material resulting from industrial, commercial, mining, or community activities but does not include solid or dissolved material in sewage or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources and have permits under §22-5A-1 *et seq.* of this code, or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended, including any nuclear or byproduct material considered by federal standards to be below regulatory concern, or a hazardous waste either identified or listed under §22-5E-1 *et seq.* of this code or refuse, slurry, overburden, or other wastes or material resulting from coal-fired electric power or steam generation, the exploration, development, production, storage, and recovery of coal, oil, and gas, and other mineral resources placed or disposed of at a facility which is regulated under chapter 22, chapter 22A, or chapter 22B of this code, so long as placement or disposal is in conformance with a permit issued pursuant to those chapters, or post-use polymers and recovered feedstocks converted at an advanced recycling facility or held at the facility prior to conversion.

"Solid waste disposal" means the practice of disposing of solid waste including placing, depositing, dumping, throwing, or causing any solid waste to be placed, deposited, dumped, or thrown.

"Solid waste disposal shed" means the geographical area which the solid waste management board designates and files in the state register pursuant to §16-26-8 of this code.

"Solid waste facility" means any system, facility, land, contiguous land, improvements on the land, structures, or other appurtenances or methods used for processing, recycling, or disposing of solid waste, including landfills, transfer stations,

materials recovery facilities, mixed waste processing facilities, sewage sludge processing facilities, commercial composting facilities, and other such facilities not herein specified, but not including land upon which sewage sludge is applied in accordance with §22-15-20 of this code. The facility shall be deemed to be situated, for purposes of this article, in the county where the majority of the spatial area of the facility is located: *Provided*, That a salvage yard, licensed and regulated pursuant to the terms of §17-23-1 *et seq.* of this code, is not a solid waste facility and an advanced recycling facility is not a solid waste facility.

"Solid waste facility operator" means any person or persons possessing or exercising operational, managerial, or financial control over a commercial solid waste facility, whether or not the person holds a certificate of convenience and necessity or a permit for the facility.

"Solvolysis" means a manufacturing process through which post-use polymers are purified with the aid of solvents, while heated at low temperatures and/or pressurized to make useful products, allowing additives and contaminants to be separated. The products of solvolysis include monomers, intermediates, valuable chemicals, and raw materials. The process includes, but is not limited to, hydrolysis, aminolysis, ammonolysis, methanolysis, and glycolysis.

"Source-separated materials" means materials separated from general solid waste at the point of origin for the purpose of reuse and recycling but does not mean sewage sludge.

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## CHAPTER 129

**(S. B. 610 - By Senators Tarr and Barrett)**

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[Passed March 7, 2024; in effect from passage]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §22C-1-6 of the Code of West Virginia, 1931, as amended, relating to clarifying the authority of the Water Development Authority to appoint employees, officers, managers, attorneys, independent contractors, and consultants as are necessary: fixing their compensation; and prescribing their duties in certain circumstances outside the classified civil service system.

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

### **ARTICLE 1. WATER DEVELOPMENT AUTHORITY.**

#### **§22C-1-6. Powers, duties, and responsibilities of authority generally.**

The Water Development Authority has and may exercise all powers necessary or appropriate to carry out and effectuate its corporate purpose. The authority has the power and capacity to:

(1) Adopt and, from time-to-time, amend and repeal bylaws necessary and proper for the regulation of its affairs and the conduct of its business and rules to implement and make effective its powers and duties, such rules to be promulgated in accordance with the provisions of chapter 29A of this code.

(2) Adopt an official seal.

(3) Maintain a principal office and, if necessary, regional suboffices at locations properly designated or provided.

(4) Sue and be sued in its own name and plead and be impleaded in its own name and particularly to enforce the obligations and covenants made under §22C-1-9, §22C-1-10, and §22C-1-16 of this code. Any actions against the authority shall be brought in the circuit court of Kanawha County in which the principal office of the authority shall be located.

(5) Make loans and grants to governmental agencies for the acquisition or construction of water development projects by any such governmental agency and, in accordance with the provisions of chapter 29A of this code, adopt rules and procedures for making such loans and grants.

(6) Acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain, repair, operate, lease or rent to, or contract for operation by a governmental agency or person, water development projects and, in accordance with the provisions of chapter 29A of this code, adopt rules for the use of such projects.

(7) Make available the use or services of any water development project to one or more persons, one or more governmental agencies, or any combination thereof.

(8) Issue water development revenue bonds and notes and water development revenue refunding bonds of the state, payable solely from revenues as provided in §22C-1-9 of this code unless the bonds are refunded by refunding bonds, for the purpose of paying all or any part of the cost of, or financing by loans to governmental agencies, one or more water development projects or parts thereof.

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

(10) Acquire in the name of the state, by purchase or otherwise, on such terms and in such manner as it deems proper, or by the exercise of the right of eminent domain in the manner provided in chapter 54 of this code, such public or private lands, or parts thereof or rights therein, rights-of-way, property, rights, easements, and

interests it deems necessary for carrying out the provisions of this article, but excluding the acquisition by the exercise of the right of eminent domain of any public water facilities, stormwater systems, or wastewater facilities, operated under permits issued pursuant to the provisions of §22-11-1 *et seq.* of this code and owned by any person or governmental agency, and compensation shall be paid for public or private lands so taken.

(11) Make and enter into all contracts and agreements and execute all instruments necessary or incidental to the performance of its duties and the execution of its powers. When the cost under any such contract or agreement, other than compensation for personal services, involves an expenditure of more than \$25,000, the authority shall make a written contract with the lowest responsible bidder after public notice published as a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, the publication area for such publication to be the county wherein the work is to be performed or which is affected by the contract, which notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids, but a contract or lease for the operation of a water development project constructed and owned by the authority or an agreement for cooperation in the acquisition or construction of a water development project pursuant to §22C-1-16 of this code is not subject to the foregoing requirements and the authority may enter into such contract or lease or such agreement pursuant to negotiation and upon such terms and conditions and for such period as it finds to be reasonable and proper under the circumstances and in the best interests of proper operation or of efficient acquisition or construction of such project. The authority may reject any and all bids. A bond with good and sufficient surety, approved by the authority, is required of all contractors in an amount equal to at least 50 percent of the contract price, conditioned upon the faithful performance of the contract.

(12) Appoint such employees, officers, managers, attorneys, independent contractors, and consultants as are necessary to carry out the provisions of this article and to fix their compensation and

prescribe their duties: *Provided*, That, beginning on the effective date of the amendments to this section enacted during the regular session of the Legislature, 2024, all employees of the authority are exempt from the classified civil service system: *Provided, however*, That employees of the authority who are currently members of the classified civil service system shall retain their status as long as they remain in their current classification. Thereafter, if the employee leaves his or her current classification and remains an employee of the authority, that employee, at that time, becomes transferred to the classified-exempt service. All expenses thereof are payable solely from the proceeds of water development revenue bonds or notes issued by the authority, from revenues, and from funds appropriated for such purpose by the Legislature.

(13) Receive and accept from any federal agency, subject to the approval of the Governor, grants for or in aid of the construction of any water development project or for research and development with respect to public water facilities, stormwater systems, or wastewater facilities and receive and accept aid or contributions from any source of money, property, labor, or other things of value to be held, used and applied only for the purposes for which such grants and contributions are made.

(14) Engage in research and development with respect to public water facilities, stormwater systems, or wastewater facilities.

(15) Purchase property coverage and liability insurance for any water development project and for the principal office and suboffices of the authority, insurance protecting the authority and its officers and employees against liability, if any, for damage to property or injury to or death of persons arising from its operations and any other insurance the authority may agree to provide under any resolution authorizing the issuance of water development revenue bonds or in any trust agreement securing the same.

(16) Charge, alter, and collect rentals and other charges for the use or services of any water development project as provided in this article and charge and collect reasonable interest, fees, and charges in connection with the making and servicing of loans to



governmental agencies in the furtherance of the purposes of this article.

(17) Establish or increase reserves from moneys received or to be received by the authority to secure or to pay the principal of and interest on the bonds and notes issued by the authority pursuant to this article.

(18) Administer on behalf of the Department of Environmental Protection the Dam Safety Rehabilitation Revolving Fund Loan Program pursuant to the provisions of §22-14-1 *et seq.* of this code. Revenues or moneys designated by this code or otherwise appropriated for use by the authority pursuant to the provisions of this article may not be used for the Dam Safety Rehabilitation Revolving Fund Loan Program and moneys in the Dam Safety Rehabilitation Revolving Fund shall be kept separate from all revenues and moneys of the authority.

(19) Do all acts necessary and proper to carry out the powers expressly granted to the authority in this article.

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## CHAPTER 130

**(Com. Sub. for H. B. 4967 - By Delegates Anderson, Zatezalo, Heckert, Riley, Fehrenbacher, Street, Barnhart, Criss, Horst, and Warner)**

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[Passed March 8, 2024; in effect ninety days from passage.]  
[Approved by the Governor on March 26, 2024.]

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AN ACT to amend and reenact §22-22-1, §22-22-2, §22-22-3, §22-22-4, §22-22-5, §22-22-6, §22-22-7, §22-22-8, §22-22-9, §22-22-10, §22-22-11, §22-22-12, §22-22-13, §22-22-14, §22-22-15, §22-22-16, of the Code of West Virginia, 1931, as amended, to repeal §22-22-17 of said code, and amend and reenact §22-22-18 and §22-22-20, all relating to the administration of the Voluntary Remediation and Redevelopment Act to provide new liability protections for those who wish to purchase and redevelop former industrial properties; defining terms; providing for rulemaking by the Secretary of the Department of Environmental Protection; clarifying procedures involving the Brownfields Revolving Fund; revising public notice provisions concerning the fund; providing that the Secretary may limit the liability of lenders, innocent purchasers, landowners, de minimis contributors, or others who have limited responsibility for contamination under the Hazardous Waste Management Act, the Water Pollution Control Act, the Groundwater Protection Act or any other applicable law; providing that bona fide prospective purchasers are not liable for a containment at a brownfield site if certain conditions are met; providing that an innocent land owner who holds title or security interest in a brownfield site are not liable for contamination at a brownfield site if defined conditions are met; providing that a person that owns contiguous real property that is contaminated by a release of a hazardous substance from real property that is not owned by that person is not liable for contamination under defined conditions; and providing that the

Secretary may require anyone responsible for contamination to remediate sites where substances have been improperly managed.

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

## **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 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 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;

"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;

"Brownfield" means any property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant;

"Brownfields Revolving Fund" means the special revenue fund established to provide loans for site assessments and remediation of eligible brownfield sites;

"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;

"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;

"Development Authority" means any authority as defined in §7-12-1, *et seq.* of this code or the state Development Office as defined in §2-5B-1, *et seq.* of this code.

"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;

"Hazardous substance" means any substance identified as a hazardous substance pursuant to the "Comprehensive Environmental Response, Compensation and Liability Act," 42 U.S.C. § 9604-9606;

"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;

"Industrial activity" means commercial, manufacturing, public utility, mining, or any other activity done to further 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;

"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 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;

"Licensed remediation specialist" means a person certified by the 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;

"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;

(r) "Nonresidential property" means any real property on which industrial activity is performed. This term shall not include schools, day care centers, nursing homes, or other residential-style facilities or recreational areas;

"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;

"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;

"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;

"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;

"Property" means any parcel of real property, and any improvements thereof;

"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;

"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;

"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;

"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;

"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;

"Site" means any property or portion thereof which contains or may contain contaminants and is eligible to participate in the voluntary remediation program as provided under this article;

"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

"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 Secretary.**

The 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 considered appropriate and feasible by the 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) 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 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 unilateral

enforcement order, under §§ 104 through 106 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §§ 9604-9006, 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.

(b) Any person who desires to participate in the voluntary remediation program shall submit to the Department an application and an application fee established by the Secretary. The application shall be on a form provided by the 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 prepared by a licensed remediation specialist, and all other information required by the Secretary.

(c) The 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.

(d) Information obtained by the Department under this article shall be available to the public, unless the Secretary certifies such information to be confidential. The Secretary may make such certification where any person shows, to the satisfaction of the 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 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 Secretary shall act upon all applications within 45 days of receipt, unless an extension of time is mutually agreed to and confirmed in writing. If an application is returned by the Secretary because it is not complete or accurate, the 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 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 25 days of rejection, indicate his or her desire to resubmit the application. Upon final determination by the Secretary, if the application is rejected, the Secretary shall return one half of the application fee. The applicant may appeal the Secretary's rejection of the application to the Environmental Quality Board established under §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; loans; remediation process; and public notification.**

(a) A person may be eligible for Brownfields Revolving Fund moneys when environmental remediation is undertaken pursuant to this article and the person 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 Secretary pursuant to this article and rules promulgated hereunder.

(b) After conferring with the Secretary, the person may apply to the Secretary for a site assessment or remediation loan under §22-22-6 of this code. An application for money from the Brownfields Revolving Fund must be submitted along with an application fee to be established by the Secretary.

(c) Brownfields 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 §15-31-1, *et seq.* of this code.

(d) Persons 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 reauthorized and continued in the State Treasury 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 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 Secretary for the administration, licensing, enforcement, inspection, monitoring, planning, research, and other activities required by this article.

The Secretary shall promulgate legislative rules in accordance with the provisions of §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 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 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 Department in administering the provisions of this subsection. The Secretary shall promulgate rules in accordance with the provisions of §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 any loans: *Provided, however*, That amounts in the fund, appropriated by the 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 Department 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, 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 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 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 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 shall provide for cost recovery of all reasonable costs incurred by the 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 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) 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 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 Secretary and the applicant shall develop a remediation agreement. If an agreement is not reached between the applicant and the Secretary on or before the 31st day after the application has been accepted, either party may withdraw from negotiations. 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 §22B-3-1, *et seq.* of this code. By mutual agreement, when it becomes impractical to reach an agreement within 31 days, the time limit may be extended in writing; and

(f) The 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 Secretary. The Secretary shall review and evaluate the work plans and reports for accuracy, quality, and completeness. The 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 his or her sole discretion, terminate the agreement as provided by the terms of the agreement and by giving 15 days advance written notice of termination. Only those costs incurred or obligated by the 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 Secretary may have under any other law to recover costs. The person undertaking the remediation must pay the Department's costs associated with the voluntary remediation within 31 days after receiving notice that the costs are due and owing. The 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 Department and reasonable legal expenses.

**§22-22-10. Inspections; right of entry; sampling; reports and analyses.**

(a) The 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 Secretary.

(b) The Secretary shall make periodic inspections at sites subject to this article. After an inspection is made, a report shall be filed with the 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 §22-22-4(d) of this code. The inspection reports shall be available to the public in accordance with the provisions of §29B-1-1, *et seq.* of this code.

(c) The 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 Secretary may utilize sampling methods necessary in exercising good scientific technique. Following the taking of any sample, the 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 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 Secretary shall be given access to all records relating to a voluntary remediation.

**§22-22-11. Licensed remediation specialist, licensure procedures.**

(a) A person may not practice as a licensed remediation specialist without a license issued by the Secretary. Any violation of this provision shall be subject to the enforcement orders set forth in §22-22-12 of this code.

(b) To obtain a license, a person must apply to the Secretary in writing on forms approved and supplied by the 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 Secretary.

(c) The Secretary shall establish the date, time, and location of licensed remediation specialist examinations.

(d) The applicant 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 Secretary does not certify the remediation specialist applicant, the Secretary shall inform the applicant in writing of the reasons therefor. The 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 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 Secretary; or knowingly associate with 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 Secretary may be renewed every two years for any licensed remediation specialist in good standing. The Secretary, by rule, shall establish license fees.

(j) The Secretary 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 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 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 Secretary within seven days of the receipt of the order. The Secretary shall conduct a hearing on the merits of the order within 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, 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.

(d) If any person associated with remediation of a brownfield or voluntary remediation site engages in fraudulent acts or representations to the Department, he or she 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 Secretary.

(b) The 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 Secretary shall establish by rule, criteria for deed recordation of land-use covenants and containing all necessary deed restrictions. The 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 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 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 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 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 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 Secretary in writing. The 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 Department 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 §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 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.

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## CHAPTER 131

**(H. B. 5006 - By Delegates Anderson, Zatezalo, Cooper, Heckert, Riley, Fehrenbacher, Barnhart, Hansen, Young, Hott, and Williams)**

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[Passed February 19, 2024; in effect ninety days from passage.]  
[Approved by the Governor on March 6, 2024.]

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AN ACT to amend and reenact §22-15A-2 and §22-15A-16 of the Code of West Virginia, 1931, as amended, relating to the administration of the A. James Manchin Rehabilitation Environmental Action Plan to eliminate antiquated recycling goals and to set new criteria for evaluating the State's success in achieving its recycling goals; defining new terms; providing certain exceptions; establishing reporting requirements for recycling establishments of certain defined recycled materials; establishing a required yearly reporting date; and providing for rule making.

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

### **ARTICLE 15A. THE A. JAMES MANCHIN REHABILITATION ENVIRONMENTAL ACTION PLAN.**

#### **§22-15A-2. Definitions.**

Unless the context clearly indicates a different meaning or defined elsewhere in this chapter, as used in this article:

(1) "Beneficial use" means the use or reuse of whole waste tires or tire derived material which are reused in constructing retaining walls, rebuilding highway shoulders and subbase, building highway crash attenuation barriers and other civil engineering applications, feed hopper or watering troughs for livestock, other agricultural uses approved by the Department of Environmental Protection, playground equipment, boat or truck dock construction,

house or building construction, go-cart, motorbike or race track barriers, recapping, alternative daily cover or similar types of beneficial applications: *Provided*, That waste tires may not be reused as fencing, as erosion control structures, along stream banks or river banks or reused in any manner where human health or the environment, as determined by the Secretary of the Department of Environmental Protection, is put at risk.

(2) "Brand" means the name, symbol, logo, trademark, or other information that identifies a product rather than the components of the product.

(3) "Collected for commercial purposes" means taking solid waste for disposal from any person for remuneration regardless of whether or not the person taking the solid waste is a common carrier by motor vehicle governed by article two, chapter twenty-four-a of this code.

(4) "Computer" means a desktop, personal computer or laptop computer, including the computer monitor. Computer does not include a personal digital assistant device, computer peripheral devices such as a mouse or other similar pointing device, a printer or a detachable keyboard.

(5) "Court" means any circuit, magistrate or municipal court.

(6) "Covered electronic device" means a television, computer or video display device with a screen that is greater than four inches measured diagonally. "Covered electronic device" does not include a video display device that is part of a motor vehicle or that is contained within a household appliance or commercial, industrial or medical equipment.

(7) "Department" means the Department of Environmental Protection.

(8) "Litter" means all waste material, including, but not limited to, any garbage, refuse, trash, disposable package, container, can, bottle, paper, covered electronic devices, ashes, cigarette or cigar butt, carcass of any dead animal or any part thereof or any other offensive or unsightly matter, but not including the wastes of

primary processes of mining, logging, sawmilling, farming or manufacturing.

(9) "Litter receptacle" means those containers suitable for the depositing of litter at each respective public area designated by the secretary's rules promulgated pursuant to subsection (e), section three of this article.

(10) "Manufacturer" means a person that is the brand owner of a covered electronic device or television sold or offered for sale in this state by any means, including transactions conducted through retail sales outlets, catalogs or the Internet.

(11) "Person" means a natural person, corporation, firm, partnership, association or society and the plural as well as the singular.

(12) "Public area" means an area outside of a municipality, including public road and highway rights-of-way, parks and recreation areas owned or controlled by this state or any county of this state or an area held open for unrestricted access by the general public.

(13) "Recyclable materials" means those materials that would otherwise become solid waste for disposal in a refuse disposal system and which may be collected, separated or processed and returned to the marketplace in the form of raw materials or products.

(14) "Recycling" means any action or process such as collecting, separating, baling, and/or shipping of recyclable materials for the purpose of reuse or conversion into raw materials or new products.

(15) "Recycling establishment" means an in-state establishment engaged in recycling of, or brokering of, reportable recyclable materials. Recycling establishment does not include any of the following:

(a) A retail establishment that bales cardboard packaging or collects other materials, for off-site shipment;



(b) An end user of reportable recyclable materials such as a paper mill, steel mill, foundry, or die caster that converts the reportable recyclable materials into new products or raw materials for conversion into new products; or

(c) A recycling establishment that sends all reportable recyclable materials to another in-state recycling establishment.

(16) "Reportable recyclable material" means materials which are separated from household and/or commercial waste and delivered to an establishment for recycling including, but not limited to, the following:

(a) Paper and paper products;

(b) Plastics and plastic products;

(c) Glass;

(d) Electronics;

(e) Ferrous metals;

(f) Non-ferrous metals;

(g) Textiles; or

(h) Single stream recyclable materials that include any combination of the materials listed above.

"Reportable recyclable material" does not include any of the following:

(i) Materials that are directed to or received by a person subject to §61-3-49 of this code; or

(j) Materials generated from the shredding or dismantling of motor vehicles or parts from motor vehicles.

(17) "Remediate or remediation" means to remove all litter, solid waste and tires located above grade at a site: *Provided*, That remediation does not include clean up of hazardous waste.

(18) "Television" means any telecommunication system device that can receive moving pictures and sound broadcast over a distance and includes a television tuner or a video display device peripheral to a computer in which the display contains a television tuner.

(19) "Secretary" means the Secretary of the Department of Environmental Protection.

(20) "Video display device" means an electronic device with an output surface that displays or is capable of displaying moving graphical images or visual representations of image sequences or pictures that show a number of quickly changing images on a screen to create the illusion of motion. Video display device includes a device that is an integral part of the display and cannot easily be removed from the display by the consumer and that produces the moving image on the screen. A "video display device" may use a cathode-ray tube (CRT), liquid crystal display (LCD), gas plasma, digital light processing, other image-projection technology or imaging display technologies.

(21) "Waste tire" means any continuous solid or pneumatic rubber covering designed to encircle the wheel of a vehicle but which has been discarded, abandoned or is no longer suitable for its original, intended purpose nor suitable for recapping, or other beneficial use because of wear, damage or defect. A tire is no longer considered to be suitable for its original intended purpose when it fails to meet the minimum requirements to pass a West Virginia motor vehicle safety inspection. Used tires located at a commercial recapping facility or tire dealer for the purpose of being reused or recapped are not waste tires.

(22) "Waste tire monofill or monofill" means an approved solid waste facility where no solid waste except waste tires are placed for the purpose of long term storage for eventual retrieval for marketing purposes.

(23) "Waste tire processing facility" means a solid waste facility or manufacturer that accepts waste tires generated by sources other than the owner or operator of the facility for processing by such means as cryogenics, pyrolysis, pyroprocessing cutting, splitting, shredding, quartering, grinding or otherwise

breaking down waste tires for the purposes of disposal, reuse, recycling and/or marketing.

(24) "Waters of the state" means generally, without limitation, natural or artificial lakes, rivers, streams, creeks, branches, brooks, ponds, impounding reservoirs, springs, wells, watercourses and wetlands.

(25) "Yard waste" means grass clippings, weeds, leaves, brush, garden waste, shrub or tree prunings and other living or dead plant tissues, except that materials, which due to inadvertent contamination or mixture with other substances which render the waste unsuitable for composting, are not yard waste: *Provided*, That the same or similar waste generated by commercial agricultural enterprises is excluded.

#### **§22-15A-16. Recycling goals.**

It is the goal of this State to establish a base recycling rate which shall be evaluated every five years to aid in implementation of recycling initiatives aimed at increasing this rate. In order to evaluate the State's recycling rate, the Department shall create and implement a process by which recycling establishments shall report, at a minimum, to the State the following information:

(a) The recycling establishment's name, physical location, postal mailing address, e-mail address, telephone number, contact person, and amount and kind of reportable recyclable material handled at the recycling establishment; and

(b) The amount of each category of reportable recyclable material received at the recycling establishment and the amount of recyclable material shipped from the recycling establishment.

(c) A recycling establishment shall report the previous calendar year's data to the Department no later than March 1, 2026, and each year thereafter.

(d) The secretary may propose legislative rules pursuant to §29A-3-1 *et seq.* of this code.

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## CHAPTER 132

**(Com. Sub. for H. B. 5013 - By Delegates Hillenbrand,  
Thorne, Miller, Horst, Hornby, Adkins, Mazzocchi, Dittman,  
Ward, Lucas, and Hott)**

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[Passed March 7, 2024; in effect ninety days from passage.]  
[Approved by the Governor on February 29, 2024.]

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AN ACT 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.

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

### **ARTICLE 1C. FAIR AND EQUITABLE PROPERTY VALUATION.**

#### **§11-1C-2. Definitions.**

For the purposes of this article, the following words shall have the meanings hereafter ascribed to them unless the context clearly indicates otherwise:

(a) “Timberland” means any surface real property except farm woodlots of not less than ten contiguous acres which is primarily in forest and which, in consideration of their size, has sufficient numbers of commercially valuable species of trees to constitute at least forty percent normal stocking of forest trees which are well distributed over the growing site.

(b) “Managed timberland” means surface real property, except farm woodlots, of not less than ten contiguous acres which is devoted primarily to forest use and which, in consideration of their size, has sufficient numbers of commercially valuable species of trees to constitute at least forty percent normal stocking of forest trees which are well distributed over the growing site and that is managed pursuant to a plan provided for in section ten of this article: *Provided*, That any tract or parcel of real estate, regardless of its size, which is subject to contract, agreement, a deed restriction, deed covenant, or zoning regulation which limits the use of that real estate in a way that precludes the commercial production and harvesting of timber upon it may not be considered as managed timberland within the meaning of this article: *Provided, however*, That a landowner whose land is subject to, or may become subject to, a conservation or preservation easement may not be prevented from entering into a timberland management plan with the West Virginia Division of Forestry.

(c) “Tax Commissioner,” “commissioner” or “tax department” means the State Tax Commissioner or a designee of the State Tax Commissioner.

(d) “Valuation commission” or “commission” means the commission created in section three of this article.

(e) “County board of education” or “board” means the duly elected board of education of each county.

(f) “Farm woodlot” means that portion of a farm in timber but may not include land used primarily for the growing of timber for commercial purposes except that Christmas trees, or nursery stock and woodland products, such as nuts or fruits harvested for human consumption, shall be considered farm products and not timber products.

(g) “Owner” means the person who is possessed of the freehold, whether in fee or for life. A person seized or entitled in fee subject to a mortgage or deed of trust securing a debt or liability is deemed the owner until the mortgagee or trust takes possession, after which such mortgagee or trustee shall be deemed the owner.

A person who has an equitable estate of freehold or is a purchaser of a freehold estate who is in possession before transfer of legal title is also deemed the owner.

(h) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(i) “Paper” means a tax map or document that is not electronic.

The definitions in subdivisions (f) and (g) of this section shall apply to tax years beginning on or after January 1, 2001.

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## CHAPTER 133

**(Com. Sub. for H. B. 5045 - By Delegates Anderson, Zatezalo, Heckert and Horst)**

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[Passed February 13, 2024; in effect ninety days from passage.]

[Approved by the Governor on February 29, 2024.]

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AN ACT to amend and reenact §22-11-4, §22-11-22, §22-11-22a, §22-11-24, and §22-11-25 of the Code of West Virginia, 1931, as amended; and to amend and reenact §22-11B-3 and §22-11B-12 of said code, all related to the administration of the West Virginia Water Pollution Control Act and Underground Carbon Dioxide Sequestration and Storage to provide assurances to the United States Environmental Protection Agency regarding the State of West Virginia's application for primary enforcement authority over underground carbon dioxide sequestration programs; to insert cross references between the Underground Carbon Sequestration and Storage statutes and the West Virginia Water Pollution Control Act to protect water resources; providing that before a Certificate of Completion can be issued all the requirements of a class 6 injection well permit must be met, including post injection site care and closure requirements; altering the minimum 10-year period between the end of injections and the issuance of the certificate to be either 50 years or another time period on a site-specific basis as determined by DEP rules; providing exceptions and limitations to what liability is transferred to the state and what remains with the permittee; providing that a permittee will be responsible for certain contractual obligations and criminal liability; providing that a release of liability does not apply to owners or operators of a facility when liability arises from noncompliance with applicable laws, regulations, or permits prior to issuance of the Certificate of Completion; providing for liability when it is determined that fluid migration has occurred that causes or threatens underground

sources of drinking water; providing that the secretary will implement the article in a manner consistent with the requirements of the federal Safe Drinking Water Act; providing for the exercise of the state's authority to restrain people from endangering or damaging public health or the environment.

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

## **ARTICLE 11. WATER POLLUTION CONTROL ACT.**

### **§22-11-4. General powers and duties of director with respect to pollution.**

(a) In addition to all other powers and duties the director has and may exercise, subject to specific grants of authority to the chief or the board in this article or elsewhere in this code, the director has the following powers and authority and shall perform the following duties:

(1) To perform any and all acts necessary to carry out the purposes and requirements of this article and of the "Federal Water Pollution Control Act," 33 U.S.C. §1251 *et seq.*, as amended, relating to this state's participation in the "National Pollutant Discharge Elimination System," 33 U.S.C. §1342, established under that act;

(2) To encourage voluntary cooperation by all persons in the conservation, improvement, and development of water resources and in controlling and reducing the pollution of the waters of this state, and to advise, consult, and cooperate with all persons, all agencies of this state, the federal government, or other states, and with interstate agencies in the furtherance of the purposes of this article, and to this end and for the purpose of studies, scientific or other investigations, research, experiments, and demonstrations pertaining thereto, the division may receive moneys from such agencies, officers, and persons on behalf of the state. The division shall pay all moneys so received into a special fund hereby created in the state Treasury, which fund shall be expended under the



direction of the director solely for the purpose or purposes for which the grant, gift, or contribution was made;

(3) To encourage the formulation and execution of plans by cooperative groups or associations of municipal corporations, industries, industrial users, and other users of waters of the state, who, jointly or severally, are or may be the source of pollution of such waters, for the control and reduction of pollution;

(4) To encourage, participate in, or conduct, or cause to be conducted studies, scientific or other investigations, research, experiments, and demonstrations relating to the water resources of the state and water pollution and its causes, control and reduction, and to collect data with respect thereto, all as may be deemed advisable and necessary to carry out the purposes of this article;

(5) To study and investigate all problems concerning water flow, water pollution, and the control and reduction of pollution of the waters of the state, and to make reports and recommendations with respect thereto;

(6) To collect and disseminate information relating to water pollution and the control and reduction thereof;

(7) To develop a public education and promotion program to aid and assist in publicizing the need for, and securing support for, pollution control and abatement;

(8) To sample ground and surface water with sufficient frequency to ascertain the standards of purity or quality from time to time of the waters of the state;

(9) To develop programs for the control and reduction of the pollution of the waters of the state;

(10) To exercise general supervision over the administration and enforcement of the provisions of this article, and all rules, permits and orders issued pursuant to the provisions of this article, §22-11-1 *et seq.*, §22-11A-1 *et seq.*, §22-11B-1 *et seq.*, of this code and §22B-1-1 *et seq.* of this code;

(11) In cooperation with the college of engineering at West Virginia University and the schools and departments of engineering at other institutions of higher education operated by this state, to conduct studies, scientific or other investigations, research, experiments, and demonstrations in an effort to discover economical and practical methods for the elimination, disposal, control, and treatment of sewage, industrial wastes, and other wastes, and the control and reduction of water pollution, and to this end, the director may cooperate with any public or private agency and receive therefrom, on behalf of the state, and for deposit in the state Treasury, any moneys which such agency may contribute as its part of the expenses thereof, and all gifts, donations or contributions received as aforesaid shall be expended by the director according to the requirements or directions of the donor or contributor without the necessity of an appropriation therefor, except that an accounting thereof shall be made in the fiscal reports of the division;

(12) To require the prior submission of plans, specifications, and other data relative to, and to inspect the construction and operation of, any activity or activities in connection with the issuance and revocation of such permits as are required by this article, §22-11A-1 *et seq.* and §22-11B-1 *et seq.*, of this code or the rules promulgated thereunder;

(13) To require any and all persons directly or indirectly discharging, depositing, or disposing of treated or untreated sewage, industrial wastes or other wastes, or the effluent therefrom, into or near any waters of the state or into any underground strata, and any and all persons operating an establishment which produces or which may produce or from which escapes, releases or emanates or may escape, release or emanate treated or untreated sewage, industrial wastes or other wastes, or the effluent therefrom, into or near any waters of the state or into any underground strata, to file with the division such information as the director may require in a form or manner prescribed for such purpose, including, but not limited to, data as to the kind, characteristics, amount, and rate of flow of any such discharge, deposit, escape, release, or disposition;

(14) To adopt, modify, or repeal procedural rules and interpretive rules in accordance with the provisions of Chapter 29A of this code administering and implementing the powers, duties and responsibilities vested in the director by the provisions of this article, and §22-11A-1 *et seq.* and §22-11B-1 *et seq.* of this code;

(15) To cooperate with interstate agencies for the purpose of formulating, for submission to the Legislature, interstate compacts and agreements relating to:

(A) The control and reduction of water pollution; and

(B) the state's share of waters in watercourses bordering the state;

(16) To adopt, modify, repeal, and enforce rules, in accordance with the provisions of chapter twenty-nine-a of this code:

(A) Implementing and making effective the declaration of policy contained in section one of this article and the powers, duties and responsibilities vested in the director and the chief by the provisions of this article and otherwise by law;

(B) preventing, controlling and abating pollution; and

(C) facilitating the state's participation in the "National Pollutant Discharge Elimination System" pursuant to the "Federal Water Pollution Control Act," as amended: *Provided*, That no rule adopted by the director shall specify the design of equipment, type of construction or particular method which a person shall use to reduce the discharge of a pollutant; and

(17) To advise all users of water resources as to the availability of water resources and the most practicable method of water diversion, use, development, and conservation.

(b) Whenever required to carry out the objectives of this article, §22-11A-1 *et seq.* or §22-11B-1 *et seq.* of this code, the director shall require the owner or operator of any point source or establishment to:

(i) Establish and maintain such records;

(ii) make such reports;

(iii) install, use, and maintain such monitoring equipment or methods;

(iv) sample such effluents in accordance with such methods, at such locations, at such intervals, and in such manner as the director shall prescribe; and

(v) provide such other information as the director may reasonably require.

(c) The director upon presentation of credentials:

(i) Has a right of entry to, upon, or through any premises in which an effluent source is located or in which any records required to be maintained under subsection (b) of this section are located; and

(ii) may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required under subsection (b) of this section, and sample any streams in the area as well as sample any effluents which the owner or operator of such source is required to sample under subsection (b) of this section. Nothing in this subsection eliminates any obligation to follow any process that may be required by law.

(d) The director may investigate and ascertain the need and factual basis for the establishment of public service districts as a means of controlling and reducing pollution from unincorporated communities and areas of the state, investigate and ascertain, with the assistance of the Public Service Commission, the financial feasibility and projected financial capability of the future operation of any such public service district or districts, and to present reports and recommendations thereon to the county commissions of the areas concerned, together with a request that such county commissions create a public service district or districts, as therein shown to be needed and required and as provided in §16-13A-1 *et seq.* of this code. In the event a county commission fails to act to

establish a county-wide public service district or districts, the director shall act jointly with the Commissioner of the Bureau of Public Health to further investigate and ascertain the financial feasibility and projected financial capability and, subject to the approval of the Public Service Commission, order the county commission to take action to establish such public service district or districts as may be necessary to control, reduce, or abate the pollution, and when so ordered, the county commission members must act to establish such a county-wide public service district or districts.

(e) The director may enter at all reasonable times upon any private or public property for the purpose of making surveys, examinations, investigations, and studies needed in the gathering of facts concerning the water resources of the state and their use, subject to responsibility for any damage to the property entered. Upon entering, and before making any survey, examination, investigation, and study, such person shall immediately present himself or herself to the occupant of the property. Upon entering property used in any manufacturing, mining, or other commercial enterprise, or by any municipality or governmental agency or subdivision, and before making any survey, examination, investigation, and study, such person shall immediately present himself or herself to the person in charge of the operation, and if he or she is not available, to a managerial employee. All persons shall cooperate fully with the person entering such property for such purposes. Upon refusal of the person owning or controlling such property to permit such entrance or the making of such surveys, examinations, investigations, and studies, the director may apply to the circuit court of the county in which such property is located, or to the judge thereof in vacation, for an order permitting such entrance or the making of such surveys, examinations, investigations, and studies; and jurisdiction is hereby conferred upon such court to enter such order upon a showing that the relief asked is necessary for the proper enforcement of this article: *Provided*, That nothing in this subsection eliminates any obligation to follow any process that may be required by law.

**§22-11-22. Civil penalties and injunctive relief; administrative penalties.**

(a) Any person who violates any provision of any permit issued under or subject to the provisions of this article, or §22-11A-1 *et seq.*, or §22-11B-1 *et seq.* of this code is subject to a civil penalty not to exceed \$25,000 a day of such violation and any person who violates any provision of this article, §22-11A-1 *et seq.*, or §22-11B-1 *et seq.* of this code or of any rule or who violates any standard or order promulgated or made and entered under the provisions of this article, §22-11A-1 *et seq.*, §22-11B-1 *et seq.* of this code or §22B-1-1 *et seq.* of this code is subject to a civil penalty not to exceed \$25,000 a day of such violation. Any such civil penalty may be imposed and collected only by a civil action instituted by the director in the circuit court of the county in which the violation occurred or is occurring or of the county in which the waters thereof are polluted as the result of such violation.

Upon application by the director, the circuit courts of the state or the judges thereof in vacation may by injunction compel compliance with and enjoin violations of the provisions of this article, §22-11A-1 *et seq.*, and §22-11B-1 *et seq.* of this code, the rules of the board or director, effluent limitations, the terms and conditions of any permit granted under the provisions of this article, or §22-11A-1 *et seq.*, and §22-11B-1 *et seq.* of this code or any order of the director or board, and the venue of any such actions shall be the county in which the violations or noncompliance exists or is taking place or in any county in which the waters thereof are polluted as the result of such violation or noncompliance. The court or the judge thereof in vacation may issue a temporary or preliminary injunction in any case pending a decision on the merits of any injunction application filed. Any other section of this code to the contrary notwithstanding, the state is not required to furnish bond as a prerequisite to obtaining injunctive relief under this article, or §22-11A-1 *et seq.*, and §22-11B-1 *et seq.* of this code. An application for an injunction under the provisions of this section may be filed and injunctive relief granted notwithstanding that all of the administrative remedies provided for in this article have not been pursued or invoked against the person or persons against

whom such relief is sought and notwithstanding that the person or persons against whom such relief is sought have not been prosecuted or convicted under the provisions of this article.

The judgment of the circuit court upon any application filed or in any civil action instituted under the provisions of this section is final unless reversed, vacated, or modified on appeal to the Supreme Court of Appeals. Any such appeal shall be sought in the manner provided by law for appeals from circuit courts in other civil cases, except that the petition seeking review in any injunctive proceeding must be filed with said Supreme Court of Appeals within 90 days from the date of entry of the judgment of the circuit court.

Legal counsel and services for the chief, director, or the board in all civil penalty and injunction proceedings in the circuit court and in the Supreme Court of Appeals of this state shall be provided by the Attorney General or his or her assistants and by the prosecuting attorneys of the several counties as well, all without additional compensation, or the chief, director, or the board, with the written approval of the Attorney General, may employ counsel to represent him or her or it in a particular proceeding.

(b) In addition to the powers and authority granted to the director by this chapter to enter into consent agreements, settlements and otherwise enforce this chapter, the director shall propose, for legislative promulgation, rules in accordance with §29A-3-1 *et seq.* of this code to establish a mechanism for the administrative resolution of violations set forth in this section through consent order or agreement as an alternative to instituting a civil action.

**§22-11-22a. Civil penalties and injunctive relief; civil administrative penalties for coal mining operations.**

(a) Any person who holds a permit to operate a coal mining operation issued under article three of this chapter who violates any provision of any permit issued under or subject to the provisions of this article, or §22-11A-1 *et seq.* and §22-11B-1 *et seq.* of this code is subject to a civil penalty not to exceed \$25,000 a day of the

violation and any person who violates any provision of this article or of any rule or who violates any standard or order promulgated or made and entered under the provisions of this article, §22-11A-1 *et seq.* of this code or §22-11B-1 *et seq.* of this code is subject to a civil penalty not to exceed \$25,000 a day of the violation: *Provided*, That any penalty imposed pursuant to the Surface Coal Mining and Reclamation Act [§22-3-1 *et seq.*] shall be credited against any enforcement action under this article for violations of standards protecting state waters.

(1) Any such civil penalty may be imposed and collected only by a civil action instituted by the secretary in the circuit court of the county in which the violation occurred or is occurring or of the county in which the waters thereof are polluted as the result of such violation.

(2) In determining the amount of a civil penalty, the circuit court shall consider the seriousness of the violation or violations, the economic benefit, if any, resulting from the violation, any history of the violations, any good-faith efforts to comply with the applicable requirements, cooperation by the permittee with the secretary, the economic impact of the penalty on the violator, and other matters as justice may require.

(3) Upon application by the secretary, the circuit courts of the state or the judges thereof in vacation may by injunction compel compliance with and enjoin violations of the provisions of this article, §22-11A-1 *et seq.*, and §22-11B-1 *et seq.* of this code, the rules of the board or secretary, effluent limitations, the terms and conditions of any permit granted under the provisions of this article, §22-11A-1 *et seq.*, and §22-11B-1 *et seq.* of this code or any order of the secretary or board, and the venue of any such actions shall be the county in which the violations or noncompliance exists or is taking place or in any county in which the waters thereof are polluted as the result of the violation or noncompliance. The court or the judge thereof in vacation may issue a temporary or preliminary injunction in any case pending a decision on the merits of any injunction application filed. Any other section of this code to the contrary notwithstanding, the state is not required to furnish bond as a prerequisite to obtaining



injunctive relief under this article, or §22-11A-1 *et seq.*, and §22-11B-1 *et seq.* of this code. An application for an injunction under the provisions of this section may be filed and injunctive relief granted notwithstanding that all of the administrative remedies provided in this article have not been pursued or invoked against the person or persons against whom such relief is sought and notwithstanding that the person or persons against whom such relief is sought have not been prosecuted or convicted under the provisions of this article.

(4) The judgment of the circuit court upon any application filed or in any civil action instituted under the provisions of this section is final unless reversed, vacated, or modified on appeal to the Supreme Court of Appeals. Any such appeal shall be sought in the manner provided by law for appeals from circuit courts in other civil cases, except that the petition seeking review in any injunctive proceeding must be filed with said Supreme Court of Appeals within 90 days from the date of entry of the judgment of the circuit court.

(5) Legal counsel and services for the director, secretary, or the board in all civil penalty and injunction proceedings in the circuit court and in the Supreme Court of Appeals of this state shall be provided by legal counsel employed by the department, the Attorney General or his or her assistants and by the prosecuting attorneys of the several counties as well, all without additional compensation, or the director, secretary, or the board may employ counsel to represent him or her or it in a particular proceeding.

(b) The secretary may assess a civil administrative penalty whenever he or she finds that a person who holds a permit to operate a coal mining operation issued under article three of this chapter has violated any provision of this article, or §22-11A-1 *et seq.*, or §22-11B-1 *et seq.* of this code, any permit issued under or subject to the provisions of this article, or §22-11A-1 *et seq.*, or §22-11B-1 *et seq.* of this code or any rule or order issued pursuant to this article, or §22-11A-1 *et seq.*, or §22-11B-1 *et seq.* of this code. A civil administrative penalty may be assessed unilaterally by the director in accordance with this subsection.

(1) Any civil administrative penalty assessed pursuant to this section shall not exceed \$10,000 per violation and the maximum amount of any civil administrative penalty assessed pursuant to this section may not exceed \$125,000: *Provided*, That any stipulated penalties accrued after the date of the draft order may not be included for purposes of determining the total amount of the civil administrative penalty. For purposes of this section, a single operational upset which leads to simultaneous violations of more than one pollutant parameter, shall be treated as a single violation.

(2) In determining the amount of any civil administrative penalty assessed under this subsection, the secretary shall take into account the nature, circumstances, extent, and gravity of the violation or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of good faith, economic benefit or savings, if any, resulting from the violation, cooperation of the alleged violator, and such other matters as justice may require.

(3) No assessment may be levied pursuant to this subsection until after the alleged violator has been notified by certified mail or personal service pursuant to the West Virginia rules of civil procedure. The notice shall include a proposed order which refers to the provision of the statute, rule, order, or permit alleged to have been violated, a concise statement of the facts alleged to constitute the violation, a statement of the amount of the administrative penalty to be imposed, and a statement of the alleged violator's right to an informal hearing prior to the issuance of the proposed order.

(A) The alleged violator has 30 calendar days from receipt of the notice within which to deliver to the secretary a written request for an informal hearing.

(B) If no hearing is requested, the proposed order becomes a draft order after the expiration of the 30-day period.

(C) If an informal hearing is requested, the director shall inform the alleged violator of the time and place of the hearing. The secretary may appoint an assessment officer to conduct the

informal hearing and make a written recommendation to the secretary concerning the proposed order and the assessment of a civil administrative penalty.

(D) Within 30 days following the informal hearing, the secretary shall render and furnish to the alleged violator a written decision, and the reasons therefor, concerning the assessment of a civil administrative penalty. The proposed order shall be revised, if necessary, and shall become a draft order.

(4) The secretary shall provide the opportunity for the public to comment on any draft order by publishing a Class II legal advertisement in the newspaper with the largest circulation in the county in which the violation occurred, and by other such means as the secretary deems appropriate, which shall provide notice of the draft order, including the civil administrative penalty assessment. The secretary shall consider any comments received in determining whether to revise the draft order before issuance of a final order. During the 30-day public comment period, any person may request a public hearing regarding the draft order and the secretary may grant or deny the request at his or her discretion. If a request for a public hearing is denied, the secretary shall provide notice to the person requesting a hearing and reasons for such denial.

(5) Within 30 days of the close of the public comment period on a draft order, the secretary shall issue a final order or make a determination not to issue a final order, and shall provide written notice by certified mail or personal service pursuant to the West Virginia rules of civil procedure to the alleged violator and shall provide notice by certified mail or personal service pursuant to the West Virginia rules of civil procedure to those persons who submitted written comments on the draft order during the public comment period.

(6) The issuance of a final order assessing a civil administrative penalty pursuant to subsection (b) of this section may be appealed to the environmental quality board pursuant to §22-11-21 of this code. Any person who submitted written comments on a draft order

during the public comment period shall have the right to file such an appeal or intervene in any appeal filed by the alleged violator.

(7) The authority to levy a civil administrative penalty is in addition to all other enforcement provisions of this article and the payment of any assessment does not affect the availability of any other enforcement provision in connection with the violation for which the assessment is levied: *Provided*, That no combination of assessments against a violator under this section shall exceed \$25,000 for each violation: *Provided, however*, That any violation for which the violator has paid a civil administrative penalty assessed under this section may not be the subject of a separate civil penalty action. No assessment levied pursuant to this section becomes due and payable until at least 30 days after receipt of the final order or the procedures for review of the assessment, including any appeals, have been completed, whichever is later.

(c) In addition to the authorities set forth in this section, the secretary may also enter into agreements, settlements, and other consent orders resolving alleged violations of this chapter.

(d) The secretary shall propose, for legislative review, rules, including emergency rules, in accordance with the provisions of §29A-3-1 *et seq.* of this code to establish procedures for assessing civil administrative penalties in accordance with this section by no later than July 1, 2015.

#### **§22-11-24. Violations; criminal penalties.**

(a) Any person who causes pollution or who fails or refuses to discharge any duty imposed upon him or her by this article, by §22-11A-1 *et seq.*, or §22-11B-1 *et seq.* of this code or by any rule of the board or director, promulgated pursuant to the provisions and intent of this article, or §22-11A-1 *et seq.*, or §22-11B-1 *et seq.* of this code, or by an order of the director or board, or who fails or refuses to apply for and obtain a permit as required by the provisions of this article, or §22-11A-1 *et seq.*, or §22-11B-1 *et seq.* of this code, or who fails or refuses to comply with any term or condition of such permit, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$100

nor more than \$1,000, or confined in jail for a period not exceeding six months, or by both fine and confinement.

(b) Any person who intentionally misrepresents any material fact in an application, record, report, plan, or other document filed or required to be maintained under the provisions of this article, §22-11A-1 *et seq.*, or §22-11B-1 *et seq.* of this code or any rules promulgated by the director thereunder is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$1,000 nor more than \$10,000 or confined in jail not exceeding six months, or by both fine and confinement.

(c) Any person who willfully or negligently violates any provision of any permit issued under or subject to the provisions of this article, or §22-11A-1 *et seq.*, or §22-11B-1 *et seq.* of this code or who willfully or negligently violates any provision of this article, or §22-11A-1 *et seq.*, or §22-11B-1 *et seq.* of this code, any rule of the board or director, any effluent limitation, or any order of the director or board is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$2,500 nor more than \$25,000 per day of violation or by confinement in jail not exceeding one year or by both fine and confinement.

(d) Any person convicted of a second or subsequent willful violation of subsections (b) or (c) of this section or knowingly and willfully violates any provision of any permit, rule, or order issued under or subject to the provisions of this article, or §22-11A-1 *et seq.*, or §22-11B-1 *et seq.* of this code, or knowingly and willfully violates any provision of this article, or §22-11A-1 *et seq.*, or §22-11B-1 *et seq.* of this code, is guilty of a felony and, upon conviction, shall be imprisoned in a state correctional facility not less than one nor more than three years, or fined not more than \$50,000 for each day of violation, or both fined and imprisoned.

(e) Any person may be prosecuted and convicted under the provisions of this section notwithstanding that none of the administrative remedies provided in this article have been pursued or invoked against said person and notwithstanding that civil action for the imposition and collection of a civil penalty or an application

for an injunction under the provisions of this article has not been filed against such person.

(f) Where a person holding a permit is carrying out a program of pollution abatement or remedial action in compliance with the conditions and terms of the permit, the person is not subject to criminal prosecution for pollution recognized and authorized by the permit.

### **§22-11-25. Civil liability; Natural Resources Game Fish and Aquatic Life Fund; use of funds.**

If any loss of game fish or aquatic life results from a person or persons' failure or refusal to discharge any duty imposed upon such person by this article, section seven, article six of this chapter, or §22-11A-1 *et seq.*, or §22-11B-1 *et seq.* of this code, either the West Virginia Division of Natural Resources or the Division of Environmental Protection, or both jointly may initiate a civil action on behalf of the State of West Virginia to recover from such person or persons causing such loss a sum equal to the cost of replacing such game fish or aquatic life. Any moneys so collected shall be deposited in a special revenue fund entitled "Natural Resources Game Fish and Aquatic Life Fund" and shall be expended as hereinafter provided. The fund shall be expended to stock waters of this state with game fish and aquatic life. Where feasible, the Director of the Division of Natural Resources shall use any sum collected in accordance with the provisions of this section to stock waters in the area in which the loss resulting in the collection of such sum occurred. Any balance of such sum shall remain in said fund and be expended to stock state-owned and -operated fishing lakes and ponds, wherever located in this state, with game fish and aquatic life.

## **ARTICLE 11B. UNDERGROUND CARBON DIOXIDE SEQUESTRATION AND STORAGE.**

**§22-11B-3. Prohibition of underground carbon dioxide sequestration without a permit; injection of carbon dioxide for the purpose of enhancing the recovery of oil or other minerals not subject to the provisions of this article.**

(a) It is unlawful for any person to commence work on, or to operate, a carbon dioxide sequestration facility or storage site without first securing a Class VI underground injection control permit from the secretary or from the US EPA.

(b) The injection of carbon dioxide for purposes of enhancing the recovery of oil or other minerals pursuant to a project approved by the secretary shall not be subject to the provisions of this article.

(c) If an oil, natural gas, or coalbed methane well operator proposes to convert its operations to carbon dioxide sequestration, then the underground carbon dioxide sequestration facility shall be regulated pursuant to this article and §22-11-1 *et seq.* of this code.

(d) All applications for permits submitted after the effective date of this article shall be governed by the provisions of this article and the provisions of §22-11-1 *et seq.* of this code. Permits issued and applications submitted prior to the effective date of this article shall be governed by the provisions of §22-11-1 *et seq.* and §22-11A-1 *et seq.* of this code. If the holder of a Class VI underground injection control permit or other carbon dioxide sequestration permit, granted prior to the effective date of this article, seeks a modification of that permit after this article becomes effective, then the permit holder shall have the option to proceed either according to the provisions of this article or the provisions of §22-11A-1 *et seq.* of this code.

#### **§22-11B-12. Certificate of project completion, release, transfer of title and custody, filing.**

(a) After carbon dioxide injections into a reservoir end, and the storage operator has fulfilled all requirements of its Class VI underground injection control permit including requirements related to post-injection site care and site closure, and upon application by the storage operator demonstrating compliance with this article, the secretary may issue a Certificate of Underground Carbon Dioxide Storage Project Completion ("completion certificate").

(b) The completion certificate may only be issued after public notice and hearing. The secretary shall establish notice requirements for this hearing by legislative rule.

(c) The completion certificate may not be issued until at least 50 years after carbon dioxide injections end or other time frame established on a site-specific basis in accordance with the legislative rules regarding the timeframe for post-injection site care and site closure.

(d) The completion certificate may only be issued if the storage operator:

(1) Is in full compliance with all laws and other requirements governing the storage facility, and has fulfilled all requirements of any underground injection control permit associated with the facility including permit requirements related to post-injection site care and site closure, legislative rules regarding post-injection site care and site closure, and other applicable requirements;

(2) Demonstrates that it has addressed all pending claims regarding the storage facility's operation; and

(3) Demonstrates that the storage reservoir is reasonably expected to retain the carbon dioxide stored in it.

(e) As of the effective date of a completion certificate:

(1) Ownership of the stored carbon dioxide transfers, without payment of any compensation, to the owners of the pore space as established in §22-11B-18 of this code;

(2) Ownership acquired by the pore space owners under subdivision (e)(1) of this section includes all rights and interests in the stored carbon dioxide and any associated leasing rights: *Provided*, That all liability other than contractual obligations and criminal liability associated with the stored carbon dioxide shall become the responsibility of the state and the state shall defend, indemnify, and hold harmless the pore space and surface owners against all claims using only funds from the Carbon Dioxide Storage Facility Trust Fund;

(3) The storage operator and all persons who transported and/or generated any stored carbon dioxide are released from all liability other than contractual obligations and criminal liability associated with the storage facility;



(4) Any bonds posted by the storage operator shall be released; and

(5) Notwithstanding ownership of the stored carbon dioxide in the pore space owners as provided herein, monitoring, and managing the storage facility shall become the state's responsibility to be overseen by the secretary utilizing only money from the Carbon Dioxide Storage Facility Trust Fund until such time as the federal government assumes responsibility for the long-term monitoring and management of storage facilities. The release of liability under this section shall not apply to a current or former owner or operator of a storage facility when such liability arises from that owner or operator's noncompliance with applicable underground injection control laws, regulations, or permits prior to issuance of the certificate of completion of injection operations nor shall it apply when the director determines that there is fluid migration for which the operator is responsible that causes or threatens imminent and substantial endangerment to an underground source of drinking water.

(f) The secretary shall require that a copy of the completion certificate and a survey of the storage field be filed with the county recorder in the county or counties where the carbon dioxide storage facility is located.

(g) The secretary shall implement this article in a manner consistent with and as he or she deems necessary to carry out the purposes and requirements of the federal Safe Drinking Water Act, as amended, and its implementing regulations relating to the State's primary enforcement authority for the underground injection control program established under that Act with respect to the storage and sequestration of carbon dioxide, including, but not limited to, the State's authority to immediately and effectively restrain any person from engaging in any unauthorized activity which is endangering or causing damage to public health or the environment. Additionally, in no event may the release of liability under this section interfere with the US EPA's authority under Section 1431 of the federal Safe Drinking Water Act.

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## CHAPTER 134

**(H. B. 5268 - By Delegates Anderson, Zatezalo, Sheedy, Street, Stephens, Heckert, and Barnhart)**

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[Passed February 24, 2024; in effect ninety days from passage.]

[Approved by the Governor on March 26, 2024.]

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AN ACT to amend and reenact §22-6A-4, §22-6A-5 and §22-6A-6 of the Code of West Virginia, 1931, as amended, all relating to the enhanced recovery of oil and natural gas in horizontal wells; providing definitions; providing certain methods of enhanced recovery to be part of horizontal drilling and horizontal wells; incorporating provisions related to the permitting of wells for certain purposes; and providing the authority of the secretary over enhanced recovery of oil and natural gas.

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

### **ARTICLE 6A. NATURAL GAS HORIZONTAL WELL CONTROL ACT.**

#### **§22-6A-4. Definitions.**

(a) All definitions set forth in article six of this chapter apply when those defined terms are used in this article, unless the context in which the term is used clearly requires a different meaning.

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

(1) "Best management practices" means schedules of activities, prohibitions of practices, maintenance procedures and other management practices established by the department to prevent or reduce pollution of waters of this state. For purposes of this article, best management practices also includes those practices and

procedures set out in the Erosion and Sediment Control Manual of the Office of Oil and Gas;

(2) "Department" means the Department of Environmental Protection;

(3) "Flowback Recycle Pit" means a pit used for the retention of flowback and freshwater and into which no other wastes of any kind are placed;

(4) "Freshwater Impoundment" means an impoundment used for the retention of fresh water and into which no wastes of any kind are placed;

(5) "Horizontal drilling" means a method of drilling a well for the production of natural gas or the injection or placement of any fluid or gas, not otherwise prohibited by law or rule, including carbon dioxide, to enhance recovery of oil and natural gas that is intended to maximize the length of wellbore that is exposed to the formation and in which the wellbore is initially vertical but is eventually curved to become horizontal, or nearly horizontal, to parallel a particular geologic formation;

(6) "Horizontal well" means any well site, other than a coalbed methane well, drilled using a horizontal drilling method, and which disturbs three acres or more of surface, excluding pipelines, gathering lines and roads, or utilizes more than two hundred ten thousand gallons of water in any thirty day period for the production of natural gas, including injection or placement of any fluid or gas, not otherwise prohibited by law or rule, including carbon dioxide, to enhance recovery of oil and natural gas;

(7) "Impoundment" means a man-made excavation or diked area for the retention of fluids;

(8) "Karst terrain" means a terrain, generally underlain by limestone or dolomite, in which the topography is formed chiefly by the dissolving of rock, and which may be characterized by sinkholes, sinking streams, closed depressions, subterranean drainage and caves;

(9) "Perennial stream" means a stream or portion of a stream that flows year-round, is considered a permanent stream and for which base flow is maintained by ground-water discharge to the streambed due to the ground-water elevation adjacent to the stream being higher than the elevation of the streambed;

(10) "Pit" means a man-made excavation or diked area that contains or is intended to contain an accumulation of process waste fluids, drill cuttings or any other liquid substance generated in the development of a horizontal well and which could impact surface or groundwater;

(11) "Secretary" means the Secretary of the Department of Environmental Protection as established in article one of this chapter or other person to whom the secretary has delegated authority or duties pursuant to sections six or eight, article one of this chapter;

(12) "Water purveyor" means any person engaged in the business of selling water to another and who is regulated by the Bureau for Public Health pursuant to title sixty-four, series three of the West Virginia Code of State Rules; and

(13) "Well work" means the drilling, redrilling, deepening, stimulating, pressuring by injection or placement of any fluid or gas, not otherwise prohibited by law or rule, including carbon dioxide, converting from one type of well to another, combining or physically changing to allow the migration of fluid from one formation to another or plugging or replugging of any well.

**§22-6A-5. Application of article six of this chapter to horizontal wells subject to this article.**

(a) To the extent that horizontal wells governed by this article are similar to conventional oil and gas wells regulated under article six of this chapter, the following sections of article six of this chapter are hereby incorporated by reference in this article:

(1) The provisions of §22-6-3 of this code relating to the findings and orders of inspectors concerning violations, the determination of reasonable time for abatement, extensions of time

for abatement, special inspections and notice of findings and orders;

(2) The provisions of §22-6-4 of this code providing for the review of findings and orders by the secretary, special inspections and applications for annulment or revision of orders by the secretary;

(3) The provisions of §22-6-5 of this code relating to the requirements for findings, orders and notices, notice to the operator of findings and orders and judicial review of final orders of the secretary;

(4) The provisions of §22-6-7 of this code relating to the issuance of water pollution control permits, the powers and duties of the secretary related thereto and penalties for violations of the same;

(5) The provisions of §22-6-8 of this code of this chapter relating to the prohibition of permits for wells on flat well royalty leases and requirements for permits;

(6) The provisions of §22-6-12 of this code pertaining to plats prerequisite to drilling or fracturing wells, the preparation and contents thereof, notice furnished to coal operators, owners or lessees, the issuance of permits and required performance bonds, with the following exceptions:

(A) Under subsection (a), §22-6-12 of this code, the plat also shall identify all surface tract boundaries within the scope of the plat proposed to be crossed by the horizontal lateral of the horizontal well and the proposed path of such horizontal lateral, and

(B) Under subsection (b), §22-6-12 of this code, any reference to a time period shall be thirty days in lieu of fifteen days;

(7) The provisions of §22-6-13 of this code providing for notice of the operator's intention to fracture wells, with the exception that under the third paragraph of §22-6-13 of this code, the applicable periods shall be thirty days in lieu of fifteen days;

(8) The provisions of §22-6-14 of this code providing requirements related only to the introduction of liquids for the purposes for enhanced recovery, with the exception that the type of wells used for enhanced recovery referenced in §22-6-14(a) of this code shall also include the introduction of fluids or gases, not otherwise prohibited by law or rule, including carbon dioxide, for the purposes provided for in §22-6-25 of this code;

(9) The provisions of §22-6-15 of this code pertaining to objections to proposed deep well drilling sites above seam or seams of coal, with the exception that the applicable time for filing objections is within thirty days of receipt by the secretary of the required plat and/or notice in lieu of fifteen days;

(10) The provisions of §22-6-16 of this code pertaining to the process of issuing permits related only to the introduction of liquids or waste for the purposes for enhanced recovery, with the exception that the type of wells used for enhanced recovery referenced in §22-6-16 of this code shall also include the introduction of fluids or gases, not otherwise prohibited by law or rule, including carbon dioxide, for the purposes provided for in §22-6-25 of this code;

(11) The provisions of §22-6-17 of this code pertaining to drilling of shallow gas wells, notice to be provided to the chair of the review board, orders issued by the review board and permits issued for such drilling, with the exception that the applicable time for filing objections is thirty days from the date of receipt by the secretary of the required plat and notice in lieu of fifteen days;

(12) The provisions of §22-6-18 of this code providing for protective devices for when a well penetrates one or more workable coal beds and when gas is found beneath or between workable coal beds;

(13) The provisions of §22-6-19 of this code providing for protective devices during the life of the well and for dry or abandoned wells;

(14) The provisions of §22-6-20 of this code providing for protective devices when a well is drilled through the horizon of a coalbed from which the coal has been removed;

(15) The provisions of §22-6-21 of this code requiring the installation of fresh water casings;

(16) The provisions of §22-6-22 of this code relating to the filing of a well completion log and the contents thereof, confidentiality and permitted use and the secretary's authority to promulgate rules;

(17) The provisions of §22-6-25 of this code regarding the introduction of liquid pressure into producing strata to recover oil contained therein, with the exception that (i) the purposes of wells set forth in §22-6-25 of this code may also be for introducing fluid or gaseous pressure, including carbon dioxide, and (ii) the substance that is the subject of recovery also includes natural gas;

(18) The provisions of §22-6-27 of this code regarding a cause of action for damages caused by an explosion;

(19) The provisions of §22-6-28 of this code of this chapter relating to supervision by the secretary over drilling and reclamation operations, the filing of complaints, hearings on the same and appeals;

(20) The provisions of §22-6-29 of this code providing for the Operating Permit and Processing Fund, the oil and gas reclamation fund and associated fees, with the exception that in the first paragraph of subsection (a), §22-6-29 of this code, the fees to be credited to the Oil and Gas Operating Permit and Processing Fund are the permit fees collected pursuant to section seven of this article;

(21) The provisions of §22-6-31 of this code providing for preventing waste of gas, plans of operation for wasting gas in the process of producing oil and the secretary's rejection thereof;

(22) The provisions of §22-6-32 of this code pertaining to the right of an adjacent owner or operator to prevent waste of gas and the recovery of costs;

(23) The provisions of §22-6-33 of this code relating to circuit court actions to restrain waste;

(24) The provisions of §22-6-36 of this code providing for the declaration of oil and gas notice by owners and lessees of coal seams and setting out the form of such notice;

(25) The provisions of §22-6-39 of this code relating to petitions for injunctive relief; and

(26) The provisions of §22-6-40 of this code of this chapter relating to appeals from orders issuing or refusing to issue a permit to drill or fracture, and the procedure therefore.

(b) Notwithstanding any other provision of this code to the contrary, no provision of article six of this chapter shall apply to horizontal wells subject to this article except as expressly incorporated by reference in this article. Any conflict between the provisions of article six and the provisions of this article shall be resolved in favor of this article.

#### **§22-6A-6. Secretary of Department of Environmental Protection; powers and duties.**

(a) The secretary is vested with jurisdiction over all aspects of this article, including, but not limited to, the following powers and duties:

(1) All powers and duties conferred upon the secretary pursuant to article six, chapter twenty-two of this code;

(2) To control and exercise regulatory authority over all gas operations regulated by this article;

(3) To utilize any oil and gas inspectors or other employees of the department in the enforcement of the provisions of this article;



(4) To propose any necessary legislative rules, in accordance with the provisions of §29A-1-1 *et seq.* of this code to implement the provisions of this article;

(5) To make investigations and inspections necessary to ensure compliance with the provisions of this article;

(b) Except for the duties and obligations conferred by statute upon the shallow gas well review board pursuant to §22C-8-1 *et seq.* of this code, the coalbed methane review board pursuant to §22-21-1 *et seq.* of this code, and the oil and gas conservation commission pursuant to §22C-9-1 *et seq.* of this code, the secretary has sole and exclusive authority to regulate the permitting, location, spacing, drilling, fracturing, stimulation, well completion activities, operation, enhanced recovery, any and all other drilling and production processes, plugging and reclamation of oil and gas wells and production operations within the state.

(c) The secretary shall, on a monthly basis, make a written report to the Governor disclosing, for all well work permits issued in a particular month, the average number of days elapsed between the date on which a complete application for a well work permit was filed and the date on which such well work permit was issued. This report shall be posted to the website required to be established and maintained pursuant to section twenty-one of this article.

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## CHAPTER 135

**(Com. Sub. for H. B. 5561 - By Delegates Barnhart, Criss,  
Anderson, Zatezalo, Westfall, and Hott)**

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[Passed March 8, 2024; in effect ninety days from passage.]  
[Approved by the Governor on March 26, 2024.]

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AN ACT to amend and reenact §44D-1-103, §44D-4-402, §44D-5-503c, §44D-7-701, §44D-7-704, §44D-7-705, §44D-8B-2, and §44D-10-1011 of the Code of West Virginia, 1931, as amended, all relating to permitting the electronic execution of trusts; defining terms; clarifying that a trust instrument may be executed in an electronic format; clarifying inapplicability to wills unless duly admitted to probate; and making consistent certain provisions with allowing electronic execution of trusts.

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

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

#### **§44D-1-103. Definitions.**

In this chapter:

(1) "Action", with respect to an act of a trustee, includes a failure to act.

(2) "Ascertainable standard" means a standard relating to an individual's health, education, support, or maintenance within the meaning of Section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code.

(3) "Beneficiary" means a person that:

(A) Has a present or future beneficial interest in a trust, vested or contingent;

(B) In a capacity other than that of trustee, holds a power of appointment over trust property; or

(C) A charitable organization that is expressly designated in the terms of the trust instrument to receive distributions.

(4) "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose described in §44D-4-405 of this code.

(5) "Conservator" means a person appointed by the court to administer the estate and financial affairs of a protected person.

(6) "Court" means a court of this state having proper jurisdiction under §44D-2-203 of this code, and venue under §44D-2-204 of this code.

(7) "Current beneficiary" means a beneficiary that, on the date the beneficiary's qualification is determined, is a distributee or permissible distributee of trust income or principal.

(8) "Environmental law" means a federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment.

(9) "Grantor" means a person, including a testator, who creates or contributes property to a trust. If more than one person creates or contributes property to a trust, each person is a grantor of the portion of the trust property attributable to that person's contribution except to the extent another person has the power to revoke or withdraw that portion.

(10) "Guardian" means a person appointed by the court who is responsible for the personal affairs of a protected person or a parent to make decisions regarding the support, care, education, health, and welfare of a minor. The term does not include a guardian ad litem.

(11) "Interested person" means heirs, devisees, children, spouses, creditors, beneficiaries, and any others having a property right in or claim against a trust or the property in a trust. It also includes persons having priority for appointment as personal

representative and other fiduciaries representing interested persons. The meaning as it relates to particular persons may vary from time to time and shall be determined according to the particular purposes of, and matter involved, in any proceeding.

(12) "Interests of the beneficiaries" means the beneficial interests provided in the terms of the trust.

(13) "Internal Revenue Code" or "Internal Revenue Code of 1986" has the same meaning as when used in a comparable context in the laws of the United States then in effect relating to income, estate, generation-skipping transfer, and other taxes, including all amendments made to the laws of the United States and amendments which have been adopted and incorporated into West Virginia law by the West Virginia Legislature in §11-21-9 of this code.

(14) "Jurisdiction" with respect to a geographic area, includes a state or country.

(15) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, unincorporated nonprofit association, charitable organization, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.

(16) "Power of withdrawal" means a presently exercisable general power of appointment other than a power:

(A) Exercisable by a trustee and limited by an ascertainable standard; or

(B) Exercisable by another person only upon consent of the trustee or a person holding an adverse interest.

(17) "Property" means anything that may be the subject of ownership, whether real or personal, legal or equitable, or any interest therein.

(18) "Qualified beneficiary" means a beneficiary who, on the date the beneficiary's qualification is determined:

(A) Is a distributee or permissible distributee of trust income or principal;

(B) Would be a distributee or permissible distributee of trust income or principal if the interests of the distributees described in paragraph (B) of this subdivision terminated on that date without causing the trust to terminate; or

(C) Would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date.

(19) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form. "Record" does not include a will of the grantor, unless the will is duly admitted to probate.

(20) "Revocable", as applied to a trust, means revocable by the grantor without the consent of the trustee or a person holding an adverse interest.

(21) "Sign" means, with present intent to authenticate or adopt a record:

(A) To execute or adopt a tangible symbol; or

(B) To attach to or logically associate with the record an electronic symbol, sound, or process.

(22) "Spendthrift provision" means a term of a trust which restrains both voluntary and involuntary transfer of a beneficiary's interest.

(23) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band recognized by federal law or formally acknowledged by a state.

(24) "Terms of a trust" means:

(A) Except as otherwise provided in paragraph (B); and the manifestation of the grantor's intent regarding a trust's provisions as:

(i) Expressed in the trust instrument; or

(ii) Established by other evidence that would be admissible in a judicial proceeding; or

(B) The trust's provisions as established, determined, or amended by:

(i) A trustee or trust director in accordance with applicable law;

(ii) A court order; or

(iii) A nonjudicial settlement agreement under §44D-1-111 of this code.

(25) "Trust instrument" means a will of the grantor which is duly admitted to probate, or a record, signed by the grantor, that contains terms of the trust, including any amendments thereto.

(26) "Trustee" includes an original, additional, successor trustee and a cotrustee.

#### **ARTICLE 4. CREATION, VALIDITY, MODIFICATION, AND TERMINATION OF TRUST.**

##### **§44D-4-402. Requirement for creation.**

(a) Except as created by an order of the court, a trust is created only if:

(1) The grantor has capacity to create a trust;

(2) The grantor indicates an intention, in a trust instrument, to create the trust;

(3) The trust has a definite beneficiary or is:

(A) A charitable trust;

(B) A trust for the care of an animal, as provided in §44D-4-408 of this code; or

(C) A trust for a noncharitable purpose, as provided in §44D-4-409 of this code;

(4) The trustee has duties to perform; and

(5) The same person is not the sole trustee and sole beneficiary.

(b) A beneficiary is definite if the beneficiary can be ascertained now or in the future, subject to any applicable rule against perpetuities.

(c) A power in a trustee to select a beneficiary from an indefinite class is valid. If the power is not exercised within a reasonable time, the power fails, and the property subject to the power passes to the persons who would have taken the property had the power not been conferred.

(d) Notwithstanding the foregoing:

(1) In accordance with §41-3-8 of this code, a trust is valid regardless of the existence, value, or character of the corpus of the trust.

(2) The grantor need not have capacity to create a trust if the trust is created in a record during the grantor's lifetime by the grantor's agent acting in accordance with authority granted under a durable power of attorney which expressly authorizes the agent to create a trust on the grantor's behalf.

(e) A trust is not invalid or terminated, and title to trust assets is not merged, because the trustee or trustees are the same person or persons as the beneficiaries of the trust.

## **ARTICLE 5. CREDITOR'S CLAIMS; SPENDTHRIFT AND DISCRETIONARY TRUSTS.**

**§44D-5-503c. Vacancies; revocability of trust; right to withdraw.**

(a) A vacancy in the position of qualified trustee that occurs for any reason, whether or not there is then serving another trustee, shall be filled in the following order of priority:

(1) By a person eligible to be a qualified trustee and who is designated pursuant to the terms of the trust instrument to act as successor trustee;

(2) By a person eligible to be a qualified trustee and who is designated by unanimous agreement of the qualified beneficiaries; or

(3) By a person eligible to be a qualified trustee and who is appointed by the court pursuant to any of the provisions of §44D-7-1 *et seq.* of this code.

(b) A vacancy in the position of independent qualified trustee that occurs for any reason, whether or not there is then serving another trustee, shall be filled in the following order of priority:

(1) By a person eligible to be an independent qualified trustee and who is designated pursuant to the terms of the trust instrument to act as successor trustee; or

(2) By a person eligible to be an independent qualified trustee and who is designated by unanimous agreement of the qualified beneficiaries; or

(3) By a person eligible to be an independent qualified trustee and who is appointed by the court pursuant to any of the provisions of §44D-7-1 *et seq.* of this code.

(c) A trust instrument shall not be deemed revocable on account of the inclusion of any one or more of the following rights, powers, and interests:

(1) A power of appointment, exercisable by the grantor by will or other record effective only upon the grantor's death, other than a power to appoint to the grantor's estate or the creditors of the grantor's estate;



(2) The grantor's qualified interest in the trust;

(3) The grantor's right to receive income or principal pursuant to an ascertainable standard;

(4) The grantor's potential or actual receipt of income or principal from a charitable remainder unitrust or charitable remainder annuity trust (each within the meaning of Section 664(d) of the Internal Revenue Code) and the grantor's right, at any time, and from time to time, to release, in a record delivered to the qualified trustee, all or any part of the grantor's retained interest in such trust;

(5) The grantor's receipt each year of a percentage, not to exceed five percent, specified in the trust instrument of the initial value of the trust assets or their value determined from time to time pursuant to the trust instrument;

(6) The grantor's right to remove a qualified trustee or independent qualified trustee and to appoint a new trustee who meets the same criteria;

(7) The grantor's potential or actual use of real property held under a personal residence trust (within the meaning of Section 2702(c) of the Internal Revenue Code);

(8) The grantor's potential or actual receipt or use of a qualified annuity interest (within the meaning of Section 2702 of the Internal Revenue Code);

(9) The ability of a qualified trustee, whether pursuant to discretion or direction, to pay, after the grantor's death, all or any part of the grantor's debts outstanding at the time of the grantor's death, the expenses of administering the grantor's estate, or any federal or state estate, inheritance, or death tax imposed on or with respect to the grantor's estate; and

(10) A grantor's potential or actual receipt of income or principal to pay, in whole or in part, income taxes due on trust income, or the direct payment of such taxes to the applicable tax authorities, pursuant to a provision in the trust instrument that

expressly provides for the direct payment of such taxes or the reimbursement of the grantor for such tax payments.

(d) A beneficiary who has the right to withdraw his or her entire beneficial interest in a trust shall be treated as its grantor to the extent of such withdrawal right, when such right to withdraw has lapsed, been released, or otherwise expired, without regard to the limitations otherwise imposed by §44D-505(b) of this code.

## **ARTICLE 7. OFFICE OF THE TRUSTEE.**

### **§44D-7-701. Accepting or declining trusteeship.**

(a) Except as otherwise provided in subsection (c) of this section, a person designated as trustee accepts the trusteeship:

(1) By substantially complying with a method of acceptance provided in the terms of the trust instrument; or

(2) If the terms of the trust instrument do not provide a method or the method provided in the terms is not expressly made exclusive, by accepting delivery of the trust property, exercising powers or performing duties as trustee, or otherwise indicating acceptance of the trusteeship including by signing a record so stating.

(b) A person designated as trustee who has not yet accepted the trusteeship may reject the trusteeship. A person designated as trustee who does not accept the trusteeship within a reasonable time after knowing of the designation is deemed to have rejected the trusteeship.

(c) A person designated as trustee, without accepting the trusteeship, may:

(1) Act to preserve the trust property if, within a reasonable time after acting, the person sends a rejection of the trusteeship to the grantor or, if the grantor is dead or lacks capacity, to a qualified beneficiary; and

(2) Inspect or investigate trust property to determine potential liability under environmental or other law or for any other proper purpose.

**§44D-7-704. Vacancy in trusteeship; appointment of successor.**

(a) A vacancy in a trusteeship occurs if:

(1) A person designated as trustee rejects the trusteeship;

(2) A person designated as trustee cannot be identified or does not exist;

(3) A trustee resigns;

(4) A trustee is disqualified or removed;

(5) A trustee dies; or

(6) A guardian or conservator is appointed for an individual serving as trustee.

(b) If one or more cotrustees remain in office, a vacancy in a trusteeship need not be filled unless otherwise provided in the terms of the trust instrument. A vacancy in a trusteeship shall be filled if the trust has no remaining trustee.

(c) Unless otherwise provided in the terms of the trust instrument, a vacancy in a trusteeship of a noncharitable trust that is required to be filled shall be filled in the following order of priority:

(1) By a person designated in the terms of the trust instrument to act as successor trustee;

(2) By a person appointed by a unanimous record of the qualified beneficiaries; or

(3) By a person appointed by the court having jurisdiction of the trust.

(d) Unless otherwise provided, a vacancy in a trusteeship of a charitable trust that is required to be filled shall be filled in the following order of priority:

(1) By a person designated in the terms of the trust to act as successor trustee;

(2) By a person selected by the charitable organizations expressly designated to receive distributions under the terms of the trust instrument if the Attorney General of West Virginia either concurs in a record to the selection or fails to make a written objection to the selection within 90 days after receiving by certified or registered mail a notice of the selection by the charitable organizations; or

(3) By a person appointed by the court having jurisdiction over the trust.

(e) Whether or not a vacancy in a trusteeship exists or is required to be filled, the court may upon petition of the grantor, a qualified beneficiary, or a cotrustee, appoint an additional trustee or special fiduciary whenever the court considers the appointment necessary for the administration of the trust.

#### **§44D-7-705. Resignation of trustee.**

(a) Unless otherwise provided in the terms of the trust instrument, a trustee may resign without court approval by giving at least 30 days' notice in a record to the grantor, if living, all of the qualified beneficiaries and all cotrustees, if any.

(b) A trustee may resign with the approval of the court having jurisdiction of the trust upon the filing of a petition for such purpose which joins as respondents the grantor, if living, all of the qualified beneficiaries, and all cotrustees, if any. In approving a resignation, the court may issue orders and impose conditions reasonably necessary for the protection of the trust property.

(c) Unless otherwise provided by order of the court, any liability of a resigning trustee or of any sureties on the trustee's

bond for acts or omissions of the trustee is not discharged or affected by the trustee's resignation.

## **ARTICLE 8B. WEST VIRGINIA UNIFORM TRUST DECANTING ACT.**

### **§44D-8B-2. Definitions.**

In addition to the definitions contained in §44D-1-103 of this code which apply to this article:

(1) "Appointive property" means the property or property interest subject to a power of appointment.

(2) "Authorized fiduciary" means:

(A) A trustee or other fiduciary, other than a grantor, that has discretion to distribute or direct a trustee to distribute part or all of the principal of the first trust to one or more current beneficiaries;

(B) A special fiduciary appointed under §44D-8B-9 of this code; or

(C) A special-needs fiduciary under §44D-8B-13 of this code.

(3) "Charitable interest" means an interest in a trust which:

(A) Is held by an identified charitable organization and makes the organization a qualified beneficiary;

(B) Benefits only charitable organizations and, if the interest were held by an identified charitable organization, would make the organization a qualified beneficiary; or

(C) Is held solely for charitable purposes and, if the interest were held by an identified charitable organization, would make the organization a qualified beneficiary.

(4) "Charitable organization" means:

(A) A person, other than an individual, organized and operated exclusively for charitable purposes; or

(B) A government or governmental subdivision, agency, or instrumentality, to the extent it holds funds exclusively for a charitable purpose.

(5) "Charitable purpose" means the relief of poverty, the advancement of education or religion, the promotion of health, a municipal or other governmental purpose, or another purpose the achievement of which is beneficial to the community.

(6) "Decanting power" or "the decanting power" means the power of an authorized fiduciary under this article to distribute property of a first trust to one or more second trusts or to modify the terms of the first trust.

(7) "Expanded distributive discretion" means a discretionary power of distribution that is not limited to an ascertainable standard or a reasonably definite standard.

(8) "First trust" means a trust over which an authorized fiduciary may exercise the decanting power.

(9) "First-trust instrument" means the trust instrument for a first trust.

(10) "General power of appointment" means a power of appointment exercisable in favor of a powerholder, the powerholder's estate, a creditor of the powerholder, or a creditor of the powerholder's estate.

(11) "Power of appointment" means a power that enables a powerholder acting in a nonfiduciary capacity to designate a recipient of an ownership interest in or another power of appointment over the appointive property. The term does not include a power of attorney.

(12) "Powerholder" means a person in which a donor creates a power of appointment.

(13) "Presently exercisable power of appointment" means a power of appointment exercisable by the powerholder at the relevant time. The term:

(A) Includes a power of appointment exercisable only after:

- (i) The occurrence of the specified event;
- (ii) The satisfaction of the ascertainable standard; or
- (iii) The passage of the specified time; and

(B) Does not include a power exercisable only at the powerholder's death.

(14) "Reasonably definite standard" means a clearly measurable standard under which a holder of a power of distribution is legally accountable within the meaning of 26 U.S.C. §674(b)(5)(A) and any applicable regulations.

(15) "Second trust" means:

(A) A first trust after modification under this article; or

(B) A trust to which a distribution of property from a first trust is or may be made under this article.

(16) "Second-trust instrument" means the trust instrument for a second trust.

## **ARTICLE 10. LIABILITY OF TRUSTEES AND RIGHTS OF PERSONS DEALING WITH TRUSTEE.**

### **§44D-10-1011. Interest as general partner.**

(a) Except as otherwise provided in subsection (c) of this section or unless personal liability is imposed in the contract, a trustee who holds an interest as a general partner in a general or limited partnership is not personally liable on a contract entered into by the partnership after the trust's acquisition of the interest if the fiduciary capacity was disclosed in the contract. The requirement of disclosure in the contract is satisfied if the trustee signs the contract, or signs another record which is contemporaneously delivered to the other parties to the contract, in a manner that clearly evidences that the trustee executed the contract in a fiduciary capacity.

(b) Except as otherwise provided in subsection (c) of this section, a trustee who holds an interest as a general partner is not personally liable for torts committed by the partnership or for obligations arising from ownership or control of the interest unless the trustee is personally at fault.

(c) The immunity provided by this section does not apply if an interest in the partnership is held by the trustee in a capacity other than that of trustee or is held by the trustee's spouse or one or more of the trustee's descendants, siblings, or parents, or the spouse of any of them.

(d) If the trustee of a revocable trust holds an interest as a general partner, the grantor is personally liable for contracts and other obligations of the partnership as if the grantor were a general partner.



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CHAPTER 136

(S. B. 240 - By Senators Woodrum and Deeds)

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[Passed February 29, 2024; in effect 90 days from passage (May 29, 2024)]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §59-1-14 of the Code of West Virginia, 1931, as amended, relating to fees charged by sheriffs.

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

**ARTICLE 1. FEES AND ALLOWANCES.**

**§59-1-14. Fees to be charged by sheriffs.**

(a) The county commission shall determine the amount which the sheriff may charge, which charges shall not exceed the following:

For serving on any person an order, notice, summons, or other process where the body is not taken, except a subpoena served on a witness, and making return thereof ..... \$30.00

For summoning a witness ..... \$30.00

For serving on any person an attachment or  
other process under which the body is taken ..... \$30.00

For levying an attachment on real estate and  
making the return ..... \$30.00

For making any other levy ..... \$30.00

For serving a writ of possession ..... \$30.00

(b) Notwithstanding any provision of this code to the contrary, a county sheriff shall owe the fees set forth in subsection (a) of this section to another sheriff's department or law-enforcement agency for service of an order, notice, summons, or other process, or for service of an attachment once the requested service has been completed.

(c) The county commission shall determine the amount which the sheriff may charge, which charges shall not exceed the following:

For conveying a prisoner to or from jail, for each mile of necessary travel either in going or returning..... .25

For taking any bond..... \$1.00

When a jury is sworn in court, for summoning and impaneling such jury..... \$1.00

For issuing receipt to purchaser at delinquent tax sale .... \$1.00

(d) The county commission, giving due regard to the cost thereof, may, from time to time, prescribe the amount which the sheriff may charge for keeping any property or in removing any property. When, after distraining or levying, he or she neither sells nor receives payment, and either takes no bond or takes one which is not forfeited, he or she shall, if guilty of no default, have (in addition to the \$1 for a bond, if one was taken) a fee of \$3, unless this be more than half of what his or her commission would have amounted to if he or she had received payment; in which case he or she shall (whether a bond was taken or not) have a fee of \$1 at the least, and so much more as is necessary to make the said half of his or her commission. The commission to be included in a forthcoming bond (when one is taken) shall be five percent on the first \$300 of the money for which the distress or levy is made, and two percent on the residue of the money; but the commission shall not be received, in whole or in part, except as hereinbefore provided, unless the bond be forfeited, or the amount (including the commission) be paid to the plaintiff. An officer receiving payment in money, or selling property, shall have the like commission of

five percent on the first \$300 of the money paid or proceeds from the sale, and two percent on the residue, except that when the payment or sale is on an execution on a forthcoming bond, his or her commission shall be only half what it would be if the execution were not on the bond.

(e) Any amounts collected by the sheriff pursuant to this section shall be deposited in a separate account of the county general fund and used by the sheriff for the expenses of providing the services herein described: *Provided*, That \$5 of each fee collected pursuant to the provisions of subsection (a) of this section shall be deposited by the county commission in the West Virginia Deputy Sheriff Retirement Fund created in §7-14D-6 of this code and \$3 of each fee collected pursuant to the provisions of subsection (a) of this section shall be deposited by the county commission in the general revenue account of the county commission. Any surplus funds that remain in the separate account of the county general fund required by the provisions of this subsection on the last day of the fiscal year, and have not been expended for the purposes herein described, shall revert to the county general fund.

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## CHAPTER 137

**(S. B. 613 - By Senators Azinger, Oliverio, Plymale, and Nelson)**

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[Passed March 5, 2024; in effect 90 days from passage (June 3, 2024)]  
[Approved by the Governor on March 26, 2024.]

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AN ACT to amend and reenact §31-17-1, §31-17-3, §31-17-4, §31-17-6, §31-17-7, and §31-17-11 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §31-17-4a; and to amend said code by adding thereto a new section, designated §31-17A-9a, all relating to the licensure and regulation of mortgage brokers, lenders, and loan originators; updating definitions; eliminating outdated provisions; authorizing emergency rulemaking; permitting the Commissioner of Financial Institutions to participate in the multistate licensing and examination process; updating net worth requirements to use generally accepted accounting principles; providing information requirements for a change in control and updating the change in control process; specifying requirements for individuals in control of a licensee or applicant; confirming confidentiality of examination and licensee information but allowing release of aggregate data; permitting loan originators to conduct work at their residence if certain requirements are met; and making technical corrections.

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

### **ARTICLE 17. WEST VIRGINIA RESIDENTIAL MORTGAGE LENDER, BROKER, AND SERVICER ACT.**

#### **§31-17-1. Definitions and general provisions.**

As used in this article:

(a) "Additional charges" means every type of charge arising out of the making or acceptance of a primary or subordinate mortgage loan, except finance charges, including, but not limited to, official fees and taxes, reasonable closing costs and certain documentary charges and insurance premiums and other charges, which definition is to be read in conjunction with and permitted by §46A-3-109 of this code;

(b) "Amount financed" means the total of the following items to the extent that payment is deferred:

(1) The cash price of the goods, services or interest in land, less the amount of any down payment, whether made in cash or in property traded in;

(2) The amount actually paid, or to be paid, by the seller pursuant to an agreement with the buyer to discharge a security interest in, or a lien on, property traded in; and

(3) If not included in the cash price:

(A) Any applicable sales, use, privilege, excise or documentary stamp taxes;

(B) Amounts actually paid, or to be paid, by the seller for registration, certificate of title or license fees; and

(C) Additional charges permitted by this article;

(c) "Applicant" means a person who has applied for a lender or broker license;

(d) "Broker" means any person acting in the regular course of business who, for a fee or commission or other consideration, negotiates or arranges, or who offers to negotiate or arrange, or originates or assigns a primary or subordinate mortgage loan between a lender and a borrower. A person is considered to be acting in the regular course of business if he or she negotiates or arranges, or offers to negotiate or arrange, or originates, processes, or assigns any primary or subordinate mortgage loans in any one calendar year; or if he or she seeks to charge a borrower, or receive

from a borrower, money or other valuable consideration in any primary or subordinate mortgage transaction before completing performance of all broker services that he or she has agreed to perform for the borrower;

(e) "Brokerage fee" means the fee or commission or other consideration charged by a broker or loan originator for the services described in subdivision (d) of this section;

(f) "Commissioner" means the Commissioner of Financial Institutions of this state;

(g) "Control" means:

(1)(A) The power to vote, directly or indirectly, at least 25 percent of voting shares or voting interests of a licensee or person in control of a licensee;

(B) The power to elect or appoint a majority of key individuals or executive officers, managers, directors, trustees, or other persons exercising managerial authority of a person in control of a licensee; or

(C) The power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee.

(2) Rebuttable presumption of control:

(A) A person is presumed to exercise a controlling influence when the person holds the power to vote, directly or indirectly, at least 10 percent of outstanding voting shares or voting interests of a licensee or person in control of a licensee.

(B) A person presumed to exercise a controlling influence as defined in this section can rebut the presumption of control if the person is a passive investor.

(3) For the purposes of determining the percentage of a person controlled by any other person, the person's interest shall be aggregated with the interest of any other immediate family

member, including the person's spouse, parents, children, siblings, mothers-in-law, fathers-in-law, sons-in-law, daughters-in-law, brothers-in-law, sisters-in-law, and any other person who shares such person's home.

(h) "Finance charge" means the sum of all interest and similar charges payable directly or indirectly by the debtor imposed or collected by the lender incident to the extension of credit as coextensive with the definition of "loan finance charge" set forth in section one hundred two, article one, chapter forty-six-a of this code;

(i) "Key individual" means any individual ultimately responsible for establishing or directing policies and procedures of the licensee, such as an executive officer, manager, director, or trustee.

(j) "Lender" means any person who makes, or offers to make, or accepts or offers to accept, or purchases, or services any primary or subordinate mortgage loan in the regular course of business. A person is considered to be acting in the regular course of business if he or she makes or accepts, or offers to make or accept, any primary or subordinate mortgage loans in any one calendar year.

"Lender" does not include any person who does not currently have, and has never held, a residential mortgage lender license in this, or in any other state, and who makes no more than three primary or subordinate mortgage loans in any calendar year to purchasers of any dwelling owned by that person: *Provided*, That the person is required to report within 30 days of the date of the loan, any such mortgage loan to the Division of Financial Institutions, on a form available from the division upon request. Failure to timely report as required by this subsection may result in imposition by the commissioner of a civil administrative penalty of up to \$250;

(k) "Licensee" means any person duly licensed by the commissioner under the provisions of this article or §31-17A-1 *et seq.* of this code as a lender, broker, or mortgage loan originator;

(l) "Nationwide Multistate Licensing System and Registry" means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of licensed mortgage brokers and lenders licensed under this article and mortgage loan originators licensed under §31-17A-1 *et seq.* of this code;

(m) "Person" means an individual, partnership, association, trust, corporation, or any other legal entity, or any combination thereof;

(n) "Primary mortgage loan" means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust or other equivalent consensual security interest, on a dwelling as defined in Section 103(w) of the Truth in Lending Act or residential real estate upon which is constructed, or intended to be constructed, a dwelling;

(o) "Servicing" or "servicing a residential mortgage loan" means through any medium or mode of communication, the collection or remittance for, or the right or obligation to collect or remit for another lender, note owner or noteholder, payments of principal, interest, including sales finance charges in a consumer credit sale, and escrow items as insurance and taxes for property subject to a residential mortgage loan; and

(p) "Subordinate mortgage loan" means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling as defined in Section 103(w) of the Truth in Lending Act or residential real estate upon which is constructed, or intended to be constructed, a dwelling and is subject to the lien of one or more prior recorded mortgages or deeds of trust.

(q) "Tangible net worth" means the aggregate assets of a licensee excluding all intangible assets, less liabilities, as determined in accordance with United States generally accepted accounting principles.



**§31-17-3. Supervision by Commissioner of Financial Institutions; rules and regulations; personnel; participation in the Nationwide Multistate Licensing System and Registry.**

(a) It shall be the duty of the commissioner to enforce the provisions of this article and, to implement and make effective such provisions, he or she is hereby authorized and empowered to promulgate reasonable rules in accordance with the provisions of article three, chapter twenty-nine-a of this code and to employ such personnel as may be necessary. The commissioner may promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code to implement the amendments made during the regular session of the Legislature, 2024, as they relate to the licensure and regulation of mortgage brokers, lenders, and loan originators.

(b) The commissioner may participate in the Nationwide Multistate Licensing System and Registry and permit such system to process applications for mortgage lender and mortgage broker licenses in this state and receive and maintain records related to such licenses that are allowed or required to be maintained by the commissioner. The commissioner is authorized to establish relationships or contracts with the Nationwide Multistate Licensing System and Registry, or other entities designated by the Nationwide Multistate Licensing System and Registry, to collect and maintain records and process transaction fees or other fees related to licensees subject to this article. The Nationwide Licensing System and Registry shall transfer, electronically, all fees payable to the Division of Financial Institutions directly to the credit of the commissioner's special revenue account with the state Treasurer.

**§31-17-4. Applications for licenses; requirements; bonds; fees; renewals; waivers and reductions; per loan fee.**

(a) In connection with an application for licensing as a mortgage lender or mortgage broker, the applicant shall, at a minimum, furnish to the Nationwide Multistate Licensing System and Registry, information concerning the applicant's identity, including:

(1) Fingerprints for submission to the Federal Bureau of Investigation and any governmental agency or entity authorized to receive such information for a state, national and international criminal history background check; and

(2) Personal history and experience in a form prescribed by the Nationwide Multistate Licensing System and Registry and the commissioner, including the submission of authorization for the Nationwide Multistate Licensing System and Registry and the commissioner to obtain:

(A) An independent credit report obtained from a consumer reporting agency described in Section 603(p) of the Fair Credit Reporting Act; and

(B) Information related to any administrative, civil or criminal findings by any governmental jurisdiction.

(b) In order to reduce the points of contact which the Federal Bureau of Investigation may have to maintain for purposes of this article, the commissioner may use the Nationwide Multistate Licensing System and Registry or its designated vendor as a channeling agent for requesting information from, and distributing information to, the Department of Justice or any governmental agency.

(c) In order to reduce the points of contact which the commissioner may have to maintain, for purposes of this article, the commissioner may use the Nationwide Multistate Licensing System and Registry as a channeling agent for requesting and distributing information to and from any source so directed by the commissioner.

(d) Application for a lender's or broker's license shall each year be submitted under oath, in the form prescribed by the commissioner. Background and credit checks shall be conducted in accordance with this article. Any application shall also disclose the location at which the business of lender or broker is to be conducted.

(e) At the time of making application for a lender's license, the applicant therefor shall:

(1) If a foreign corporation, submit a certificate from the Secretary of State certifying that the applicant is registered with the Secretary of State to transact business in this state;

(2) Submit proof that he or she has available for the operation of the business at the location specified in the application, tangible net worth of at least \$250,000 computed according to the United States generally accepted accounting principles as shown by the most recent audited financial statement;

(3) File an electronic surety bond through the Nationwide Multistate Licensing System and Registry in favor of the state for the benefit of consumers, or for a claim by the commissioner for an unpaid civil administrative penalty, or an unpaid examination invoice in the amount of \$100,000 for licensees with West Virginia annual loan originations of \$0 to \$3 million, \$150,000 for West Virginia annual loan originations greater than \$3 million and up to \$10 million, and \$250,000 for West Virginia annual loan originations over \$10 million, in a form and with conditions as the commissioner may prescribe, and executed by a surety company authorized to do business in this state: *Provided*, That lender licensees who service West Virginia mortgage loans shall file with the commissioner a bond under the same conditions listed above in the amount of \$200,000;

(4) Pay to the commissioner a license fee of \$1,250 plus the actual cost of fingerprint processing and the processing fees assessed by the Nationwide Multistate Licensing System and Registry. If the commissioner shall determine that an investigation outside this state is required to ascertain facts or information relative to the applicant or information set forth in the application, the applicant may be required to advance sufficient funds to pay the estimated cost of the investigation. An itemized statement of the actual cost of the investigation outside this state shall be furnished to the applicant by the commissioner and the applicant shall pay, or shall have returned to him or her, as the case may be,

the difference between his or her payment in advance of the estimated cost and the actual cost of the investigation; and

(5) Submit a full and complete disclosure of any litigation or unresolved complaint filed by a governmental authority or class action lawsuit on behalf of consumers relating to the operation of the license applicant.

(f) At the time of making application for a broker's license, the applicant therefor shall:

(1) If a foreign corporation, submit a certificate from the Secretary of State certifying that the applicant is registered with the Secretary of State to transact business in this state;

(2) Submit proof that he or she has available for the operation of the business at the location specified in the application, tangible net worth of at least \$10,000 computed according to the United States generally accepted accounting principles as shown by the most recent audited financial statement;

(3) File an electronic surety bond through the Nationwide Multistate Licensing System and Registry in favor of the state for the benefit of consumers, or for a claim by the commissioner for an unpaid civil administrative penalty or an unpaid examination invoice in the amount of \$50,000 for licensees with West Virginia loan originations of \$0 to \$3 million, \$75,000 for West Virginia loan originations greater than \$3 million and up to \$10 million, and \$100,000 for West Virginia loan originations over \$10 million in a form and with conditions as the commissioner may prescribe, and executed by a surety company authorized to do business in this state: *Provided*, That the bond must be in the amount of \$150,000 before a broker may participate in a table-funded residential mortgage loan;

(4) Pay to the commissioner a license fee of \$350 plus the actual cost of fingerprint processing and the processing fees assessed by the Nationwide Multistate Licensing System and Registry; and

(5) Submit a full and complete disclosure of any litigation or unresolved complaint filed by a governmental authority or class action lawsuit on behalf of consumers relating to the operation of the license applicant.

(g) The aggregate liability of the surety on any bond given pursuant to the provisions of this section shall in no event exceed the amount of the bond.

(h) Nonresident lenders and brokers licensed under this article by their acceptance of the license acknowledge that they are subject to the jurisdiction of the courts of West Virginia and the service of process pursuant to §46A-2-137 of this code and §56-3-33 of this code.

(i) The commissioner may elect to reduce or waive the application fees, bond amounts and net worth requirements imposed by this section for bona fide nonprofit corporations or other bona fide nonprofit business entities, including community housing development organizations, whose residential mortgage lending or brokering activities provide housing primarily to households or persons below the HUD-established median income for their area of residence. Any waiver of fees or other costs under this paragraph shall not be construed as a waiver of the duty to comply with all other provisions of this article.

(j) Every broker and lender licensee shall pay a fee of \$5 for each residential mortgage loan originated, made or brokered in a calendar year. This fee shall be paid annually for the benefit of the Division of Financial Institutions and remitted promptly through the Nationwide Multistate Licensing System and Registry when the invoice is received. If a licensee ceases operation, it shall complete the Statistical Activity Report and remit any fees due since the last reporting period when it relinquishes its license when invoiced by the Division through the Nationwide Multistate Licensing System and Registry.

(k) If a claim for a consumer restitution is pending on a bond required pursuant to this section when the commissioner makes a claim for a civil administrative penalty or an unpaid examination

invoice, the consumer claim shall be resolved before any payments may be made for an unpaid penalty or examination invoice.

**§31-17-4a. Information requirements for certain individuals and change in control.**

(a) Any individual in control of a licensee or applicant, any individual that seeks to acquire control of a licensee, and each key individual shall furnish to the commissioner the following items:

(1) The individual's fingerprints for submission to the Federal Bureau of Investigation and the commissioner for purposes of a national criminal history background check unless the person currently resides outside of the United States and has resided outside of the United States for the last 10 years;

(2) Personal history and experience in a form and in a medium prescribed by the commissioner, to obtain the following:

(A) An independent credit report from a consumer reporting agency unless the individual does not have a Social Security number, in which case this requirement shall be waived;

(B) Information related to any criminal convictions or pending charges; and

(C) Information related to any regulatory or administrative action and any civil litigation involving claims of fraud, misrepresentation, conversion, mismanagement of funds, breach of fiduciary duty, or breach of contract.

(b) If the individual has resided outside of the United States at any time in the last 10 years, the individual shall also provide an investigative background report prepared by an independent search firm that meets the following requirements:

(1) At a minimum, the search firm shall:

(A) Demonstrate that it has sufficient knowledge, resources, and employs accepted and reasonable methodologies to conduct the research of the background report; and

(B) Not be affiliated with, or have an interest with, the individual it is researching.

(2) At a minimum, the investigative background report shall be written in the English language and shall contain the following:

(A) If available in the individual's current jurisdiction of residency, a comprehensive credit report, or any equivalent information obtained or generated by the independent search firm to accomplish such report, including a search of the court data in the countries, provinces, states, cities, towns, and contiguous areas where the individual resided and worked;

(B) Criminal records information for the past 10 years, including, but not limited to, felonies, misdemeanors, or similar convictions for violations of law in the countries, provinces, states, cities, towns, and contiguous areas where the individual resided and worked;

(C) Employment history;

(D) Media history, including an electronic search of national and local publications, wire services, and business applications; and

(E) Financial services-related regulatory history, including, but not limited to, money transmission, securities, banking, insurance, and mortgage-related industries.

(c) Any person, or group of persons acting in concert, seeking to acquire control of a licensee shall obtain the written approval of the commissioner prior to acquiring control. An individual is not deemed to acquire control of a licensee and is not subject to these acquisition of control provisions when that individual becomes a key individual in the ordinary course of business.

(d) A person, or group of persons acting in concert, seeking to acquire control of a licensee shall, in cooperation with the licensee, submit an application in a form and in a medium prescribed by the commissioner.

(e) Upon request, the commissioner may permit a licensee or the person, or group of persons acting in concert, to submit some or all information required by the commissioner without using the Nationwide Multistate Licensing System and Registry.

(f) The application required by this section shall include information required for any new key individuals that have not previously completed the requirements for a licensee.

(g) When an application for acquisition of control under this section appears to include all the items and address all of the matters that are required, the application shall be considered complete and:

(1) The commissioner shall approve or deny the application within 90 days after the completion date; or

(2) If the application is not approved or denied within 90 days after the completion date, the application is deemed approved, and the person, or group of persons acting in concert, are not prohibited from acquiring control.

(3) The commissioner may extend the application period for good cause.

(h) A determination by the commissioner that an application is complete and is accepted for processing means only that the application, on its face, appears to include all of the items and address all of the matters that are required, and is not an assessment of the substance of the application or of the sufficiency of the information provided.

(i) When an application is filed and considered complete, the commissioner shall investigate the financial condition and responsibility, financial and business experience, character, and general fitness of the person, or group of persons acting in concert, seeking to acquire control. The commissioner shall approve an acquisition of control pursuant to this section if the commissioner finds that all of the following conditions for the change in control have been fulfilled:



(1) The requirements of subsections (d) and (f) of this section have been met, as applicable; and

(2) The financial condition and responsibility, financial and business experience, competence, character, and general fitness of the person, or group of persons acting in concert, seeking to acquire control, and the competence, experience, character, and general fitness of the key individuals and persons that would be in control of the licensee after the acquisition of control indicate that it is in the interest of the public to permit the person, or group of persons acting in concert, to control the licensee.

(j) If an applicant avails itself or is otherwise subject to a multistate licensing process:

(1) The commissioner is authorized to accept the investigation results of a lead investigative state if the lead investigative state has sufficient staffing, expertise, and minimum standards; or

(2) If the division is a lead investigative state, the commissioner is authorized to investigate the applicant and the time frames established by agreement through the multistate licensing process.

(k) The commissioner shall issue a formal written notice of the denial of an application to acquire control within 30 days of the decision to deny the application. The commissioner shall set forth in the notice of denial the specific reasons for the denial of the application. An applicant whose application is denied under this section may appeal the denial using the procedures set forth in §31-17-14 of this code.

(l) The requirements of subsections (c) and (d) of this section do not apply to any of the following:

(1) A person that acts as a proxy for the sole purpose of voting at a designated meeting of the shareholders or holders of voting shares or voting interests of a licensee or a person in control of a licensee;

(2) A person that acquires control of a licensee by devise or descent;

(3) A person that acquires control of a licensee as a personal representative, custodian, guardian, conservator, or trustee, or as an officer appointed by a court of competent jurisdiction, or by operation of law;

(4) A person that is otherwise exempt under this article;

(5) A person that the commissioner determines is not subject to subsection (c) of this section based on the public interest;

(6) A public offering of securities of a licensee or a person in control of a licensee; or

(7) An internal reorganization of a person in control of the licensee where the ultimate person in control of the licensee remains the same.

(m) Persons in subdivisions (2), (3), (4), (6), or (7) of subsection (l) of this section, in cooperation with the licensee, shall notify the commissioner within 15 days after the acquisition of control.

(n) Streamlined acquisition of control:

(1) The requirements of subsections (c) and (d) of this section do not apply to a person that has complied with and received approval to engage in mortgage activity under this article or was identified as a person in control in a prior application filed with and approved by the commissioner or pursuant to a multistate licensing process: *Provided, That:*

(A) The person has not had a license revoked or suspended or controlled a licensee that has had a license revoked or suspended while the person was in control of the licensee in the previous five years;

(B) If the person is a licensee, the person is well managed and has received at least a satisfactory rating for compliance at its most recent examination by a reciprocal state or federal agency approved by the division if such rating was given;

(C) The licensee to be acquired is projected to meet the requirements of net worth and surety bond after the acquisition of control is completed, and if the person acquiring control is a licensee, that licensee is also projected to meet the requirements of net worth and surety bond after the acquisition of control is completed;

(D) The licensee to be acquired will not implement any material changes to its business plan as a result of the acquisition of control, and if the person acquiring control is a licensee, that licensee also will not implement any material changes to its business plan as a result of the acquisition of control; and

(E) The person provides notice of the acquisition in cooperation with the licensee and attests to the requirements in this subsection in a form and in a medium prescribed by the commissioner.

(2) If the notice is not disapproved within 30 days after the date on which the notice was determined to be complete, the notice is deemed approved.

(o) Before filing an application for approval to acquire control of a licensee, a person may request in writing a determination from the commissioner as to whether the person would be considered a person in control of a licensee upon consummation of a proposed transaction. If the commissioner determines that the person would not be a person in control of a licensee, the proposed person and transaction is not subject to the requirements of this section.

**§31-17-6. Minimum tangible net worth to be maintained; bond to be kept in full force and effect; foreign corporation to remain qualified to do business in this state.**

At all times, a lender and broker licensee shall: (1) Have available the tangible net worth required by the provisions of §31-17-4 of this code; (2) keep the bond required by said section in full force and effect; and (3) if the licensee be a foreign corporation, remain qualified to transact business in this state unless otherwise exempt.

**§31-17-7. License not transferable or assignable; license may not be franchised; renewal of license.**

(a) A license may not be transferable or assignable. A licensee may not offer a franchise under that license to another person. The commissioner may allow licensees to have branch offices without requiring additional licenses provided the location of all branch offices is registered with the Division of Financial Institutions by the licensee. Whenever a licensee changes his or her place of business to a location other than that set forth in his or her license and branch registration, he or she shall give written notice 30 days prior to such change to the commissioner and pay a relocation fee of \$100 for each office relocation.

(b) Every lender's or broker's license shall, unless sooner suspended or revoked, expire on December 31 of each year and any license may be renewed each year in the same manner, for the same license fee or fees specified above and upon the same basis as an original license is issued in accordance with the provisions of this article. All applications for the renewal of licenses shall be filed with the Nationwide Multistate Licensing System and Registry according to the renewal schedule published for the system, but no later than 60 days before the expiration thereof.

(c) Any change in control of a licensee whereby equitable interest of 50 percent or more is transferred to an outside party, a new application must be submitted according to this article.

**§31-17-11. Records and reports; examination of records; analysis.**

(a) Every lender and broker licensee shall maintain at his or her place of business in this state, if any, or if he or she has no place of business in this state, at his or her principal place of business outside this state, such books, accounts and records relating to all transactions within this article as are necessary to enable the commissioner to enforce the provisions of this article. All the books, accounts and records shall be preserved, exhibited to the commissioner and kept available as provided herein for the reasonable period of time as the commissioner may by rules

require. The commissioner is hereby authorized to prescribe by rules the minimum information to be shown in the books, accounts and records.

(b) Each licensee shall file a report through the Nationwide Multistate Licensing System and Registry under oath or affirmation concerning his or her business and operations in this state for the defined reporting period established by the Nationwide Multistate Licensing System and Registry and on a date established by the Nationwide Multistate Licensing System and Registry. The commissioner may direct that the reports required by this subsection and any other reports, data or information deemed necessary by the commissioner be filed directly with the Division of Financial Institutions on a date to be determined by the commissioner. The reports, data and information filed pursuant to this subsection are not public records and may not be open to public inspection.

(c) The commissioner may, at his or her discretion, make or cause to be made an examination of the books, accounts and records of every lender or broker licensee pertaining to primary and subordinate mortgage loans made in this state under the provisions of this article, for the purpose of determining whether each lender and broker licensee is complying with the provisions hereof and for the purpose of verifying each lender or broker licensee's annual report. If the examination is made outside this state, the licensee shall pay the cost thereof in like manner as applicants are required to pay the cost of investigations outside this state.

(d) The commissioner shall publish annually a list of the licenses issued under this chapter and shall direct consumers to public information available through the Nationwide Multistate Licensing System and Registry.

(e) The commissioner may enter into cooperative and information-sharing agreements with regulators in other states or with federal authorities to discharge his or her responsibilities under this article and may cooperate with federal and state agencies in discharging the commissioner's responsibilities under this article. The commissioner may:

(1) Arrange for the exchange of information among government officials concerning the regulation of the mortgage industry;

(2) Cooperate in and coordinate training programs concerning the regulation of the mortgage industry;

(3) Assist state and federal agencies in their enforcement and investigatory activities and supply those agencies with documentation and information; and

(4) Share, leverage, and accept examination reports from other state regulatory agencies that meet established and agreed upon uniform standards.

(f) Reports of investigation and examination, together with related documents and financial information not normally available to the public that is submitted in confidence by a person regulated under this article, including, but not limited to, that person's evaluation of the expected outcome of pending litigation, are confidential and may not be disclosed to the public by the commissioner or employees of the Division of Financial Institutions, and are not subject to the state's Freedom of Information Act. The commissioner may release information if:

(1) The commissioner finds that immediate and irreparable harm is threatened to the licensee's customers, or potential customers, or the general public;

(2) The licensee consents before the release;

(3) The commissioner finds that release of the information is required in connection with a hearing under this article, in which event information may be related to the parties of that hearing; or

(4) The commissioner finds that the release is reasonably necessary for the protection of the public and in the interest of justice, in which event information may be distributed to representative of an agency, department, or instrumentality of this state, any other state, or the federal government.

(g) Nothing in this section prevents release to the public of any list of licensees or aggregated financial data for the licensees, prevents disclosure of information the presiding officer considers relevant to the proper adjudication or administration of justice at public administrative or judicial hearings, or prevent disclosure of information relative to supporting the issuance of any administrative or judicial order.

## **ARTICLE 17A. WEST VIRGINIA SAFE MORTGAGE LICENSING ACT.**

### **§31-17A-9a. Permitting employees to work from alternate locations.**

(a) Notwithstanding any provision of this article to the contrary, but subject to the requirements of this section, employees of a West Virginia mortgage broker, lender, or servicer licensee may perform work for the licensee at their residence: *Provided*, That nothing in this subsection restricts employees of the licensee from conducting business at other locations for limited periods of time. Any activity conducted by an employee of the West Virginia licensee shall be considered, reported, and regulated as loans of the West Virginia licensee, regardless of the employee's location during the activity.

(b) A licensee, prior to authorizing work by employees at a location other than the licensee's designated place of business, shall ensure the following:

(1) No in-person customer interactions will be conducted at the other location;

(2) The other location is not designated as a business location to consumers or customers;

(3) Appropriate data security and privacy safeguards are in place for licensee and consumer data, information, and records at the other location, including, but not limited to, the use and maintenance of secure virtual private networks and maintenance of appropriate security updates, patches, or other alterations to ensure the security of electronic devices;

(4) Appropriate risk-based monitoring and oversight processes of work performed by the employees of a licensee at the other location are in place, and records of such monitoring and processes are maintained;

(5) No consumer information or records are maintained at the other location;

(6) All consumer and licensee information and records remain accessible and available for regulatory oversight and examinations;

(7) Employees are trained and keep confidential all conversations about, and with, consumers that may be conducted at the other location; and

(8) The other location is a safe and secure workplace for employees.

(c) A licensee, prior to authorizing work at a location other than the licensee's designated place of business, shall establish written policies and procedures to ensure compliance with the requirements of subsection (b) of this section.

(d) A licensee that authorizes work at another location pursuant to this section shall:

(1) Periodically review and document compliance with the provisions of this section and the written policies and procedures established pursuant to subsection (c) of this section as it relates to every employee who works at another location;

(2) Certify annually that the provisions of this section have been met as to each employee working at another location; and

(3) Provide proof of the periodic review and certification upon request by the Division of Financial Institutions.



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## CHAPTER 138

**(Com. Sub. for S. B. 751 - By Senator Barrett)**

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[Passed March 8, 2024; in effect 90 days from passage (June 6, 2024)]

[Approved by the Governor on March 27, 2024.]

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article designated §47-21A-1, §47-21A-2, §47-21A-3, §47-21A-4, §47-21A-5, §47-21A-6, §47-21A-7, §47-21A-8, §47-21A-9, §47-21A-10, §47-21A-11, §47-21A-12, §47-21A-13, §47-21A-14, §47-21A-15, §47-21A-16, §47-21A-17, §47-21A-18, §47-21A-19, §47-21A-20, §47-21A-21, §47-21A-22, §47-21A-23, §47-21A-24, §47-21A-25, §47-21A-26, §47-21A-27, §47-21A-28, and §47-21A-29, all relating to creating online charitable raffles; declaring the legislative intent to create a practicable way for charitable and public service organizations to raise funds; defining terms; authorizing certain entities to conduct online raffles without obtaining a license based upon the value of items raffled and cumulative annual gross sales; identifying who may hold a license and what system license holders must use to ensure patrons are located in the State of West Virginia; explaining the authority of the Tax Commissioner to review and grant licenses; identifying the different types of licenses available for online raffles; setting licensing fees and creating a special revenue fund; setting forth the procedure for amending information provided on licenses; permitting the commissioner to engage in regular and emergency rulemaking; limiting awards on prizes; limiting compensation payable to an operator of an online raffle; limiting amount of expenses payable from proceeds of online raffle revenue; requiring recordkeeping and allowing the commissioner to conduct audits of license holders; defining the scope of permissible advertising for online raffles; allowing platform providers to

hold certain licenses; setting criminal penalties for the violation of any provision of this code; requiring license holders to file periodic reports with the commissioner; requiring license applications to be available for public inspections; prohibiting individuals convicted of specific crimes from obtaining a license; providing for civil penalties for violations of this article; and permitting review of civil fines by appeal to the Intermediate Court of Appeals.

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

## **ARTICLE 21A. ONLINE CHARITABLE RAFFLES.**

### **§47-21A-1. Legislative intent.**

The Legislature, in recognition of the need for charitable and public service organizations to have for a practicable way of raising funds by means of the internet, declares its intent to grant the privilege of holding online raffles to those organizations as provided in this article.

### **§47-21A-2. Definitions.**

For purposes of this article, unless specified otherwise:

"Charitable or public service activity or endeavor" means any bona fide activity or endeavor which directly benefits a number of people by:

- (1) Contributing to educational or religious purposes;
- (2) Relieving them from disease, distress, suffering, constraint, or the effects of poverty;
- (3) Increasing their comprehension of, and devotion to, the principles upon which this nation was founded and to the principles of good citizenship;
- (4) Making them aware of, or educating them about, issues of public concern so long as the activity or endeavor is not aimed at

supporting or participating in the campaign of any candidate for public office;

(5) Lessening the burdens borne by government or voluntarily supporting, augmenting, or supplementing services which government would normally render to the people;

(6) Providing or supporting nonprofit community activities for youth, senior citizens, or the disabled;

(7) Providing or supporting nonprofit cultural or artistic activities; or

(8) Providing or supporting any political party executive committee.

"Charitable or public service organization" means a bona fide, not-for-profit, tax-exempt, benevolent, educational, philanthropic, humane, patriotic, civic, religious, fraternal, or eleemosynary, incorporated or unincorporated association, or organization; or a volunteer fire department, rescue unit, or other similar volunteer community service organization or association; but does not include any nonprofit association or organization, whether incorporated or not, which is organized primarily for the purposes of influencing legislation or supporting or promoting the campaign of any single candidate for public office.

"Commissioner" means the State Tax Commissioner.

"Conduct" means to direct the actual holding of an online raffle by activities including, but not limited to, selling tickets, collecting money, drawing or arranging for the drawing of the winning numbers or names, announcing the winning numbers or names, posting the winning numbers or names, verifying winners, and awarding prizes.

"Expend net proceeds for charitable or public service purposes" means to devote the net proceeds of an online raffle occasion or occasions to a qualified recipient organization or as otherwise provided by this article and approved by the commissioner pursuant to §47-21A-13 of this code.

"Gross proceeds" means all moneys collected or received from the conduct of an online raffle held by a licensee during a license period.

"Licensee" means any charitable or public service organization or association granted an annual or limited occasion license pursuant to the provisions of this article.

"Net proceeds" means all moneys collected or received from the conduct of an online raffle or online raffles at occasions held by a licensee during a license period after payment of the online raffle expenses authorized by §47-21A-11, §47-21A-12, and §47-21A-13 of this code.

"Person" means any individual, association, society, incorporated or unincorporated organization, firm, partnership, or other nongovernmental entity or institution.

"Patron" means any individual who participates in an online raffle by purchasing an online raffle ticket other than an individual who is participating in the conduct of the online raffle.

"Platform provider" means any third-party entity that contracts by written agreement with a licensee to host, conduct, or otherwise administer an online raffle by using a software system, web application, method, or other process for the purpose of conducting online raffles over the Internet.

"Qualified recipient organization" means any bona fide, not-for-profit, tax-exempt, incorporated or unincorporated association or organization which is organized exclusively for charitable or public services activities or endeavors.

"Online Raffle" has the same meaning as "raffle" as defined in §47-21-2 of this code but conducted using a software system, web application, method, or other process for the purpose of conducting online raffles over the Internet.

"Online raffle occasion" or "occasion" means a single online session at which a series of one or more successive online raffles is conducted by a single licensee.

"Tax-exempt association or organization" means an association or organization which is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), 501(c)(19), or 501(d) of the Internal Revenue Code of 1986, as amended; or is exempt from income taxes under subsection 527(a) of that code.

"Virtually Present" means live, real-time availability by online or other electronic means and includes, but is not limited to, audio or video appearance or by an instant, live chat or messaging program.

**§47-21A-3. Authorizing the conduct of certain online raffles without a license.**

Notwithstanding any other provisions of this article to the contrary, any charitable or public service organization which has been in existence in this state for at least one year may conduct online raffles without compliance with the licensing provisions of this article: *Provided*, That any prize awarded in any single online raffle in an online raffle occasion may not exceed in \$4,000 value: *Provided, however*, That the cumulative gross proceeds derived from the conduct of online raffle occasions by the charitable or public service organization may not exceed \$15,000 during any calendar year: *Provided further*, That the charitable or public service are not subject to the record keeping provisions of §47-21A-14 of the code but shall maintain a separate accounting for the operation of online raffles. All records required by this section shall be maintained for at least three calendar years and shall be available for reasonable inspection by the commissioner.

**§47-21A-4. Who may hold online raffles; application for license; licenses not transferable.**

(a) Except as provided in §47-21A-3 of this code, only persons who are residents of this state and who are active members of any charitable or public service organization which has been in existence in this state for at least two years prior to filing an

application for an online raffle license issued pursuant to §47-21A-5 and §47-21A-6 of the code may hold online raffle occasions in accordance with the provisions of this article and only during the time it holds a valid license.

(b) The charitable or public service organization applies for an online raffle license to the Tax Commissioner and shall be on a form supplied by him or her. The application shall contain the information required by §47-21A-8 of the code and any other information which the commissioner considers necessary. An online raffle may not be held and online raffle tickets may not be sold pursuant to this article until the online raffle application has been approved by the Tax Commissioner and the license has been received by the applicant: *Provided*, That an online raffle occasion may not be held and online raffle tickets may not be sold until a 60-day filing period, which is that time period between the receipt of that application by the Tax Commissioner and the first online raffle occasion, has expired: *Provided, however*, That the Tax Commissioner shall send the applicant its license within five days after the application is approved. If the 60-day filing period has expired and the application has not been denied and the online raffle license has not been received by the applicant, the applicant may consider the application approved and begin to sell tickets for the online raffle or hold the online raffle occasion. The Tax Commissioner shall send the applicant its license within five days after the expiration of the filing period if the application has not been otherwise denied.

(c) An online raffle license issued pursuant to this article may not be transferred.

**§47-21A-5. Annual license; conditions on holding of online raffles.**

(a) A charitable or public service organization or any of its auxiliaries or other organizations otherwise affiliated with it, may apply for an annual license. Only one license per year in the aggregate may be granted to a charitable or public service organization and all of its auxiliaries or other associations or organizations otherwise affiliated with it: *Provided*, That for

purposes of this section, the various branches, chapters, or lodges of any national association or organization or local churches of a nationally organized church are not considered affiliates or auxiliaries of each other. The commissioner shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code, to provide for the manner for determining to which organization, whether the parent organization, an affiliate, or an auxiliary, the one license allowed under this section is granted. An annual license is valid for one year from the date of issuance. Charitable or public service organizations may not hold a joint online raffle occasion under any annual licenses.

(b) A licensee shall utilize geo-location or geo-fencing technology to ensure that online charitable raffles patrons are located in the state of West Virginia. A licensee shall maintain in the state of West Virginia its servers used to transmit information for the purposes of patron participation.

(c) The Tax Commissioner shall provide on his or her website a list of every active and approved licensee to conduct an online raffle occasion. A licensee shall provide a conspicuous hyperlink on any online raffle ticket that is purchased by a patron to the Tax Commissioner's website. A licensee shall conspicuously display at its physical location, that was provided on its application, the approved license to conduct an online raffle.

**§47-21A-6. Limited occasion license; conditions on holding of online raffles.**

(a) Two or more charitable or public service organizations may hold a joint online raffle occasion provided each participating organization has been granted a limited occasion online raffle license for the jointly held occasion: *Provided*, That a licensee which holds an annual license may not obtain more than one limited occasion license.

(b) A limited occasion license is valid only for the time period specified in the application and entitles only the licensee to hold two online raffle occasions during the specified time period which

may not exceed six months from the date of issuance of the limited occasion license.

(c) Subject to the limitations set forth in this section for charitable or public service organization having an annual license, a charitable or public service organization and all of its auxiliaries or other associations or organizations otherwise affiliated with it, may be granted only three limited occasion licenses per year in the aggregate. For purposes of this section the various branches, chapters, or lodges of any national association or organization or local churches of a nationally organized church are not considered affiliates or auxiliaries of each other. The commissioner shall by rulemaking provide the manner for determining to which organization, whether the parent organization, an affiliate, or an auxiliary, the three licenses allowed under this section are granted.

(d) The Tax Commissioner shall provide a hyperlink on its website that will display a list of every active and approved licensee to conduct an online raffle occasion. A licensee shall provide this hyperlink on any online raffle ticket that is purchased by a patron. A licensee shall conspicuously display at its physical location, that was provided on its application, the approved license to conduct an online raffle.

#### **§47-21A-7. License fee and exemption from taxes.**

(a) A license fee shall be paid to the Tax Commissioner for annual licenses in the amount of \$500. A license fee shall be paid to the Tax Commissioner for a limited occasion license in the amount of \$50. All revenue from the license fees shall be deposited in the special revenue account established under the authority of §11-9-2a of this code and used to support the investigatory activities provided for in that section. The license fee imposed by this section is in lieu of all other license or franchise taxes or fees of this state and a county or municipality or other political subdivision of this state may not impose a license or franchise tax or fee on any online raffle or online raffle occasion.

(b) The gross proceeds derived from the conduct of an online raffle occasion are exempt from state and local business and



occupation taxes, income taxes, excise taxes, and all special taxes. Any charitable or public service organization conducting an online raffle occasion pursuant to the provisions of this article is exempt from payment of consumers sales and service taxes, use taxes, and all other taxes on all purchases for use or consumption in the conduct of an online raffle occasion and is exempt from collecting consumers sales taxes on any admission fees and sales of online raffle tickets.

#### **§47-21A-8. Information required in application.**

An application for an online raffle license shall include the following information:

(a) The name of the applicant and the name and headquarter's address of any state or national organization of which the applicant is a local branch or lodge;

(b) The address and telephone number of the applicant organization, if any, and if the applicant organization has no telephone, then the address and telephone number of the person applying on behalf of the organization shall be supplied;

(c) For a limited occasion license, the names and addresses of two or more bona fide active members of the applicant organization who are charged with overall responsibility for the applicant's online raffle operations, at least one of whom shall be virtually present and available when the winning numbers or names are drawn, announced, posted, and verified and present when the prizes are awarded; and the names and addresses of the highest elected officer of the licensee and his or her officially appointed designee, one of whom shall be virtually present and available when the winning numbers or names are drawn, announced, posted, and verified and present when the prizes are awarded; for an annual license, the names, addresses and telephone numbers of three or more bona fide active members of the applicant organization who are charged with overall responsibility for the applicant's online raffle operations, at least one of whom shall be virtually present and available when the winning numbers or names are drawn, announced, posted, and verified and present when the prizes are

awarded; and the names and addresses and telephone numbers of the highest elected officer of the licensee and his or her officially appointed designee, one of whom shall be virtually present and available when the winning numbers and names are drawn, announced, posted, and verified and present when the prizes are awarded;

(e) The address and the location of any platform provider that manages a website software system, web application, method, or process for the purpose of collecting moneys related to the sale of online raffles, securing and safekeeping all moneys collected related to the sale of online raffle tickets, disbursing moneys collected from the sale of online raffle tickets to the licensee before or after the online raffle or online raffle occasion, and conducting licensed online raffles over the Internet. A copy of all written agreements between the licensee and the platform provider providing these services shall specifically provide a statement of all costs and fees to be incurred by the licensee for receiving these services by the platform provider. A copy of any written agreements shall be provided to the Tax Commissioner;

(f) Information required by the commissioner to satisfy him or her that the applicant meets the requirements of:

(1) Being a charitable or public service organization as defined by this article; and

(2) Being in existence in this state for at least one year prior to filing an application for an online raffle license.

(g) Designate the date or dates and the time or times when the online raffle occasions will be held;

(h) State whether the applicant has ever had a previous application for any online raffle or raffle license refused, or whether any previous online raffle license or raffle license has been revoked or suspended;

(i) State the charitable or public service purpose or purposes for which the online raffle proceeds will be expended;

(j) Provide statements to the effect that the individuals specified in subdivision (c) of this section and the officers of the applicant understand:

(1) That it is a violation of this article to allow any persons other than those authorized by this article to conduct the online raffle;

(2) That they are required to file the reports and keep the records as provided by this article; and

(3) That it is a crime to violate the provisions of this article and that a violation of the provisions may result in suspension or revocation of the online raffle license or other raffle license and denial of applications for subsequent online raffle licenses or raffle licenses;

(k) Provide a sworn statement by an authorized representative of the applicant that the information contained in the application is true to the best of his or her knowledge;

(l) Provide a list and description of estimated expenses to be incurred in connection with the holding of the online raffle occasions and the name and address of each payee;

(m) A list of the names and addresses of all officers and members of the board of directors, governors or trustees, if any, of the applicant organizations; and

(n) Any other necessary and reasonable information which the commissioner may require.

#### **§47-21A-9. Amendment of license.**

If circumstances beyond the control of the licensee prohibit it from holding any online raffle occasion in accordance with the information provided by it in its license application form, the licensee may request approval by the commissioner to modify the terms and conditions of its license.

**§47-21A-10. Licensee rules and regulations.**

(a) Each licensee may adopt rules and regulations, not inconsistent with or in violation of the provisions of this article, or rules promulgated to govern the conduct of online raffle occasions.

(b) Any rules and regulations adopted by the licensee shall be made available for inspection at all raffle occasions held by way of advertising these rules and regulations on its website and by being posted conspicuously at their place of operation that was provided on its application for a license. Any adopted rules and regulations are a part of the records required to be kept by §47-21A-14 of this code.

**§47-21A-11. Limits on prizes awarded; general provisions.**

Prizes may be money, real or personal property, or merchandise other than beer, wine, spirits, or alcoholic liquor as defined in §60-1-5 of this code. If the prizes are real or personal property or merchandise, the value assigned to them is their fair market value at the time of acquisition for the online raffle or at the time of purchase.

**§47-21A-12. Compensation.**

(a) A licensee may pay a salary, the minimum of which is the federal minimum wage and the maximum of which is not more than 120 percent of the state minimum wage to operators of charitable online raffles who are either:

(1) Active members of the licensee organization and who have been active members in good standing for at least two years prior to the date of filing of the application for an online charitable raffle license or the most recent filing of an application for renewal of the license; or

(2) Employees of the licensee organization or its authorized auxiliary organization.

(b) If the licensee's gross receipts from online raffle occasions equal or exceed \$100,000 for the licensee's most recently filed

annual financial report, a salary may be paid to not more than eight operators.

(c) If the licensee's gross receipts from online charitable raffle occasions are less than \$100,000, but equal or exceed \$50,000 for the licensee's most recently filed annual financial report, a salary may be paid to not more than five operators.

(d) If the licensee's gross receipts from online charitable raffle occasions are less than \$50,000 for the licensee's most recently filed annual financial report, a salary may be paid to no more than three operators.

**§47-21A-13. Payment of reasonable expenses from proceeds; net proceeds disbursement.**

(a) The reasonable, necessary and actual expenses incurred in connection with the conduct of online raffle occasions, not to exceed 40 percent of the gross proceeds collected during a license period, may be paid out of the gross proceeds of the conduct of the online raffle, including, but not limited to:

(1) Rent paid for the use of any premises: *Provided*, That a copy of the rental agreement was filed with the online raffle license application with any modifications to the rental agreement to be filed within 10 days of being made: *Provided, however*, That in no event may the rent paid for the use of any premises exceed the fair market value of rent for the premises;

(2) The cost to the licensee organization for equipment and supplies used to conduct the online raffle occasion;

(3) The cost to the licensee organization for advertising the online raffle occasion;

(4) The costs involved in the licensee using technology, Internet service providers, servers, or other necessary infrastructure by which to advertise and conduct the online raffle or online raffle occasion;

(5) The costs relating to any platform provider that manages a website software system, web application, method, or process for the purpose of collecting moneys related to the sale of online raffles, securing and safekeeping all moneys collected related to the sale of online raffle tickets, disbursing moneys collected from the sale of online raffle tickets to the licensee before or after the online raffle or online raffle occasion, and conducting licensed online raffles over the Internet.

(b) The actual cost to the licensee for prizes, not to exceed the amounts as specified in §47-21A-11 of the code, may be paid out of the gross proceeds of the conduct of an online raffle.

(c) The licensee shall expend all net online raffle proceeds and any interest earned on the net online raffle proceeds for the charitable or public service purposes stated in the application within one year after the expiration of the license under which the online raffle occasions were conducted. A licensee which does not qualify as a qualified recipient organization may apply to the commissioner at the time it applies for an online raffle license for permission to apply any or all of its net proceeds to directly support a charitable or public service activity or endeavor which it sponsors.

(d) Gross proceeds from any online raffle occasion may not be devoted or in any manner used by any licensee or qualified recipient organization for the construction, acquisition, or improvement, of real or personal property except that which is used exclusively for one or more charitable or public service purposes or as provided in subsection (a) of this section.

(e) The Tax Commissioner may disapprove any contract for sale of goods or services to any online raffle licensee for use in or with relation to any online raffle operation or occasion, or any lease of real or tangible personal property to any online raffle licensee for use in or with relation to any online raffle operation or occasion, if the contract or lease is unreasonable or not representative of fair market value. Disapproved contracts or leases shall be considered to be in contravention of this article, and are void. Any attempt by

any online raffle licensee to engage in transactions under the terms of any disapproved lease or contract is grounds for revocation or suspension of the online raffle license or other charitable raffle license and for refusal by the Tax Commissioner to renew the online raffle license or raffle license.

(f) Any licensee which, in good faith, finds itself unable to comply with the requirements of subsections (a) through (e) of this section shall apply to the commissioner for permission to expend its net proceeds for one or more charitable or public service purposes other than that stated in its license application or for permission to expend its net proceeds later than the one-year time period specified in this section. The application shall be on a form furnished by the commissioner and shall include the particulars of the requested changes and the reasons for the changes. The application shall be filed no later than 60 days before the end of the one-year period specified in this section. In the case of an application to extend the time in which the net proceeds are to be expended for a charitable or public service purpose, the licensee shall file periodic reports with the commissioner as directed until the proceeds are expended.

#### **§47-21A-14. Records; commissioner audit.**

Any licensee which holds an online raffle occasion as provided by this article shall maintain a separate account and separate bookkeeping procedure for its online raffle operations. All records required by this article shall be maintained for at least three years and shall be open to the commissioner for reasonable inspection. Whenever the commissioner has reasonable cause to believe a licensee has violated any of the provisions of this article, he or she may perform or cause to be performed an audit of the licensee's books and records.

#### **§47-21A-15. Advertising.**

A licensee may advertise its online raffle occasions in a manner reasonably necessary to promote the occasion.

**§47-21A-16. Annual Platform Provider license; conditions on holding of online raffles.**

A platform provider may apply for an annual Platform Provider license: *Provided*, That a platform provider that has a principal place of business located within this state shall be registered with the West Virginia Secretary of State and also possess a Business Registration Certificate from the West Virginia State Tax Department: *Provided, however*, That a platform provider that has a principal place of business located outside of this state shall be registered as an appropriate foreign corporation with the West Virginia Secretary of State and also possess a Business Registration Certificate from the West Virginia State Tax Department.

**§47-21A-17. Annual Platform Provider License fee and exemption from taxes.**

A license fee shall be paid to the Tax Commissioner for annual Platform Provider licenses in the amount of \$500. All revenue from the license fee shall be deposited in the special revenue account established under the authority of §11-9-2a of this code and used to support the investigatory activities provided for in that section.

**§47-21A-18. Information required in application for an Annual Platform Provider License.**

An application for an Annual Platform Provider license shall include the following information:

(a) The name of the applicant, the legal name of the entity, the jurisdiction and locale of incorporation, telephone number, e-mail address, and the physical and mailing address of its principal place of business;

(b) A description of methods by which they manage, administer, or oversee a website software system, web application, method, or other process for the purposes of collecting moneys related to the sale of online raffles, securing and safekeeping all moneys collected related to the sale of online raffle tickets, disbursing moneys collected from the sale of online raffle tickets



to the licensee before or after the online raffle or online raffle occasion, and conducting licensed online raffles over the Internet;

(c) Provide statements that detail the costs and fee structures for any services that are provided by the platform provider.

(d) State whether the applicant has ever had a previous application for any license relating to the regulation of an online raffle refused, or whether any previous license relating to the regulation of an online raffle has been revoked or suspended;

(e) Provide statements to the effect that the individuals and entities specified in subdivision (a) of this section understand:

(1) That it is a violation of this article to allow any persons other than those authorized by this article to conduct business related to being a platform provider;

(2) That it is required to file the reports and keep the records as provided by this article; and

(3) That it is a crime to violate the provisions of this article and, that a violation of such provisions may result in suspension or revocation of the platform provider license and denial of applications for subsequent platform provider licenses;

(f) Provide a sworn statement by an authorized representative of the applicant that the information contained in the application is true to the best of his or her knowledge;

(g) A list of the names and addresses of all officers and members of the board of directors, if any, of the platform provider; and

(h) Any other necessary and reasonable information required by the commissioner.

#### **§47-21A-19. Records; commissioner audit.**

Any licensee which holds an Annual Platform Provider License as provided by this article shall maintain a bookkeeping procedure for all of its activities relating to being a platform

provider for any charitable or public service organization conducting online raffles in the state. All records required by this article shall be maintained for at least three years and shall be open to the commissioner for reasonable inspection. Whenever the commissioner has reasonable cause to believe a licensee has violated any of the provisions of this article, he or she may perform or cause to be performed an audit of the licensee's books and records.

**§47-21A-20. Fraud; penalties.**

In addition to any other offense set forth in this code, any person, platform provider, or licensee that knowingly conducts or participates in a fraudulently or deceptively conducted, or administered online raffle with intent to defraud is guilty of a felony, and, upon conviction thereof, shall be fined not less than \$500 nor more than \$10,000, or imprisoned in a correctional facility not less than one, nor more than five years, or both fined and imprisoned.

**§47-21A-21. Obtaining license fraudulently; penalty.**

In addition to any other offense set forth in this code, any person, platform provider, or licensee that knowingly obtains or assists another person in obtaining an online raffle license or platform provider license under false, deceptive, or fraudulent pretenses is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$500 nor more than \$10,000.

**§47-21A-22. Violation of provisions; crime; civil penalties.**

(a) Any person, entity, or platform provider that knowingly violates any provisions of this article, other than the provisions of §47-21A-20 or §47-21A-21 of this code is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000; and, upon a second or subsequent conviction thereof, shall be fined not less than \$100 nor more than \$100,000 or confined in jail not more than one year, or both fined and confined.

(b) In addition to any other penalty provided by law, any person, licensed or unlicensed under this article, who violates any provisions of this article, or who fails to perform any of the duties or obligations created and imposed upon them by the provisions of this article, other than the provisions of §47-21A-20 or §47-21A-21 of this code is subject to a civil penalty determined by the Tax Commissioner in an amount not to exceed \$10,000.

### **§47-21A-23. Administration; rules and regulations.**

(a) The commissioner shall propose rules for legislative approval, in accordance with the provisions of §29A-3-1 *et seq.* of this code, to administer the provisions of this article. The commissioner may promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code, to administer the provisions of this article.

(b) The commissioner shall deny an application for any license or modification thereof if he or she finds that the issuance thereof would be in violation of the provisions of this article.

(c) The commissioner may revoke, suspend, or refuse to renew any license if the licensee or any member of a licensee organization has been convicted pursuant to §47-21A-20, §47-21A-21, or §47-21A-22 of this code, and the commissioner finds that it would be in the public interest to do so; or if the licensee has violated any of the provisions of this article: *Provided*, That before revoking or suspending any license issued under the authority of this article, the commissioner shall give at least 10 days' notice to the licensee. The notice shall be in writing, state the reason for revocation or suspension, and inform the licensee of its right to petition the Office of Tax Appeals for a hearing at which the licensee may show cause why the license should not be revoked or suspended. The notice required by this section shall be by personal or substituted service, in accordance with the West Virginia rules of civil procedure for trial courts of record, on the person who applied for the license on behalf of the licensee. The licensee may, at the time designated for the hearing, present evidence in its behalf and be represented by counsel. A decision of the Office of Tax Appeals

upholding in whole or in part the revoking or suspending a license is subject to judicial review as provided in § 11-10A-19 of this code.

(d) The commissioner may suspend, revoke, or refuse to renew any license issued under this article for a material failure to maintain the records or file the reports required by this article if the commissioner finds that the failure will substantially impair the commissioner's ability to administer the provisions of this article with regard to the licensee.

(e) The provisions of § 29A-5-1 *et seq.* of this code apply to the denial, revocation, suspension of, or refusal to renew any license.

(g) The burden of proof in any administrative or court proceeding is on the applicant to show cause why any license should be issued or renewed and on the licensee to show cause why any license should not be revoked or suspended.

(h) Notwithstanding any other provision of this article, the commissioner may issue an emergency order suspending any license under the following circumstances and in the following manner:

(1) An emergency order may be issued only when the commissioner believes that:

(i) There has been a criminal violation of this article;

(ii) The action is necessary to prevent a criminal violation of this article; or

(iii) The action is necessary for the immediate preservation of the public peace, health, safety, morals, good order, or general welfare.

(2) The emergency order shall set forth the grounds upon which it is issued, including a statement of facts constituting the alleged emergency necessitating such action. This order shall be served by personal or substituted service on the licensee or the person who applied for the license on behalf of the licensee.

(3) The emergency order is effective immediately upon issuance and service upon the licensee.

(4) Within five days after issuance of an emergency order, the licensee may petition the Office of Tax Appeals to set a time and place for a hearing where the licensee may appear and show cause why its license should not be revoked.

#### **§47-21A-24. Filing of reports.**

(a) Each licensee holding an annual, limited occasion, or platform provider license shall file with the commissioner a financial report summarizing its online raffle operations within 30 days after the expiration date of the license. The time period covered by an annual report is the full license year or, at the election of a licensee receiving state or federal funding, the most recently ended state or federal fiscal year.

(b) The reports required by this section relating to a platform provider license shall additionally contain the name, address, and telephone number of each charitable organization to which the platform provider provided services. The report shall also list the specific online raffle occasions in which platform provider participated, including the date of each online raffle occasion, any costs and fees associated with these online raffle occasions, and any other information required by the commissioner.

(c) The reports required by this section relating to an annual license or a state fair license shall additionally contain the name, address, and social security number of any individual who received during the course of an online raffle occasion prizes the aggregate value of which exceeded \$100, and other information required by the commissioner: *Provided*, That any licensee failing to file the report when due is liable for a penalty of \$25 for each month or fraction of a month during which the failure continues, the penalty not to exceed \$100: *Provided, however*, That annual financial reports shall contain either a compilation or review of the financial report by a certified or licensed public accountant, or may be audited by a certified or licensed public accountant, if a licensee's gross receipts exceed \$50,000.

**§47-21A-25. Filing of copy of license; application open to public inspection.**

Whenever any license is granted pursuant to this article, the commissioner shall cause a copy of the license to be filed and recorded with the clerk of the county commission of the county in which the licensee's physical operations exist as provided in its application: *Provided*, That a platform provider license issued to an entity that has a principal place of business outside of the state shall provide a hyperlink on their website which will be directed towards a viewable version of the platform provider license. A copy of any application shall be made available for public inspection in the office of the commissioner.

**§47-21A-26. Prohibited acts by convicted persons.**

Any person convicted of any felony, or a misdemeanor for a gambling offense, or of a violation of any provision of §47-20-1 *et seq.* of this code, is prohibited from directly or indirectly obtaining an online raffle license, conducting an online raffle occasion, or leasing or providing to a licensee any premises where online raffle occasions may be overseen or held, within 10 years from said conviction.

**§47-21A-27. Proceeds of state fair.**

The Legislature declares that the net proceeds of any online raffle game which accrue to the West Virginia state fair are considered used for charitable or public service purposes as defined in §47-21A-2 of this code. Any proceeds allowed by the state fair board to be paid to or retained by persons who conduct or oversee online raffle occasions are considered to be expenses incurred by the state fair board.

**§47-21A-28. State fair online raffle license; rules and regulations.**

The West Virginia state fair board may apply annually to the Tax Commissioner for a state fair online raffle license to provide for the conduct of online raffle occasions. The license shall permit the state fair board to have one or more persons conduct online

raffle occasions who have conducted online raffle occasions on a regular basis for a least one year prior to the date of the state fair board's application. The state fair shall pay a license fee of \$500 which shall be paid to the Tax Commissioner for the state fair online raffle license. The provisions of §47-21A-11, §47-21A-12, and §47-21A-13 of the code do not apply to a state fair raffle license. A state fair online raffle license may not be issued unless the application includes a copy of any agreement entered into between the state fair board and the persons or entities who are to conduct online raffle occasions. The state fair board may adopt reasonable rules and regulations, not inconsistent with or in violation of the provisions of this article, to govern the holding of online raffle occasions.

**§47-21A-29. Additional remedies for the commissioner; administrative procedures; deposit of money penalties.**

(a) Additional remedies. Notwithstanding any provision of this article to the contrary, the commissioner may:

(1) Revoke or refuse to renew any license issued under this article for any material violation of the provisions of this article or legislative rules of the commissioner promulgated under this article;

(2) Suspend the license of any licensee for the period of time the commissioner considers appropriate, not to be less than one week nor more than 12 months, for any material violation of the provisions of this article or legislative rule of the commissioner promulgated under this article;

(3) Place any licensee on probation for not less than six months nor more than five years: *Provided*, That if a licensee is placed on probation, as a condition of the probation, the licensee shall pay to the commissioner a probation supervision fee in an amount equal to two percent of the gross proceeds derived by the licensee from the conduct of online raffle occasions, or a probation supervision fee in an amount equal to two percent of the gross proceeds derived by the licensee from the conduct of providing a platform within the state during the period of the suspension, but, in no event, may the

probation supervision fee be less than \$2,000. All probation supervision fee revenue shall be placed in a special account and used by the commissioner to offset the expenses and costs incurred by the Tax Division to supervise the licensee;

(4) Require any licensee to replace any officer who knew or should have known of a material violation of the provisions of this article or legislative rules of the commissioner promulgated under this article;

(5) Require any licensee to prohibit one or more members, supporters, volunteers, or employees of the licensee involved in acts of material violation of the provisions of this article or legislative rules of the commissioner promulgated under this article, from all future online raffle occasions held under the license, or for the period of time specified by the commissioner;

(6) Impose a civil money penalty in an amount not less than \$100 nor more than two times the annual gross proceeds derived by any licensee, for each material violation of the provisions of this article or legislative rules of the commissioner: *Provided*, That in setting any monetary penalty for a first offense, the commissioner shall take into consideration the ability of the licensee to continue to exist and operate. For each material violation which is a second or subsequent offense, the amount of the civil penalty that may be imposed may not be less than \$500 and may not exceed two times the annual gross proceeds of the licensee. The commissioner may file this rule as an emergency rule. Any licensee aggrieved by the amount of the civil penalty may surrender its license, or, after exhausting all administrative remedies, have the matter reviewed in the West Virginia Intermediate Court of Appeals; or

(7) Order any one or more, or any combination, of the penalties provided for in subdivisions (1) through (6) of this subsection: *Provided*, That no sanctions or other remedy shall be imposed under this article on a licensee which is exempt or qualified to be exempt from federal income taxation under subsection 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986, as amended, but does not have bona fide members, due to failure to operate online raffle occasions with members if the occasions are or were operated



by residents of this state who have been employed by the licensee or been meaningfully associated with the licensee for one or more years before the date of the licensee's application for a license under this article, or its last application for renewal of a license under this article.

(b) *Administrative procedures.*

(1) An order issued under this section shall be served by certified mail or in the manner provided in rule 4(d) of the West Virginia rules of civil procedure for trial courts of record, as amended.

(2) A licensee may appeal an order of the commissioner issued under this section by petitioning the Office of Tax Appeals within 20 days after the licensee is served with a copy of the order.

(3) When a petition is filed timely, the provisions of §11-10A-1 *et seq.* of this code apply.

(4) The burden of proof in any administrative or court proceeding is on the licensee to show cause why the order of the commissioner under this section should be modified, in whole or in part, or set aside.

(c) *Deposit of money penalties.* — All fines, money penalties, and fees imposed pursuant to this section, except the probation supervision fee imposed by subdivision (3), subsection (a) of this section, shall be deposited into the General Revenue Fund of this state.

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## CHAPTER 139

### **(H. B. 4700 - By Delegates Fluharty, Winzenreid, Cannon, and Hornbuckle)**

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[Passed March 8, 2024; in effect ninety days from passage.]

[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §29-22D-4 and §29-22D-15 of the Code of West Virginia, 1931, as amended, all relating to banning certain persons from sport wagering activities; directing the Lottery Commission to propose a rule for legislative approval specifying reasons for which patrons of sports gaming may be banned from engaging in sports betting; setting forth a non-inclusive list of reasons for which a patron may be banned; requiring the rule contain a procedure for lodging complaints against patrons and for investigation of complaints; and allowing the Commission or an operator to continue banning persons from certain areas of a gaming facility until the Commission promulgates the rule.

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

### **ARTICLE 22D. WEST VIRGINIA LOTTERY SPORTS WAGERING ACT.**

#### **§29-22D-4. Commission duties and powers.**

(a) In addition to the duties set forth elsewhere in this article, §29-22-1 *et seq.*, §29-22A-1 *et seq.*, §29-22B-1 *et seq.*, §29-22C-1 *et seq.*, and §29-25-1 *et seq.* of this code, the commission may regulate sports pools and the conduct of sports wagering under this article.

(b) The commission shall examine the regulations implemented in other states where sports wagering is conducted

and shall, as far as practicable, adopt a similar regulatory framework through promulgation of rules.

(c) The commission may, pursuant to §29A-1-1, *et seq.* and §29A-3-1, *et seq.* of this code, promulgate or otherwise enact any legislative, interpretive, and procedural rules the commission considers necessary for the successful implementation, administration, and enforcement of this article.

(1) Rules promulgated by the commission may include, but are not limited to, those governing the acceptance of wagers on a sports event or a series of sports events; maximum wagers which may be accepted by an operator from any one patron on any one sports event; type of wagering tickets which may be used; method of issuing tickets; method of accounting to be used by operators; types of records which shall be kept; use of credit and checks by patrons; type of system for wagering; protections for patrons placing wagers; and promotion of social responsibility, responsible gaming, and inclusion of the statement, “If you or someone you know has a gambling problem and wants help, call 1-800 GAMBLER,” in every designated area approved for sports wagering and on any mobile application or other digital platform used to place wagers.

(2) The commission shall establish minimum internal control standards (MICS) and approve minimum internal control standards proposed by licensed operators for administration of sports wagering operations, wagering equipment and systems, or other items used to conduct sports wagering, as well as maintenance of financial records and other required records.

(d) The commission shall propose a rule for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code that enumerates the reasons for which patrons of sports gaming may be banned from engaging in sports betting. The list of reasons for which patrons may be banned shall include, but not be limited to:

(1) A prior conviction under §61-2-15a of this code;

(2) A prior violation of an order of the commission; or

(3) If the commission determines that the person poses a threat to the safety of patrons or participants in a sporting event or determines that the person has engaged in a pattern of conduct of harassing a sports official, coach, or any participants.

(e) The rule shall also set forth the procedure by which complaints against patrons are lodged with and investigated by the commission. The commission shall notify a patron of the commission's intent to ban the patron from sports betting, and the patron is entitled to a hearing before the commission pursuant to §29A-5-1 *et seq.* of this code.

(f) The commission shall determine the eligibility of a person to hold or continue to hold a license, shall issue all licenses, and shall maintain a record of all licenses issued under this article.

(g) The commission shall levy and collect all fees, surcharges, civil penalties, and weekly tax on adjusted gross sports wagering receipts imposed by this article, and deposit all moneys into the sports wagering fund, except as otherwise provided under this article.

(h) The commission may sue to enforce any provision of this article or any rule of the commission by civil action or petition for injunctive relief.

(i) The commission may hold hearings, administer oaths, and issue subpoenas or subpoenas duces tecum: *Provided*, That all hearings shall be conducted pursuant to the provisions of the State Administrative Procedures Act, §29A-2-1, *et seq.* of this code and the Lottery Administrative Appeal Procedures, W.Va. CSR §179-2-1, *et seq.*

(j) The commission may exercise any other powers necessary to effectuate the provisions of this article and the rules of the commission.

**§29-22D-15. Authorization of sports wagering in this state; requirements.**

(a) An operator shall accept wagers on sports events and other events authorized under this article from persons physically present in a licensed gaming facility where authorized sports wagering occurs, or from persons not physically present who wager by means of electronic devices. A person placing a wager shall be at least 21 years of age.

(b) An operator may accept wagers from an individual physically located within this state using a mobile or other digital platform or a sports wagering device, approved by the commission, through the patron's sports wagering account.

(c) An operator may accept wagers from an individual physically located in a state or jurisdiction with which the commission has entered into a sports wagering agreement using a mobile or other digital platform or a sports wagering device through the patron's sports wagering account, so long as the device or platform is approved by the commission and all other requirements of the agreement are satisfied.

(d) Until such time as a rule proposed by the commission is approved for promulgation by the Legislature, the commission or operator may ban any person from entering a gaming area of a gaming facility conducting sports wagering or the grounds of a gaming facility licensed under this article or from participating in the play or operation of any West Virginia Lottery sports wagering. A log of all excluded players shall be kept by the commission and each licensee, and no player on the commission's exclusion list or the licensed operator's exclusion list shall wager on any West Virginia Lottery sports wagering under this article.

(e) The commission shall promulgate rules implementing the provisions of §29-22D-15(a) of this code by interpretive rule and minimum internal control standards.

(f) The commission shall, when a federal law is enacted or repealed or when a federal court decision is issued that permits a

state to regulate sports wagering, publish a notice in the State Register notifying the public of the enactment or repeal of federal law or of the issuance of the court decision. The commission may not conduct sports wagering in this state until the notice prescribed in this subsection is published in the State Register.

(g) A licensed gaming facility employee may not place a wager on any sports wagering at the employer's facility or through any other mobile application or digital platform of his or her employer.

(h) A commission employee may not knowingly wager or be paid any prize from any wager placed at any licensed gaming facility with West Virginia Lottery sports wagering within this state or at any facility outside this jurisdiction that is directly or indirectly owned or operated by a sports wagering licensee.

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## CHAPTER 140

**(Com. Sub. for H. B. 5668 - By Delegates Hanshaw (Mr. Speaker) and Fluharty)**

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[Passed March 9, 2024; in effect ninety days from passage.]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-22-30, relating to the creation of the Responsible Gaming and Research and Industry Development Act; creating a short title; providing for gaming data collection by West Virginia University; permitting sharing of such data for research purposes, exempting the data from the Freedom of Information Act; requiring and providing for preparation of the report; requiring West Virginia University of develop new programs or expand upon existing programs relating to responsible gaming, entertainment, and hospitality.

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

### **ARTICLE 22. STATE LOTTERY ACT.**

**§29-22-30. Responsible Gaming and Research and Industry Development Act; gaming data research and analysis for scholarly purposes; higher education curriculum development; preparation of report.**

(a) *Short Title* – The provisions of this section may be cited as “The Responsible Gaming and Research and Industry Development Act.”

(b)(1) For the purposes of research only, West Virginia University shall be permitted to analyze transactional data and metrics of the type collected and maintained by the West Virginia Lottery as of March 1, 2024, related to gaming operations

conducted in the state. For purposes of this section, “transactional data and metrics” refers to items such as demographic data, usage data, utilization of responsible gaming features, account suspension, complaints and financial information, including deposits, withdrawals, bonus usage, balance statements and bet-level data, as determined in the sole discretion of the West Virginia Lottery.

(2) Data provided by the West Virginia Lottery to West Virginia University for research purposes pursuant to this section is:

(A) To be transmitted in an anonymized manner by the West Virginia Lottery to West Virginia University, through hashing or other means, and excluding all personally identifiable information;

(B) Not a public record; and

(C) Is exempt from public inspection and copying under the West Virginia Freedom of Information Act, §29B-1-1 *et seq.* of this code.

(3) The university, upon receiving data, shall not disclose the data provided to this section to any person, except:

(A) For the purpose of conducting the research described in this section;

(B) As part of a peer-reviewed research report; or

(C) To gaming operators pursuant to a written request delivered to the West Virginia Lottery.

(c) West Virginia University shall develop a new program or alter or expand existing programs to include courses, training, certificates, initiatives or other methods designated to foster innovation in gaming technology development, and prepare students for careers in racing, gaming, gaming operations, hospitality management, guest relations, entertainment, and other amenities typically offered in conjunction with gaming operations.



(d) Commencing on January 1, 2026, and continuing annually thereafter, the State Lottery Commission, or a successor agency or agencies, shall annually cause a comprehensive report to be prepared and distributed to the Joint Committee on Government and Finance on the impact of casino, video lottery, iGaming, racing, iLottery, and sports wagering on players and on the state's economy, innovation in gaming technologies and gaming operations resulting from West Virginia University's research authorized under this section, curriculum developed to educate future leaders in the state's gaming and racing industries, and policy proposals developed by the West Virginia Lottery from the research authorized under this section. The report shall be prepared and distributed with the cooperation of West Virginia University.

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## CHAPTER 141

### **(Com. Sub. for S. B. 217 - By Senators Woodrum, Swope, and Deeds)**

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[Passed March 8, 2024; in effect from passage]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-22-4, relating to providing the state and its political subdivisions with ability and process by which to negotiate lower price for construction work when all bids received exceed the maximum budgeted amount; establishing ability to make negotiated award to lowest responsive and responsible bidder when there are multiple bidders; and setting sunset date.

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

#### **ARTICLE 22. GOVERNMENT CONSTRUCTION CONTRACTS.**

##### **§5-22-4. Negotiation when all bids exceed budgeted amount.**

(a) The state and its subdivisions may establish a maximum budgeted amount for each construction project. In the event the bids for a construction project exceed the funds available, the contracting public agency may negotiate with the lowest qualified responsible bidder pursuant to the provisions of this section.

(b) To utilize the provisions of this section, the contracting public agency shall:

(1) establish a maximum budgeted amount;

(2) maintain confidentiality of the maximum budgeted amount prior to the award of a contract; and

(3) not proceed with a negotiated award if that results in more than a ten percent change in scope or cost from the original base bid.

(c) A negotiated award made pursuant to the provisions of this section shall be made within 30 calendar days of the original bid opening date.

(d) Negotiations under this section shall be completed in the following manner:

(1) If only one responsive and responsible bidder responds to a solicitation the contracting agency may negotiate an award based solely on the specifications contained within the original solicitation;

(2) If more than one bidder responds to a solicitation, the contracting public agency may negotiate with the apparent lowest qualified responsible bidder, as defined in §5-22-1 of this code: *Provided*, any such negotiation must be based on the scope and specifications contained within the original solicitation;

(3) The contracting public agency shall make available for public inspection all negotiated contracts; and

(4) The contracting public agency shall memorialize any change to the original project specifications that occur as a result of a negotiated award made pursuant to the provisions of this section.

(e) The provisions of this section are permissive and not mandatory for any contracting public agency.

(f) An award of a negotiated contract pursuant to the provisions of this section may not be made to a bidder who fails to meet the other qualifications set forth in this article.

(g) For the purposes of this section, “construction project” does not mean the construction of a road, bridge, or highway.

(h) The provisions of this section expire and shall have no force and effect after December 31, 2029.

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## CHAPTER 142

**(Com. Sub. for Com. Sub. for S. B. 453 - By Senators Tarr,  
Woodrum, Grady, Rucker, Stuart, Maroney, Roberts, Deeds,  
and Phillips)**

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[Passed March 9, 2024; in effect 90 days from passage (June 7, 2024)]

[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §5-16-9 of the Code of West Virginia, 1931, as amended, relating to the Public Employees Insurance Agency; prohibiting a pharmacy benefit manager from reimbursing certain pharmacies or pharmacists in an amount less than the national average drug acquisition cost for a prescription drug or pharmacy service; requiring the pharmacy benefit manager to pay a dispensing fee at least equal to the fee paid by West Virginia Medicaid; providing for alternative payment calculation in the event that the national average drug acquisition cost is not available; defining terms; providing effective date; requiring additional pharmacy data variables be reported to the Public Employees Insurance Agency; removing language requiring data provided by the pharmacy benefit manager to be kept confidential; requiring the director of the Public Employees Insurance Agency to report on an annual basis; requiring the Public Employees Insurance Agency to require specific terms in its contract with a pharmacy benefit manager; requiring a study; providing for a due date for the findings in the study; and making technical corrections.

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

### **ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.**

**§5-16-9. Authorization to execute contracts.**

(a) The director is given exclusive authorization to execute such contract or contracts as are necessary to carry out the provisions of this article.

(b) The provisions of §5A-3-1 *et seq.* of this code, relating to the Division of Purchasing of the Department of Finance and Administration, shall not apply to any contracts for any insurance coverage or professional services authorized to be executed under the provisions of this article. Before entering into any contract for any insurance coverage, as authorized in this article, the director shall invite competent bids from all qualified and licensed insurance companies or carriers that may wish to offer plans for the insurance coverage desired. The director shall negotiate and contract directly with health care providers and other entities, organizations, and vendors in order to secure competitive premiums, prices, and other financial advantages. The director shall deal directly with insurers or health care providers and other entities, organizations, and vendors in presenting specifications and receiving quotations for bid purposes. No commission or finder's fee, or any combination thereof, shall be paid to any individual or agent: *Provided*, That this shall not preclude an underwriting insurance company or companies, at their own expense, from appointing a licensed resident agent within this state to service the companies' contracts awarded under the provisions of this article. Commissions reasonably related to actual service rendered for the agent or agents may be paid by the underwriting company or companies. In no event shall payment be made to any agent or agents when no actual services are rendered or performed. The director shall award the contract or contracts on a competitive basis. In awarding the contract or contracts, the director shall consider the experience of the offering agency, corporation, insurance company, or service organization in the group hospital and surgical insurance field, group major medical insurance field, group prescription drug field, and group life and accidental death insurance field, and its facilities for the handling of claims. In evaluating these factors, the director may employ the services of impartial, professional insurance analysts or actuaries, or both. Any

contract executed by the director with a selected carrier shall be a contract to govern all eligible employees subject to the provisions of this article. Nothing contained in this article shall prohibit any insurance carrier from soliciting employees covered hereunder to purchase additional hospital and surgical, major medical, or life and accidental death insurance coverage.

(c) The director may authorize the carrier with whom a primary contract is executed to reinsure portions of the contract with other carriers which elect to be a reinsurer and who are legally qualified to enter into a reinsurance agreement under the laws of this state.

(d) Each employee who is covered under any contract or contracts shall receive a statement of benefits to which the employee, his or her spouse, and his or her dependents are entitled under the contract, setting forth the information as to whom the benefits are payable, to whom claims shall be submitted, and a summary of the provisions of the contract or contracts as they affect the employee, his or her spouse, and his or her dependents.

(e) The director may at the end of any contract period discontinue any contract or contracts it has executed with any carrier and replace the same with a contract or contracts with any other carrier or carriers meeting the requirements of this article.

(f) The director shall include language in all contracts for pharmacy benefits management, as defined by §33-51-3 of this code, requiring the pharmacy benefit manager to report quarterly to the agency the following:

(1) The overall total amount charged to the agency for all claims processed by the pharmacy benefit manager during the quarter;

(2) The overall total amount of reimbursements paid to pharmacy providers during the quarter;

(3) The overall total number of claims in which the pharmacy benefits manager reimbursed a pharmacy provider for less than the amount charged to the agency for all claims processed by the pharmacy benefit manager during the quarter; and

(4) For all pharmacy claims, the total amount paid to the pharmacy provider per claim, including, but not limited to, the following:

(A) The cost of drug reimbursement;

(B) Dispensing fees;

(C) Copayments;

(D) The amount charged to the agency for each claim by the pharmacy benefit manager;

(E) Date of service;

(F) NDC-11;

(G) Drug name;

(H) Drug strength;

(I) Quantity;

(J) Days of therapy;

(K) Rx count;

(L) Mail/retail code;

(M) Brand/generic indicator;

(N) Specialty drug indicator;

(O) Compound indicator;

(P) Formulary indicator;

(Q) Gross cost;

(R) Member cost;

(S) Plan cost;

(T) Dispense as written;

- (U) Pharmacy NPI number;
- (V) Pharmacy Claim ID;
- (W) Prescriber NPI number;
- (X) Pharmacy name; and
- (Y) Ingredient cost.

In the event there is a difference between the amount for any pharmacy claim paid to the pharmacy provider and the amount reimbursed to the agency, the pharmacy benefit manager shall report an itemization of all administrative fees, rebates, or processing charges associated with the claim. The director shall provide an annual report to the Joint Committee on Health detailing the information required by this section, including any difference or spread between the overall amount paid by pharmacy benefit managers to the pharmacy providers and the overall amount charged to the agency for each claim by the pharmacy benefit manager. To the extent necessary, the director shall use aggregated, nonproprietary data only: *Provided*, That the director must provide a clear and concise summary of the total amounts charged to the agency and reimbursed to pharmacy providers on an annual basis.

(g) If the information required herein is not provided, the agency may terminate the contract with the pharmacy benefit manager and the Office of the Insurance Commissioner shall discipline the pharmacy benefit manager as provided in §33-51-8(e) of this code.

(h) The Public Employees Insurance Agency shall contract with networks to provide care to its members out of state.

(i) The Public Employees Insurance Agency shall require each of the following in its requests for proposals and contracts with a pharmacy benefit manager:

(1) The pharmacy benefit manager shall disclose all information and data related to contracting, reimbursement, networks, rebates, fees, and any other information and data



requested by the Public Employees Insurance Agency, the Legislature, and vendors for the purpose of performing study and analysis. Effective with the changes made to this section during the regular session of the Legislature, 2024, a comprehensive pharmacy business intelligence study and analysis shall be conducted by an organization with expertise in studying and analyzing pharmacy benefit managers to determine what, if any, changes could be made to facilitate savings with respect to the Public Employees Insurance Agency's pharmacy benefit manager services. A final report, including recommendations, shall be presented no later than December 31, 2024, to the Public Employees Insurance Agency and the Joint Committee on Government and Finance.

(2) A pharmacy benefit manager shall not reimburse a West Virginia pharmacy or pharmacist for a prescription drug or pharmacy service in an amount less than the national average drug acquisition cost for a prescription drug or pharmacy service at the time the drug is administered or dispensed, plus a professional dispensing fee at least equal to the professional dispensing fee paid by West Virginia Medicaid for outpatient drugs. Increases to the professional dispensing fee may be set by the Director in accordance with this subdivision: *Provided*, That if the national average drug acquisition cost is not available at the time a drug is administered or dispensed, a pharmacy benefit manager may not reimburse a West Virginia pharmacy or pharmacist in an amount that is less than the wholesale acquisition cost of the drug, as defined in 42 U.S.C. § 1395w-3a(c)(6)(B), plus a dispensing fee as described in this subdivision. A West Virginia pharmacy is a domestic business entity as registered with the West Virginia Secretary of State. The provisions in this subdivision shall be effective for the Public Employees Insurance Agency plan year beginning on July 1, 2024.

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## CHAPTER 143

(Com. Sub. for Com. Sub. for S. B. 482 - By Senator  
Woodrum)

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[Passed March 8, 2024; in effect 90 days from passage (June 6, 2024)]

[Approved by the Governor on March 22, 2024.]

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AN ACT to amend and reenact §6B-2-2 of the Code of West Virginia, 1931, as amended; and to repeal §6B-2A-1 of said code, relating to the rule-making authority of the Ethics Commission; authorizing the Ethics Commission to propose legislative rules to carry out purposes of chapter; and requiring disclosure forms, statements, and reports required by chapter to be made in a manner prescribed by legislative rule.

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

**ARTICLE 2. WEST VIRGINIA ETHICS COMMISSION;  
POWERS AND DUTIES; DISCLOSURE OF FINANCIAL  
INTEREST BY PUBLIC OFFICIALS AND EMPLOYEES;  
APPEARANCES BEFORE PUBLIC AGENCIES; CODE  
OF CONDUCT FOR ADMINISTRATIVE LAW JUDGES.**

**§6B-2-2. General powers and duties.**

(a) The commission may propose rules for promulgation in accordance with the provisions of §29A-1-1 *et seq.* of this code to carry out the purposes of this chapter: *Provided*, That any disclosure form, statement, or report required under any provision of this chapter shall be made in a manner prescribed by legislative rule of the commission.

(b) The commission may initiate or receive complaints and make investigations, as provided in §6B-2-4 of this code, and upon complaint by an individual of an alleged violation of this chapter

by a public official or public employee, refer the complaint to the review board as provided in §6B-2-2a of this code. Any person charged with a violation of this chapter is entitled to the administrative hearing process contained in §6B-2-4 of this code.

(c) The commission may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence, and require by subpoena the production of books, papers, records, or other evidence needed for the performance of the commission's duties or exercise of its powers, including its duties and powers of investigation.

(d) The commission shall, in addition to its other duties:

(1) Prescribe forms for reports, statements, notices, and other documents required by law;

(2) Prepare and publish manuals and guides explaining the duties of individuals covered by this law; and giving instructions and public information materials to facilitate compliance with, and enforcement of, this act; and

(3) Provide assistance to agencies, officials, and employees in administering the provisions of this act.

(e) The commission may:

(1) Prepare reports and studies to advance the purpose of the law;

(2) Contract for any services which cannot satisfactorily be performed by its employees;

(3) Require the Attorney General to provide legal advice without charge to the commission;

(4) Employ additional legal counsel;

(5) Request appropriate agencies of the state to provide any professional assistance the commission may require in the discharge of its duties: *Provided*, That the commission shall

reimburse any agency, other than the Attorney General, the cost of providing assistance; and

(6) Share otherwise confidential documents, materials, or information with appropriate agencies of state government, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material, or information.

## **ARTICLE 2A. RULES.**

### **§6B-2A-1. Legislative rules; revocation of existing commission emergency rules; manner of reporting.**

[Repealed.]

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## CHAPTER 144

**(S. B. 605 - By Senators Nelson, Hunt, and Hamilton)**

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[Passed February 16, 2024; in effect 90 days from passage (May 16, 2024)]

[Approved by the Governor on February 28, 2024.]

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AN ACT to amend and reenact §5-10D-12 of the Code of West Virginia, 1931, as amended, relating to the Consolidated Public Retirement Board; and requiring participating public employers to remit retirement contributions and fees by electronic funds transfer.

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

### **ARTICLE 10D. CONSOLIDATED PUBLIC RETIREMENT BOARD.**

#### **§5-10D-12. Employer reporting requirements; payments by electronic funds transfer.**

(a) Pursuant to its responsibility as a regulatory body, the Consolidated Public Retirement Board shall collect all information regarding individuals employed with a participating public employer of a retirement system administered pursuant to this article necessary to ensure compliance with retirement plan provisions. All participating public employers of a public retirement system administered pursuant to this article shall promptly report all individuals employed with the participating public employer to the board and include information regarding the individual including, but not limited to, the individual's name, Social Security number, gross salary or compensation, rate of pay, hours or days worked or paid, type of pay (salary, hourly or per diem), employment contract period, job title, permanent or temporary employment, full-time or part-time employment, scheduled hours and benefit eligibility.

(b) All participating public employers of a public retirement system administered pursuant to this article shall remit all retirement contributions and fees owed to the Consolidated Public Retirement Board by electronic funds transfer beginning July 1, 2024. Failure to comply will result in a \$300 surcharge for each paper check submission. The executive director of the board or his or her designee may waive the surcharge on an emergency basis or for an extenuating circumstance.

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## CHAPTER 145

**(S. B. 790 - By Senators Blair (Mr. President) and Woelfel)**

**[By Request of the Executive]**

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[Passed February 19, 2024; in effect from passage]  
[Approved by the Governor on February 28, 2024.]

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AN ACT to amend and reenact §29-1-1 of the Code of West Virginia, 1931, as amended, relating to changing reference from the Curator of the Department of Arts, Culture, and History to the Secretary of the Department of Arts, Culture, and History.

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

### **ARTICLE 1. DIVISION OF CULTURE AND HISTORY.**

**\*§29-1-1. Division of Culture and History continued as the Department of Arts, Culture, and History; sections and commissions; purposes; definitions; effective date.**

(a) The Division of Culture and History heretofore created is hereby continued as the Department of Arts, Culture, and History. The Governor shall nominate and, by and with the advice and consent of the Senate, appoint the Cabinet Secretary of Arts, Culture, and History, who shall be the chief executive officer of the department and shall be paid an annual salary as provided in §6-7-2a of this code. The secretary so appointed shall have: (1) A bachelor's degree in one of the fine arts, social sciences, library science, or a related field; or (2) four years' experience in the administration of museum management, public administration, arts, history, or a related field.

(b) The department shall consist of seven sections as follows:

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**\*NOTE:** This section was also amended by S. B. 865 (Chapter 147), which passed subsequent to this Act.

- (1) The arts section;
- (2) The archives and history section;
- (3) The museums section;
- (4) The historic preservation section;
- (5) The state library section;
- (6) The National Coal Heritage Area Commission; and
- (7) The administrative section.

(c) The department shall also consist of three citizens commissions as follows:

- (1) A Commission on the Arts;
- (2) A Commission on Archives and History; and
- (3) A Library Commission.

(d) The secretary shall exercise control and supervision of the department and shall be responsible for the projects, programs, and actions of each of its sections. The purpose and duty of the department is to advance, foster, and promote the creative and performing arts and crafts, including both indoor and outdoor exhibits and performances; to advance, foster, promote, identify, register, acquire, mark, and care for historical, prehistorical, archaeological, and significant architectural sites, structures, and objects in the state; to encourage the promotion, preservation, and development of significant sites, structures, and objects through the use of economic development activities such as loans, subsidies, grants, and other incentives; to coordinate all cultural, historical, and artistic activities in state government and at state-owned facilities; to acquire, preserve, and classify books, documents, records, and memorabilia of historical interest or importance; and, in general, to do all things necessary or convenient to preserve and advance the arts, humanities, culture, and history of the state. In the furtherance of these purposes and duties, the secretary shall report directly to the Governor as a curator for both the intrinsic and



extrinsic value for individuals, communities, and the economy of the arts, humanities, culture, and history in West Virginia. As such, the secretary shall represent the Department of Arts, Culture, and History as a full participating member in meetings of the secretaries of the departments created in §5F-1-2 of this code that are convened at the call of the Governor.

(e) The department shall have jurisdiction and control and may set and collect fees for the use of all space in the building presently known as the West Virginia Science and Culture Center, including the deck and courtyards forming an integral part thereof; the building presently known as West Virginia Independence Hall in Wheeling, including all the grounds and appurtenances thereof; Camp Washington Carver in Fayette County, as provided in §29-1-14 of this code; and any other sites as may be transferred to or acquired by the department. Notwithstanding any provision of this code to the contrary, beginning on and after July 1, 2018, the department shall have responsibility for, and control of, all visitor touring and visitor tour guide activities within the Capitol Building at Charleston.

(f) For the purposes of this article, "commissioner" or "curator" means the Cabinet Secretary of Arts, Culture, and History, and "division" or "department" means the Department of Arts, Culture, and History. References throughout this code to the "Commissioner/Curator of Culture and History" mean the "Cabinet Secretary of Arts, Culture, and History", and references throughout this code to the "Division of Culture and History" mean the "Department of Arts, Culture, and History".

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CHAPTER 146

(Com. Sub. for S. B. 844 - By Senator Woodrum)

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[Passed March 6, 2024; in effect from passage]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §10-5-1, §10-5-2, and §10-5-3 of the Code of West Virginia, 1931, as amended, all relating to Educational Broadcasting Authority; changing name of Educational Broadcasting Authority to Educational Broadcasting Commission; reducing number of commission members; authorizing Secretary of Department of Arts, Culture, and History to appoint commission director; and making technical corrections.

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

**ARTICLE 5. EDUCATIONAL BROADCASTING COMMISSION.**

**§10-5-1. Legislative findings; definitions.**

(a) The Legislature hereby finds and declares that:

(1) It is the duty of this state to provide the best educational training possible for all its citizens;

(2) The encouragement and use of noncommercial educational radio, television, and related media operating and originating from educational broadcasting, closed circuit, or related facilities located at a site or sites within this state serving all the citizens of this state on a regional basis or as part of a coordinated statewide plan is a proper, necessary and beneficial means of providing and extending enriched educational instruction to all the citizens of this state at

the preschool, elementary, secondary, and higher education and adult levels;

(3) Private nonprofit corporations have been established in this state for the sole purpose of raising funds for the financial support of the state's Public Broadcasting Network, which funds have been a vital source of private funding for the commission and enure to the benefit of all the citizens of the state; and

(4) Because of the unique educational benefit conferred upon and available to all the citizens of the state by the efforts of the commission and the private nonprofit corporations established for the sole purpose of providing support for public broadcasting in this state, authorizing the commission to allow its employees to work with, and its property and facilities to be used by, the private nonprofit corporations is a proper, necessary, and beneficial means of providing financial support for the state's Public Broadcasting Network.

(b) The following terms have the following meanings:

"Commission" means the Educational Broadcasting Commission established by the provisions of this article. References to "Educational Broadcasting Authority" or "the authority" throughout this article shall mean the Educational Broadcasting Commission unless the context in which used plainly requires a different meaning.

"Distance learning" means educational courses, seminars, programs, and teleconferences transmitted electronically and designed to instruct students who are remote from the instructor or other participants; such courses, seminars, programs, and teleconferences may constitute all or a significant portion of a class offered for college or public school credit, or they may be provided for faculty development, continuing professional education, for training employees of governmental agencies, nonprofit organizations, business, or industry;

"EdNet" means those individuals identified as an enterprise of the university of West Virginia college of graduate studies and

West Virginia state college on behalf of the state college and university systems who are delegated the responsibility for developing, operating, and maintaining facilities for the production and transmission of distance learning; and

"SatNet" means those individuals identified as an enterprise of the state college and university systems who are delegated the responsibility for developing and providing distance learning.

**§10-5-2. West Virginia Educational Broadcasting Commission; members; organization; officers; employees; meetings; expenses.**

(a) The West Virginia Educational Broadcasting Commission is continued as a public benefit corporation. The commission shall consist of nine voting members, who shall be residents of the state, including:

(1) The Governor or designee;

(2) The State Superintendent of Schools;

(3) One member of the West Virginia Board of Education to be selected by it annually;

(4) One member of the West Virginia Higher Education Policy Commission to be selected by it annually; and

(5) Five members appointed by the Governor by and with the advice and consent of the Senate for overlapping terms of five years, one term expiring each year.

(b) Not less than one appointive member shall come from each congressional district. Any vacancy among the appointed members shall be filled by the Governor by appointment for the unexpired term.

(c) Employees of noncommercial broadcasting stations in West Virginia are not eligible for appointment to the commission.

(d) The commission shall annually select a member to serve as the chair. The commission shall annually select one of its public

members as vice chair and shall appoint a secretary who need not be a member of the commission and who shall keep records of its proceedings.

(e) The Cabinet Secretary of the Department of Arts, Culture, and History shall appoint the commission section director and fix his or her salary. The commission section director is responsible for managing and administering the daily functions of the commission and for performing all other functions necessary to the effective operation of the commission. The commission may establish offices for the proper performance of its duties.

(f) The commission shall hold at least one annual meeting. The time and place of the meetings shall be established upon its own resolution or at the call of the chairperson of the commission. The members shall serve without compensation but may be reimbursed for all reasonable and necessary expenses actually incurred in the performance of their duties in a manner consistent with the guidelines of the Travel Management Office of the Department of Administration.

### **§10-5-3. Powers of commission.**

The commission may:

(1) Act as advisor and consultant to television and radio stations concerning noncommercial educational programs supported by federal, state, county, city, or private funds;

(2) Cooperate with and assist all local and state educational institutions in planning and development of the use of educational radio, television, and related media;

(3) Promote and coordinate the use of these media for noncommercial educational purposes;

(4), Construct, maintain, and operate educational broadcasting, closed circuit, or related facilities located at a suitable site or sites within this state including, without limitation thereby, production centers, broadcasting stations, and an audio-video microwave

system for a statewide broadcasting network connecting such communities or stations as may be designated by the commission;

(5) Acquire in the name of the state for the use and benefit of the commission by purchase, lease, or agreement, any property, both real and personal, and any interest in such property necessary to carry out the provisions of this article;

(6) Apply for and receive any license from the appropriate federal agency necessary to operate any educational broadcasting, closed circuit, or related facility;

(7) Supervise and approve the origination and transmission of all noncommercial educational radio, television, and related media programs in this state which would be carried through the facilities of a state network;

(8) Employ such personnel as may be necessary to operate and maintain any facility created under the provisions of this article, and to work with private nonprofit corporations to raise funds for the financial support of the state's public broadcasting network;

(9) Lease from communications common carriers and use such transmission channels as may be necessary or, if it determines it could more economically construct and maintain such transmission channels, it may design, construct, maintain, and operate the same, including an audio-video microwave network;

(10) Sue and be sued, plead and be impleaded;

(11) Contract and be contracted with, including the power to enter into contracts with any person, firm, or corporation, including any like commission of neighboring states; and shall have the authority, within state regulations, to enter into program royalty and distribution contracts and receive moneys for these purposes: *Provided*, That any proceeds from such contracts shall be used by the commission for noncommercial purposes only;

(12) Have and use a corporate seal;

(13) Promulgate reasonable rules to carry out the provisions of this article in accordance with §29A-3-1 *et seq.* of this code; and

(14) Perform such other services on behalf of noncommercial educational radio, television, and related media as it may consider to be in the best interest of the state, including the use of the commission's employees, property, and facilities for the purpose of raising funds for the support of public broadcasting.

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## CHAPTER 147

**(Com. Sub. for S. B. 865 - By Senators Woodrum, Woelfel,  
Maroney, and Grady)**

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[Passed March 6, 2024; in effect from passage]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend and reenact §5F-2-1 of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-1-1 of said code, all relating to adding the Educational Broadcasting Commission as a section under the Department of Arts, Culture and History as a separate, but not independent agency; changing the designation of the Division of Culture and History as a separate independent agency to an agency within the Executive Branch as the Department of Arts, Culture, and History; adding the Educational Broadcasting Commission as one of the eight sections within the Department of Arts, Culture, and History; and adding the Educational Broadcasting Council as one of the citizen commissions existing within the Department of Arts, Culture, and History.

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

### **CHAPTER 5F. REORGANIZATION OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT.**

#### **ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.**

##### **§5F-2-1. Transfer and incorporation of agencies and boards; funds.**

(a) The following agencies and boards, including all of the allied, advisory, affiliated, or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Administration:



(1) Public Employees Insurance Agency provided in §5-16-1 *et seq.* of this code;

(2) Governor's Mansion Advisory Committee provided in §5A-5-1 *et seq.* of this code;

(3) Commission on Uniform State Laws provided in §29-1A-1 *et seq.* of this code;

(4) West Virginia Public Employees Grievance Board provided in §6C-3-1 *et seq.* of this code;

(5) Board of Risk and Insurance Management provided in §29-12-1 *et seq.* of this code;

(6) Boundary Commission provided in §29-23-1 *et seq.* of this code;

(7) Public Defender Services provided in §29-21-1 *et seq.* of this code;

(8) Division of Personnel provided in §29-6-1 *et seq.* of this code;

(9) West Virginia Ethics Commission provided in §6B-2-1 *et seq.* of this code;

(10) Consolidated Public Retirement Board provided in §5-10D-1 *et seq.* of this code; and

(11) Real Estate Division provided in §5A-10-1 *et seq.* of this code.

(b) The following agencies and boards, including all of the allied, advisory, affiliated, or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Commerce:

(1) Division of Labor provided in §21-1-1 *et seq.* of this code, which includes:

(A) Occupational Safety and Health Review Commission provided in §21-3A-1 *et seq.* of this code; and

(B) Board of Manufactured Housing Construction and Safety provided in §21-9-1 *et seq.* of this code.

(2) Office of Miners' Health, Safety, and Training provided in §22A-1-1 *et seq.* of this code. The following boards are transferred to the Office of Miners' Health, Safety, and Training for purposes of administrative support and liaison with the Office of the Governor:

(A) Board of Coal Mine Health and Safety and Coal Mine Safety and Technical Review Committee provided in §22A-6-1 *et seq.* of this code;

(B) Board of Miner Training, Education, and Certification provided in §22A-7-1 *et seq.* of this code; and

(C) Mine Inspectors' Examining Board provided in §22A-9-1 *et seq.* of this code.

(3) Division of Natural Resources and Natural Resources Commission provided in §20-1-1 *et seq.* of this code;

(4) Division of Forestry provided in §19-1A-1 *et seq.* of this code;

(5) Geological and Economic Survey provided in §29-2-1 *et seq.* of this code;

(6) Workforce West Virginia provided in chapter 21A of this code, which includes:

(A) Division of Unemployment Compensation;

(B) Division of Employment Service;

(C) Division of Workforce Development;

(D) Division of Research, Information and Analysis; and

(7) Division of Rehabilitation Services provided in §18-10A-1 *et seq.* of this code.

(c) The Economic Development Authority provided in §31-15-1 *et seq.* of this code is continued as an independent agency within the executive branch.

(d) The Water Development Authority and the Water Development Authority Board provided in §22C-1-1 *et seq.* of this code is continued as an independent agency within the executive branch.

(e) The West Virginia Educational Broadcasting Authority provided in §10-5-1 *et seq.* of this code is continued as a separate agency within the Department of Arts, Culture, and History, which shall provide administrative support for the authority.

(f) The Division of Culture and History as established in §29-1-1 *et seq.* of this code is continued as an agency within the Executive Branch as the Department of Arts, Culture, and History. All references throughout this code to the “Division of Culture and History” mean the “Department of Arts, Culture, and History”.

(g) The following agencies and boards, including all of the allied, advisory, and affiliated entities, are transferred to the Department of Environmental Protection for purposes of administrative support and liaison with the Office of the Governor:

(1) Air Quality Board provided in §22B-2-1 *et seq.* of this code;

(2) Solid Waste Management Board provided in §22C-3-1 *et seq.* of this code;

(3) Environmental Quality Board, or its successor board, provided in §22B-3-1 *et seq.* of this code;

(4) Surface Mine Board provided in §22B-4-1 *et seq.* of this code;

(5) Oil and Gas Inspectors' Examining Board provided in §22C-7-1 *et seq.* of this code;

(6) Shallow Gas Well Review Board provided in §22C-8-1 *et seq.* of this code; and

(7) Oil and Gas Conservation Commission provided in §22C-9-1 *et seq.* of this code.

(h) Subject to the provisions of §5F-2-1a of this code, the following agencies and boards, including all of the allied, advisory, affiliated, or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Health:

(1) Human Rights Commission provided in §5-11-1 *et seq.* of this code;

(2) Bureau for Public Health provided in §16-1-1 *et seq.* of this code;

(3) Office of Emergency Medical Services and the Emergency Medical Service Advisory Council provided in §16-4C-1 *et seq.* of this code;

(4) Health Care Authority provided in §16-29B-1 *et seq.* of this code;

(5) The Developmental Disabilities Council established by Executive Order No. 6-88 and continued by Executive Order No. 15-99;

(i) Subject to the provisions of §5F-2-1a of this code, the following agencies and boards, including all of the allied, advisory, affiliated, or related entities and funds associated with any agency or board, are incorporated in, and administered as a part of, the Department of Human Services:

(1) Women's Commission provided in §29-20-1 *et seq.* of this code; and

(2) Bureau for Child Support Enforcement provided in §48-1-1 *et seq.* of this code.

(j) The following agencies and boards, including all of the allied, advisory, affiliated, or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Homeland Security:

(1) West Virginia State Police;

(2) Division of Emergency Management provided in §15-5-1 *et seq.* of this code and Emergency Response Commission provided in §15-5A-1 *et seq.* of this code: *Provided*, That notwithstanding any other provision of this code to the contrary, whenever in this code, or a rule promulgated thereunder, a reference is made to the Division of Homeland Security and Emergency Management, it shall be construed to mean the Division of Emergency Management;

(3) Division of Administrative Services;

(4) Division of Corrections and Rehabilitation;

(5) Fire Commission;

(6) State Fire Marshal;

(7) Board of Probation and Parole;

(8) The West Virginia Fusion Center;

(9) Division of Protective Services; and

(10) Any other agency or entity hereinafter established within the Department of Homeland Security by an act of the Legislature.

(k) The following agencies and boards, including all of the allied, advisory, affiliated, or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Revenue:

(1) Tax Division provided in §11-1-1 *et seq.* of this code;

(2) Racing Commission provided in §19-23-1 *et seq.* of this code;

(3) Lottery Commission and position of Lottery Director provided in §29-22-1 *et seq.* of this code;

(4) Insurance Commissioner provided in §33-2-1 *et seq.* of this code;

(5) West Virginia Alcohol Beverage Control Commissioner provided in §11-16-1 *et seq.* of this code and §60-2-1 *et seq.* of this code;

(6) Board of Banking and Financial Institutions provided in §31A-3-1 *et seq.* of this code;

(7) Lending and Credit Rate Board provided in §47A-1-1 *et seq.* of this code;

(8) Division of Financial Institutions provided in §31A-2-1 *et seq.* of this code;

(9) The State Budget Office provided in §11B-2-1 *et seq.* of this code;

(10) The Municipal Bond Commission provided in §13-3-1 *et seq.* of this code;

(11) The Office of Tax Appeals provided in §11-10A-1 *et seq.* of this code; and

(12) The State Athletic Commission provided in §29-5A-1 *et seq.* of this code.

(l) The following agencies and boards, including all of the allied, advisory, affiliated, or related entities and funds associated with any agency or board, are incorporated in and administered as a part of the Department of Transportation:

(1) Division of Highways provided in §17-2A-1 *et seq.* of this code;

(2) Parkways Authority provided in §17-16A-1 *et seq.* of this code;

(3) Division of Motor Vehicles provided in §17A-2-1 *et seq.* of this code;

(4) Driver's Licensing Advisory Board provided in §17B-2-1 *et seq.* of this code;

(5) Aeronautics Commission provided in §29-2A-1 *et seq.* of this code;

(6) State Rail Authority provided in §29-18-1 *et seq.* of this code; and

(7) Public Port Authority provided in §17-16B-1 *et seq.* of this code.

(m) Effective July 1, 2011, the Veterans' Council provided in §9A-1-1 *et seq.* of this code, including all of the allied, advisory, affiliated, or related entities and funds associated with it, is incorporated in and administered as a part of the Department of Veterans' Assistance.

(n) Except for powers, authority, and duties that have been delegated to the secretaries of the departments by §5F-2-2 of this code, the position of administrator and the powers, authority, and duties of each administrator and agency are not affected by the enactment of this chapter.

(o) Except for powers, authority, and duties that have been delegated to the secretaries of the departments by §5F-2-2 of this code, the existence, powers, authority, and duties of boards and the membership, terms, and qualifications of members of the boards are not affected by the enactment of this chapter. All boards that are appellate bodies or are independent decision makers may not have their appellate or independent decision-making status affected by the enactment of this chapter.

(p) Any department previously transferred to and incorporated in a department by prior enactment of this section means a division of the appropriate department. Wherever reference is made to any department transferred to and incorporated in a department created in §5F-1-2 of this code, the reference means a division of the

appropriate department and any reference to a division of a department so transferred and incorporated means a section of the appropriate division of the department.

(q) When an agency, board, or commission is transferred under a bureau or agency other than a department headed by a secretary pursuant to this section, that transfer is solely for purposes of administrative support and liaison with the Office of the Governor, a department secretary, or a bureau. Nothing in this section extends the powers of department secretaries under §5F-2-2 of this code to any person other than a department secretary and nothing limits or abridges the statutory powers and duties of statutory commissioners or officers pursuant to this code.

(r) The Department of Economic Development as established in §5B-2-1 *et seq.* of this code is continued as a separate independent agency within the Executive Branch.

(s) The Department of Tourism as established in §5B-2I-1 *et seq.* of this code is continued as a separate independent agency within the Executive Branch.

## **CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.**

### **ARTICLE 1. DIVISION OF CULTURE AND HISTORY.**

#### **\*§29-1-1. Division of Culture and History continued as the Department of Arts, Culture, and History; sections and commissions; purposes; definitions; effective date.**

(a) The Division of Culture and History heretofore created is hereby continued as the Department of Arts, Culture, and History. The Governor shall nominate and, by and with the advice and consent of the Senate, appoint the Cabinet Secretary of Arts, Culture, and History, who shall be the chief executive officer of the department and shall be paid an annual salary as provided in §6-7-2a of this code. The secretary so appointed shall have: (1) A bachelor's degree in one of the fine arts, social sciences, library science, or a related field; or (2) four years' experience in the

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**\*NOTE:** This section was also amended by S. B. 790 (Chapter 145), which passed prior to this Act.



administration of museum management, public administration, arts, history, or a related field.

(b) The department shall consist of eight sections as follows:

- (1) The arts section;
- (2) The archives and history section;
- (3) The museums section;
- (4) The historic preservation section;
- (5) The state library section;
- (6) The National Coal Heritage Area Commission;
- (7) The administrative section; and
- (8) The Educational Broadcasting Commission.

(c) The department shall also consist of four citizens commissions as follows:

- (1) A Commission on the Arts;
- (2) A Commission on Archives and History;
- (3) A Library Commission; and
- (4) An Educational Broadcasting Council.

(d) The secretary shall exercise control and supervision of the department and shall be responsible for the projects, programs, and actions of each of its sections. The purpose and duty of the department is to advance, foster, and promote the creative and performing arts and crafts, including both indoor and outdoor exhibits and performances; to advance, foster, promote, identify, register, acquire, mark, and care for historical, prehistorical, archaeological, and significant architectural sites, structures, and objects in the state; to encourage the promotion, preservation, and development of significant sites, structures, and objects through the use of economic development activities such as loans, subsidies,

grants, and other incentives; to coordinate all cultural, historical, and artistic activities in state government and at state-owned facilities; to acquire, preserve, and classify books, documents, records, and memorabilia of historical interest or importance; and, in general, to do all things necessary or convenient to preserve and advance the arts, humanities, culture, and history of the state. In the furtherance of these purposes and duties, the secretary shall report directly to the Governor as a secretary for both the intrinsic and extrinsic value for individuals, communities, and the economy of the arts, humanities, culture, and history in West Virginia. As such, the secretary shall represent the Department of Arts, Culture, and History as a full participating member in meetings of the secretaries of the departments created in §5F-1-2 of this code that are convened at the call of the Governor.

(e) The department has jurisdiction and control and may set and collect fees for the use of all space in the building presently known as the West Virginia Science and Culture Center, including the deck and courtyards forming an integral part thereof; the building presently known as West Virginia Independence Hall in Wheeling, including all the grounds and appurtenances thereof; “Camp Washington Carver” in Fayette County, as provided in §29-1-14 of this code; and any other sites as may be transferred to or acquired by the department. Notwithstanding any provision of this code to the contrary, beginning on and after July 1, 2018, the department shall have responsibility for, and control of, all visitor touring and visitor tour guide activities within the Capitol Building at Charleston.

(f) For the purposes of this article, “commissioner” or “curator” means the Cabinet Secretary of Arts, Culture, and History, and “division” or “department” means the Department of Arts, Culture and History. References throughout this code to the “Commissioner of Culture and History” mean the “Cabinet Secretary of Arts, Culture, and History”, and references throughout this code to the “Division of Culture and History” mean the “Department of Arts, Culture, and History”.

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## CHAPTER 148

**(S. B. 875 - By Senators Tarr, Phillips, Clements, Jeffries,  
Nelson, Oliverio, Queen, Roberts, Swope, and Woodrum)**

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[Passed March 9, 2024; in effect from passage]  
[Approved by the Governor on March 27, 2024.]

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §29-12-15 and §29-12-16, all relating to liability or other insurance coverage provided by the Board of Risk and Insurance Management to any entity for which such coverage is permissive under state code; placing a moratorium on providing new or additional property or liability coverage to any entity for which such coverage is permissive under state code except county boards of education, public charter schools, and certain other persons and entities for which coverage by the board is mandatory; and authorizing the board to non-renew insurance coverage to any entity for which such coverage is permissive under state code.

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

### **ARTICLE 12. STATE INSURANCE.**

#### **§29-12-15. Moratorium on providing new or additional insurance coverage for any permissive entity, property, activity, etc.**

There is a moratorium on the board's authority under this article to provide new or additional property or liability insurance coverage for certain entities as of the effective date of the enactment of this section during the regular session of the Legislature, 2024. This moratorium prohibits new or additional insurance coverage by the board of those entities to which coverage is permissive, not mandatory, under this article, including, but not

limited to, a political subdivision, charitable or public service organization, or an emergency medical services agency, each as defined in §29-12-5(b)(1) of this code. For the purposes of this section, “coverage” includes property or liability insurance to insure the property, activities, and responsibilities of an entity. This moratorium shall remain in effect until July 1, 2025: *Provided*, That this moratorium shall have no effect upon any contracts or agreements which are currently in effect, or the status of any insurance coverage in place on the effective date of this section, nor does it prohibit the board from extending any contracts or agreements which are currently in effect, or any insurance coverage in place on the effective date of this section: *Provided, however*, That this moratorium shall not apply to county boards of education, teachers, supervisory and administrative staff members, service personnel, county superintendents of schools, school board members, public charter schools, and any other entity or person required to be insured by the board pursuant to §29-12-5a of this code.

**§29-12-16. Non-renewal of policies for permissive non-governmental entities.**

Notwithstanding any provision of law to the contrary, and notwithstanding the decision of the West Virginia Supreme Court of Appeals in *State ex rel. Human Res. Dev. & Empl. v. Bd. of Risk & Ins. Mgmt. of W. Va.*, 214 W. Va. 460 (2003), the board may, upon 60 days’ advance notice to the insured, non-renew any policy of liability insurance or other insurance by the board to a non-governmental entity for which coverage is permissive, and not mandatory, pursuant to §29-12-5(b)(1) of this code.

























